



BROMLEY CIVIC CENTRE, STOCKWELL CLOSE, BROMLEY BRI 3UH

TELEPHONE: 020 8464 3333

CONTACT: Graham Walton
graham.walton@bromley.gov.uk

DIRECT LINE: 0208 461 7743

FAX: 020 8290 0608

DATE: 31 October 2023

To: Members of the

GENERAL PURPOSES AND LICENSING COMMITTEE

Councillor Pauline Tunnicliffe (Chairman)

Councillor Colin Hitchins (Vice-Chairman)

Councillors Jessica Arnold, Nicholas Bennett J.P., Robert Evans, Kira Gabbert, Christine Harris, Mike Jack, Simon Jeal, Josh King, Tony Owen, Melanie Stevens, Harry Stranger and Sam Webber

A meeting of the General Purposes and Licensing Committee will be held at Bromley Civic Centre on **WEDNESDAY 8 NOVEMBER 2023 AT 7.00 PM**

TASNIM SHAWKAT

Director of Corporate Services & Governance

Copies of the documents referred to below can be obtained from
<http://cds.bromley.gov.uk/>

A G E N D A

1 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

2 DECLARATIONS OF INTEREST

3 QUESTIONS

In accordance with the Council's Constitution, general questions must have been received in writing 10 working days before the date of the meeting - by 5pm on Wednesday 25th October 2023.

Questions specifically seeking clarification of reports on the agenda should be received within two working days of the normal publication date of the agenda. Please ensure that these questions are received by the Democratic Services Team by **5pm on Thursday 2nd November 2023.**

4 CONFIRMATION OF MINUTES OF THE MEETING HELD ON 11 JULY 2023
(Pages 3 - 4)

5 TEACHER PAY POLICY 2023/24 - CENTRALLY BASED STAFF
(Pages 5 - 16)

- 6 BUSINESS AND PLANNING ACT 2020 DELEGATION OF POWERS AND PAVEMENT LICENSING POLICY EXTENSION UNTIL SEPTEMBER 2024**
(Pages 17 - 38)
- 7 INTRODUCTION OF NEW MEASURES UNDER THE ELECTIONS ACT 2022 AND UPDATE ON POLLING ARRANGEMENTS**
(Pages 39 - 56)
- 8 REVIEW OF THE CONSTITUTION**
(Pages 57 - 266)
- 9 SUB-COMMITTEE MEMBERSHIPS**
(Pages 267 - 270)
- 10 OUTSIDE BODY APPOINTMENTS 2023/24**
(Pages 271 - 274)
- 11 WORK PROGRAMME AND MATTERS OUTSTANDING**
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- 12 LICENSING SUB-COMMITTEE: MINUTES OF THE MEETINGS HELD ON 8 AND 22 JUNE, 3 AUGUST AND 19 SEPTEMBER 2023**
(Pages 281 - 302)

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GENERAL PURPOSES AND LICENSING COMMITTEE

Minutes of the meeting held at 7.00 pm on 11 July 2023

Present:

Councillor Pauline Tunnicliffe (Chairman)
Councillor Colin Hitchins (Vice-Chairman)
Councillors Jessica Arnold, Nicholas Bennett J.P.,
Robert Evans, Christine Harris, Mike Jack, Simon Jeal,
Josh King, Tony Owen, Melanie Stevens, Harry Stranger,
Sam Webber and Simon Fawthrop

Also Present:

Councillor Andrew Lee

66 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

Apologies for absence were received from Cllr Kira Gabbert (who was replaced by Cllr Simon Fawthrop) and Cllr Jonathan Laidlaw.

67 DECLARATIONS OF INTEREST

There were no declarations of interest.

68 QUESTIONS

No questions had been received.

69 CONFIRMATION OF MINUTES OF THE MEETING HELD ON 23 MAY 2023

It was noted that minute 64 should be corrected to list Cllr Chloe-Jane Ross as a member of the Constitution Working Group, and not Cllr Sam Webber.

RESOLVED that the minutes of the meeting held on 23 May 2023 be confirmed.

70 CONSTITUTION UPDATE Report CSD23083

At the Committee's meeting on 30th March 2023, it was noted that Officers would redraft the Constitution into a more user-friendly layout and include any updates to comply with current legislation. The proposed new Constitution had been prepared, but Members sought an opportunity for the document to be considered by the Constitution Working Group before it was referred to full Council.

Cllr Tony Owen requested that officers check that there was still a provision for any Member to call a special meeting in the new document.

RESOLVED that the report be deferred.

71 REQUEST FOR WAIVER OF SIX-MONTH RULE
Report CSD23072

The Local Government Act 1972 required a member of a Local Authority to attend at least one meeting of that Authority within a six-month consecutive period, to avoid being disqualified as a Councillor. This requirement could be waived, and the time limit extended if any failure to attend was due to a reason approved by the Authority, in advance of the six-month period expiring. Councillor Jonathan Laidlaw was currently unwell and not expected to return to his duties as a councillor for some time and a waiver was sought to extend the period when he would not be required to attend a meeting.

Cllr Sam Webber, seconded by Cllr Melanie Stevens, moved an amendment to defer consideration of this matter to the next meeting, but this amendment was lost.

RESOLVED that Council be recommended to agree that a waiver of the six-month attendance requirement be granted to Councillor Jonathan Laidlaw, to extend his absence by up to a further six months to 10th May 2024.

72 WORK PROGRAMME AND MATTERS OUTSTANDING
Report CSD23073

The Committee received a report on its work programme for the 2023/24 Council year and matters outstanding from previous meetings.

The Chairman proposed that the meeting on 21st September 2023 be cancelled as very little business was proposed. Cllr Jeal, referring to a recent Licensing Sub-Committee when a licensing condition needed to be amended, proposed that a report reviewing licensing conditions should be brought to a future meeting.

RESOLVED that

- (1) The work programme and matters outstanding be noted.**
- (2) The meeting scheduled for 21st September 2023 be cancelled.**
- (3) A report be prepared for a future meeting on licensing conditions.**

The Meeting ended at 7.13 pm

Chairman

Report No. London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: GENERAL PURPOSES AND LICENSING COMMITTEE

Date: 8th November 2023

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

Title: Teacher Pay Policy 2023/24 – Centrally Based Staff

Contact Officer: Charles Obazuaye Director of HR & Customer Services and Public Affairs
Tel: 020 8313 4381 E-mail: charles.obazuaye@bromley.gov.uk

Chief Officer: Director of HR & Customer Services and Public Affairs

Ward: N/A

1. Reason for report

1.1 From 1 September 2023 revised arrangements came into force in relation to Teachers' Pay and Conditions through the publication of the statutory 2023 School Teachers' Pay and Conditions Document.

1.2 This report sets out the main changes.

2. **RECOMMENDATION(S)**

2.1 That Members note and comment on the report;

2.2 That Members note from 1st September 2023 a statutory 6.5% increase to all pay and allowance ranges and advisory points for Teaching Staff, with higher increases to some parts of the Main Pay Range to reach a minimum starting salary of £30,000 outside London, with slight variations to the London pay ranges.

2.3 That Members authorise officers to apply the % statutory increases to Teacher Pay Scales as set out in the School Teachers' Pay and Conditions Document 2023 and to update the Centrally Based Teaching Staff Pay Policy for 1st September 2023. There are no other required changes to the Policy this year.

Impact on Vulnerable Adults and Children

1. There is no impact on vulnerable adults arising from this report however the teaching staff referred to in this report are specialist teaching staff delivering educational services to pupils with complex special needs.

Corporate Policy

1. Policy Status: Existing Policy
2. Making Bromley Even Better Ambitions Framework: Learning and Living well, Transforming Our Services.

Financial

1. Cost of proposal: £105k in 2023/24
2. Ongoing costs: £181k full year effect in 2024/25
3. Budget head/performance centre: Various
4. Total current budget for this head: Various salary budgets
5. Source of funding: DSG

Personnel

1. Number of staff (current and additional):

All Teachers and Heads of Service centrally employed in our Central Education Division including specialist educational provision.

As at 1st September 2023 this comprised 53 staff (42.94 FTE) employed on Teacher Terms and Conditions of employment.

2. If from existing staff resources, number of staff hours: N/A.

Legal

1. Legal Requirement: Statutory Requirement Sections 122 and 127 Education Act 2002
2. Call-in: Applicable

Procurement

1. N/A

Customer Impact

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

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable

2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 The Education Act 2002 gives the Secretary of State power to prescribe pay and conditions and to issue guidance on pay and conditions matters, to which those concerned must have regard.
- 3.2 The statutory requirements for teachers' pay and conditions for maintained schools in England and Wales are set out in the School Teachers' Pay and Conditions Document, which is published annually, and schools and local authorities (LAs) must abide by these. LAs and governing bodies are also required to have regard to the statutory guidance issued in conjunction with the document, and in respect of guidance on procedural matters a court or tribunal may take any failure to do so into account in any proceedings.
- 3.3 In accordance with the requirements of the School Teachers' Pay and Conditions Document, the LA as the "relevant body" is required to have in place a pay policy setting out the arrangements for determining pay arrangements for all centrally based teaching staff.
- 3.4 Each year the School Teachers' Review Body (STRB) is provided with a remit from the Secretary of State to review Teachers' Pay. The remit focuses on specific areas as well as pay trends in general. The school teachers' review body consults with employers, teacher organisations and Unions and reports back to the Secretary of State its findings and recommendations. The Secretary of State then determines whether or not to accept the proposals put forward by the review body.
- 3.5 In making its recommendations, the STRB was asked this year to have regard to the following:
- An assessment of the adjustments that should be made to the salary and allowance ranges for classroom teachers, unqualified teachers, and school leaders in 2023/24. This should aim to promote recruitment and retention whilst taking into account the Government's commitment to uplift starting salaries to £30,000 and the cost pressures facing both the school system as a whole and individual schools.
 - **Matters for the STRB's views.**

In the last STRB report (2022), the STRB indicated that it would welcome the opportunity to assist in developing recommendations on broader structural issues. The Secretary of State for Education acknowledged that The Department and the STRB have a shared aim to provide a coherent and fulfilling career path for teachers and leaders. The Secretary of State therefore further invited the STRB to offer an initial view on areas within the STRB's scope which would most benefit from future exploration to support this aim in the context of the Government's ambitious professional development reforms in Initial Teacher Training, the Early Career Framework and National Professional Qualifications.

In considering its recommendations on pay and views on wider structural matters the Secretary of State advised that the STRB should have regard to the following:

- a) Potential equalities impacts associated with any changes proposed to the STPCD.
- b) The cost pressures that schools are already facing and may face over the year (and how they affect individual schools).
- c) The need to ensure that any proposals are not too difficult or onerous for schools to implement.
- d) Evidence of the national state of teacher and school leader supply, including rates of recruitment and retention, vacancy rates and the quality of candidates entering the profession.

- e) Evidence of the wider state of the labour market in England.
- f) Forecast changes in the pupil population and consequent changes in the level of demand for teachers.
- g) The Government's commitment to increasing autonomy for all head teachers and governing bodies to develop pay arrangements that are suited to the individual circumstances of their schools and to determine teachers' pay within the statutory minima and maxima.

A copy of the 33rd Review Body full report including a copy of its Executive Summary can be found at the following link:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1170121/STRB_33rd_Report_2023_Web_Accessible_v02_1_.pdf

3.6 This year, the Review Body made the following recommendations:

- With effect from September 2023, a 6.5% increase to all pay ranges and advisory points, with higher increases to parts of the Main Pay Range to reach a minimum starting salary of £30,000 outside London, with slight variations to the London pay ranges.
- Given that the various allowances form part of teachers' total pay, it is appropriate to increase their value by the same rate (6.5%), ensuring that the headline award rate is reflected across all elements of a teacher's pay.

The proposed pay and allowance ranges and advisory points are set out in full at Appendix D of the STRB report (see link above).

The STRB estimate that its recommendations will increase the paybill by 6.5% or approximately £1.6bn for mainstream schools. Over the next school year these costs are similar to the Government's recent offer, albeit the STRB recommendations are for fully consolidated awards.

These recommendations were accepted in full by the Secretary of State.

- 3.7 Under the current pay system, it remains as in previous years for school leaders, governing bodies and Local Authorities to determine how to implement, in their individual schools, and Education Services the changes to the School Teachers' Pay and Conditions Document (STPCD) arising from the STRB recommendations.
- 3.8 The DfE carried out extensive consultation with relevant parties (see 3.22 below) and the School Teachers' Pay and Conditions Order was laid before parliament in October 2023, with implementation of the 2023 School Teachers Pay and Conditions Document backdated to the 1st September 2023.
- 3.9 The new pay and conditions document continues to provide flexibility for relevant bodies in relation to reward and performance of staff. Each School and LA is required to determine its own specific pay policy tailored to the needs of the individual school/service.
- 3.10 In light of the recommendations of the review body the Council needs to review its pay policy and determine whether any changes are required.

STRB Commentary

- 3.11 In developing its recommendations, the STRB has drawn on the written and oral evidence provided by the Department for Education and its consultees as well as a wide range of economic and school workforce data.
- 3.12 Recruitment and retention of sufficient numbers of high-quality teachers remains the primary objective of the STRB's pay considerations. Both rates continue to be below the level required to fill posts across regions, school types and subject specialisms with appropriately qualified teachers. The recruitment shortfalls are particularly concerning and are getting worse.
- 3.13 This deteriorating recruitment position is in the STRB's view linked in part to pay levels. Teachers' pay has been losing value relative to whole-economy earnings and to other professional occupations. This pre-dates the difficult economic conditions associated with the pandemic and the war in Ukraine. The STRB also noted that salaries for new graduates are now around 12% higher than they were when the Government adopted a target of £30,000 for new teachers entering the profession.
- 3.14 Pay is not the only motivation for many teachers. Nonetheless, salary levels need to be sufficiently competitive if able graduates are to be attracted and retained. The STRB found that there is strong empirical evidence that they are not competitive enough.
- 3.15 The STRB carefully considered what the Government had submitted in relation to budgets and school finances. The detail is complex and the STRB acknowledged there has been a changing picture even during the period of consultation. A combination of the variability in funding levels across schools and the additional unpredictability this year from energy price movements means it is not possible for the STRB to make a robust assessment of individual schools' ability to fund its recommended award.
- 3.16 In its evidence, the Government said that affordability constraints mean an increase in the paybill should not exceed 4%. A larger pay rise would require trade-offs with other priorities. This reflects the Government's position that the 2021 Spending Review settlement (as subsequently adjusted) may not be reopened.
- 3.17 The STRB estimated the total cost of the offer made to the teacher and leadership unions in March, of a 4.5% average award and a non-consolidated payment of £1,000, was approximately £1.6 bn to the end of the academic year 2023/24. The Secretary of State told the STRB in oral evidence this was to be fully funded.
- 3.18 The STRB recognise that government ultimately makes the decisions on budgets. The STRB role is to provide independent recommendations which take into account all the relevant evidence, including in relation to funding. The STRB have also considered what approach offers best value-for-money for taxpayers. Given limited resources, it is important that its recommendations are cost-efficient and that they support the objective of enabling schools to recruit and retain a high-quality teaching workforce.
- 3.19 Spending more than is needed in a given year is not a good use of public funds. Spending too little may appear to be a saving but gives rise to serious problems. The cost of remediating poor or unbalanced decisions can be significant and, in the medium term, can represent poor value for money.
- 3.20 For this reason, the STRB concluded it is necessary to recommend exceeding the increases to teachers' pay proposed by the Government. In doing so the STRB recognised that its recommendations also exceed the general level supported by schools' current budgets, in so

far as it had been able to determine. Given the constraints on schools, the STRB commented that adequate funding should be put in place to accompany the pay increases.

3.21 The STRB recommendations are primarily driven by the objective of remedying, in a balanced and considered manner, the structural deterioration in the relative pay of teachers and the inadequate recruitment of graduates. Additional investment is needed and it will be more cost-effective to act sooner rather than later. The cost of failure is high: it affects teaching quality and adversely impacts children's education.

3.22 CONSULTATION

3.23 The Department's views (DFE)

3.24 In its evidence, the Department said one of its top priorities was to ensure that it continued to attract, retain and develop the high-quality teachers needed to inspire the next generation, and that teaching should remain an attractive career.

3.25 It noted the COVID-19 pandemic and highlighted the crucial role teachers play in children's lives. It recognised the importance of investing in teachers and delivering a motivating career path for the whole profession.

3.26 The Department also emphasised that the pay award needed to balance recognising the vital importance of public sector workers with delivering value for money for the taxpayer. In oral evidence, the Secretary of State expressed her disappointment that teachers had not accepted the offer made by the Government in March 2023.

3.27 The Department invited the STRB to make recommendations with effect from September 2023. In line with its aspiration to achieve a starting salary in the rest of England of £30,000 by 2023, its written evidence proposed an uplift of 7.1% to the minimum of the Main Pay Range with progressively smaller uplifts to points M2 to M6, and a 3.0% award for all other teachers and leaders. It said its proposals equated to a paybill increase of 3.5%.

3.28 In oral evidence, it revised its position in light of changing affordability assumptions and suggested an overall increase of 4.0% on average was manageable. It also referred to the offer of an award averaging 4.5% that it had made to the teacher and leadership unions in March, for which it said it had provided additional funding.

3.29 The Department reiterated its view that targeting pay at early career teachers, including a higher starting salary, remained critical to addressing recruitment and retention challenges where they were most acute. This was in addition to bursaries and retention payments.

3.30 It also said that the pay system should reflect the significant contribution of experienced teachers and leaders. While it noted that retention levels for experienced teachers were more stable, it said challenges remained and that recognising the value and importance of experienced teachers and leaders remained a key consideration.

3.31 The Department suggested the STRB should consider the broader labour market context, including the overall package received by teachers and that many teachers received pay progression awards. It said that public sector pay needed to be affordable and that increases to public sector pay could exacerbate inflationary pressures.

3.32 Overall, the Department said it would like to see recommendations for an award that:

- Delivers the manifesto commitment of a £30,000 starting salary for new teachers.
- Provides awards for all teachers and leaders comparable with the rest of the public sector and broader workforces, but within the bounds of affordability.
- Supports schools to manage their overall budgets.

3.33 Trade Union and Other Consultee Views

- 3.34 There was a strong consensus from the teacher and leadership unions for a fully funded restorative pay award. In their submissions, the unions set out a range of analyses illustrating the real-terms losses to teachers pay since 2010. They also highlighted the damage to pay in comparative terms, including against the wider economy, graduate labour market and through international comparisons.
- 3.35 All unions sought a uniform pay award. While the teacher and leadership unions supported significant increases to starting pay they said this level of increase should be applied to all teachers and leaders. Some suggested differential pay awards were divisive and, particularly in the context of leaders' pay, that resultant diminished differentials and a flatter structure negatively impacted recruitment into senior roles.
- 3.36 On the question of the Government's proposal for starting pay, several noted that the £30,000 starting salary, originally announced in 2019, had now lost considerable real-terms value, meaning it was less competitive compared to starting salaries in other graduate professions.
- 3.37 Several consultees highlighted the gender pay gap and wider pay inequalities, with some suggesting the gap is higher in schools with greater flexibility on pay matters. In this context it was suggested that the sector was failing in its public sector equality duty.
- 3.38 The teacher and leadership unions all challenged the Government's view on the inflationary impact of public sector pay increases, suggesting this was incorrect and was contradicted by independent economists.
- 3.39 Other consultees noted a range of concerns relating to pay, funding, the workforce and the Pay Review Body process. Key points made included:
- Teachers had experienced very significant real-terms pay decreases and a restorative pay award was therefore required.
 - Many schools' budgets were extremely challenging; this was heightened by cuts to support services, increasing energy costs and recent support staff pay awards.
 - Teacher and school leader supply were worsening with action required to address both recruitment and retention. There were significant issues across all phases and levels of experience. Teachers in England have the lowest average tenure in the OECD. Several consultees pointed to diminishing teacher morale.
 - In oral evidence, the teacher and leadership unions expressed their disappointment at the pay offer from the Government following negotiations in March. Members of ASCL, Community, NAHT, the NASUWT and the NEU had rejected the offer.
 - Several consultees felt the Government had repeatedly constrained the STRB's ability to recommend appropriate pay awards such that the credibility of the Review Body process was now in jeopardy. They suggested the STRB should demonstrate greater independence by putting to one side the Government's framing of the remit.

Other specific proposals included:

- The NASUWT and the NEU proposed a six-point mandatory pay scale for classroom teachers, without a performance-related element or a pay threshold to hinder progression.
- NAHT proposed a ‘professional pay continuum’ with improved pay differentiation between levels of responsibility.
- Several consultees suggested changes to the use of Teaching and Learning Responsibility payments (TLRs), including fixed value points and improved guidance on eligibility. NGA proposed a middle leader range to negate the need to award TLRs.
- The NASUWT and the NEU called for supply teachers to be brought within the national pay and conditions framework.
- ASCL and NAHT called for Business Managers to be included in the national pay and conditions framework.
- All consultees sought greater action and analysis to understand and eradicate pay inequalities.

3.40 Secretary of State statement to the House of Commons on 13th July 2023

The Secretary of State accepted the STRB’s recommendations in full. In a statement to the House of Commons she said:

“I am pleased to confirm that the Government has today accepted the STRB’s recommendations for 2023/24 teacher pay awards in full. This means that teachers and leaders in maintained schools will receive an increase of at least 6.5%, the highest STRB award in three decades. This comes on top of the increases already received last year, and for many teachers will also be accompanied by additional pay rises due to progression, recognising the hard work of our teaching profession. Further information about the implementation of this can be found in the annex to this statement.

These recommendations also include higher uplifts to starting salaries outside London, which mean that as of September, the Government will have delivered its manifesto commitment of starting salaries of £30,000 or more for teachers in all areas of the country.

The award is fully funded, and we will be providing an additional £525m of funding in 2023-24, and £900m in 2024-25. That is equivalent to the full costs of the pay award over 3.5% which our evidence states is affordable to schools nationally, and in line with the evidence the Government submitted to the STRB. This Government is committed to living within its means and delivering value for the taxpayer, and therefore we are reprioritising within the Department for Education’s existing budget to deliver this additional funding to schools, while protecting frontline services. The award is consistent with the Government’s priority to halve inflation.

This support is being provided in respect of mainstream and special schools, as well as school-based early years and post-16 provision. Every school will benefit from this additional funding. We have also published details of its distribution (which can be found at the following link:

<https://www.gov.uk/government/publications/teachers-pay-additional-grant-2023-to-2024>), providing schools with the information they need to finalise their budgets. I recognise that this will not mean that no school will face financial challenges and I will also extend the support currently available to individual schools facing the most difficult financial circumstances by up to £40m.

This support comes on top of the £2 billion a year provided for schools in our Autumn Statement. As a result, the Core Schools Budget will now total more than £59.6 billion in 2024-25 – its highest ever level, in real terms per pupil, as confirmed by the independent Institute for Fiscal Studies.

I am also announcing today other measures to promote recruitment and retention across schools which remains a priority for this government. We will convene a workload reduction taskforce to explore how we can go further to support trust and school leaders to minimise workload for teachers and leaders. We want to build on previous successes and aim to reduce working hours by five hours per week. We also plan to reinsert a revised list of administrative tasks that teachers should not be expected to do into the School Teachers' Pay and Conditions Document (STPCD).

We know that flexible working opportunities can help to recruit, retain, and motivate teachers and leaders and help promote staff wellbeing. Last month we appointed seven Flexible Working Ambassador Multi-Academy Trusts and Schools to offer practical advice to school leaders on implementing flexible working and we are currently in the process of recruiting more. This is part of a wider programme, funded by the Department, to help embed flexible working in schools and trusts."

- 3.41 Following publication of the Pay and Conditions Document the Council is required to formally consult with Trade Unions to seek their views on the pay policy. This year there are no changes to the Bromley Pay Policy except for the Statutory pay increases to Teachers Pay and Allowances as set out in paragraph 2.2 above.
- 3.42 The Regional Teacher Trade Union representatives recognised by the Council have been sent a copy of this report for any further views/comments and any responses received will be verbally reported at the meeting for Members consideration.

4.0 IMPACT OF THE STRB RECOMMENDATIONS ON SPECIALIST EDUCATION SERVICES IN BROMLEY

- 4.1 The LA employs All Teachers and Heads of Service employed in our Central Education Division which includes specialist educational provision.
- As at 1st September 2023 this comprised 53 staff (42.94 FTE) employed on Teacher Terms and Conditions of employment.
- 4.2 There is existing provision for each Teacher's salary to be reviewed annually. In addition, the LA already has an appraisal policy in place agreed by Members in autumn 2012. Teaching Standards were introduced in 2012 and from September 2014 pay progression for all Teaching staff became directly linked to performance.
- 4.3 Since 2012 the STP&CD has provided the flexibility for LA's to set their own pay scales for Teachers with mandatory % increases only at the minimum and maximum of scales and allowances. As well as the Main Pay Range there are separate ranges for Unqualified, Upper Pay Range and Leadership staff.
- 4.4 The use of mandatory pay points was removed in 2015 and the ability to set pay scales linked to local circumstances, need and affordability was provided.
- 4.5 At that time Bromley alongside many other LA's continued to set pay points with members of the Council determining the annual % increase for scales and Managers and Head Teachers determining any additional pay progression based on performance. In 2020 however the Government reintroduced advisory points for the Main Teaching Scale and these were adopted by the Council.
- 4.6 The current policy provides flexibility for managers in determining arrangements for Teachers' Pay for all Teaching staff including those employed on the leadership range. This includes flexibility regarding starting salaries and progression and is broadly consistent with the current

principles applied to those staff employed by the Council on Localised Pay terms and conditions. This means that there is still the flexibility for Head Teachers and Heads of Service to progress Teachers within the salary scale based on performance.

4.7 The Council's centrally based teaching staff are specialised staff working with highly vulnerable pupils with special and complex needs. Recruitment and retention of staff to these posts remains essential and it is vital that salary packages are competitive in the wider teacher recruitment labour market.

4.8 The Council must implement the changes required by the SCTP&CD 2023 as this is a statutory requirement however it continues to have discretion regarding those elements which are non-statutory.

5.0 IMPACT ON VULNERABLE ADULTS AND CHILDREN

5.1 There is no impact on vulnerable adults arising from this report however the teaching staff referred to in this report are specialist teaching staff delivering educational services to pupils with complex special needs.

6. POLICY IMPLICATIONS

6.1 The model policy is consistent with the Making Bromley Even Better Ambitions Framework and our Transformation Programme. It continues to provide strategic leadership and support to Education Services in the Borough ensuring the organisation has a workforce of appropriate skills and experience to meet future challenges in delivering local priorities. Various elements of the model policy for teachers are similar or consistent with the key elements of the Council's local terms and conditions of service for all non-teaching staff employed by the authority.

7. FINANCIAL IMPLICATIONS

7.1 There are 53 relevant posts (equivalent to 42.92fte's).

7.2 The proposal to uplift salaries by 6.5% from September 2023 for the academic year as detailed in paragraph 3.6 will cost the following:-

COST OF UPLIFTS

	<u>£'000</u>
2023/24	105
2024/25	181

7.3 The costs above also contain elements of additional employers costs of National Insurance and Pensions, etc

7.4 These employees are funded from the Dedicated Schools Grant (DSG), a ringfenced grant used for Education purposes. The expectation would be that the increase in costs would be met from this grant in the first instance.

8. PERSONNEL IMPLICATIONS

8.1 As set out in this report.

9. LEGAL IMPLICATIONS

9.1 Part 8 of The Education Act 2002 deals with the legal status of teachers pay and conditions.

Section 122 gives the Secretary of State a power to prescribe pay and conditions for teachers and Section 127 recites that the Secretary of State after due consultation may issue guidance which a local authority and a school governing body shall have regard to in respect of teachers pay.

10. PROCUREMENT IMPLICATIONS

10.1 N/A

Non-Applicable Sections:	N/A
Background Documents: (Access via Contact Officer)	

Report No.
ES 20319

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: GENERAL PURPOSES AND LICENSING COMMITTEE

Date: 8th November 2023

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

Title: BUSINESS AND PLANNING ACT 2020 DELEGATION OF POWERS AND PAVEMENT LICENSING POLICY EXTENTION TILL SEPTEMBER 2024

Contact Officer: Steve Phillips – Group Manager of Health & Safety, Licensing, ASB and Nuisance
Tel: 020 8313 4659 E-mail: steve.phillips@bromley.gov.uk

Chief Officer: Colin Brand – Director of Environment & Public Protection

Ward: All Wards

1. Reason for report

To support the hospitality sector's recovery and to allow businesses to operate whilst managing risks arising from the COVID-19 pandemic. The Business and Planning Act 2020 (the Act) was given Royal Assent on 22 July 2020. The Act initially relaxed licensing and planning laws until 30 September 2021 by (a) making it easier to obtain permissions to seat and serve customers outdoors, creating a fast-track pavement licence application process and (b) enabling automatic extension of alcohol off-sales to premises that already had permission for on-sales. Through the Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021 (the Business & Planning amendment regulations) the government has now extended these temporary provisions until **30 September 2024**.

The London Borough of Bromley Pavement Licensing Policy (the Policy) sets out the strategy aimed at facilitating the pavement licence application process whilst maintaining public safety. The policy has been amended to incorporate the provisions of the Business & Planning amendment regulations.

The current Pavement Licensing Policy is available for comment as part of this report.

This report provides background to the exercise of delegated authority of the Council to process and provide a decision under the Business and Planning Act 2020, specifically, in relation to Pavement Licensing and changes necessitated by administrative convenience, to delegate authority to the Director of Environment & Public Protection to

do all things necessary to implement and operate the pavement licensing arrangements under the Business and Planning Act 2020

2. RECOMMENDATION

Members are asked to:

- 1. Agree the continued delegation of powers to the Director of Environment & Public Protection and his officers to administer the Business and Planning Act Pavement Licensing regime.**

Impact on Vulnerable Adults and Children

1. When making decisions under the Licensing Act 2003 the Council is required to promote the licensing objectives, one of which is the protection of children from harm.
 2. The Business and Planning Act does not specify objectives or requirements to promote any form of protection to vulnerable adults or children, however, the Council has a duty to safeguard children and vulnerable adults.
-

Corporate Policy

1. Policy Status: The Council has adopted a statement of licensing policy under the Licensing Act 2003 for the period 2021 to 2026.
 2. MBEB Priority: Ambition 3 - For people to make their homes in Bromley and for business, enterprise and the third sector to prosper.
-

Financial

1. Cost of proposal: Estimated Cost No Cost Not Applicable: Further Details
 2. Ongoing costs: Recurring Cost Non-Recurring Cost Not Applicable: Further Details
 3. Budget head/performance centre: Public Protection
 4. Total current budget for this head: £1.6m
- . Source of funding: Existing Revenue Budget 2023/24
-

Personnel

1. Number of staff (current and additional): x3.5 FTE Business Support staff and x1 FTE Licensing Officer
 2. If from existing staff resources, number of staff hours: N/A
-

Legal

1. Legal Requirement: Statutory Requirement:
 2. Call-in: Not Applicable:
-

Procurement

1. Summary of Procurement Implications: None
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All premises with, or who wish to apply for, a Pavement License, and all residents of the Borough.
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
 2. Summary of Ward Councillors comments: Not Applicable
-

3. COMMENTARY

3.1 The London Borough of Bromley is the licensing authority for a broad range of legislation and licensable activities.

3.2 The Business and Planning Act 2020 (the 'Act') was introduced on 22 July 2020. Due to the timing of the legislation and the last minute change from an executive function to a non-executive function, the Council Solicitor exercised powers under Article 15 of the Constitution (paragraph 15.2 (d)) to make changes to the Council's Constitution arising as a result of legislative changes brought about by the Business and Planning Act 2020 in relation to Pavement Licensing and changes necessitated by administrative convenience to delegate authority to the Director of Environment & Public Protection to do all things necessary to implement and operate the pavement licensing arrangements under the Business and Planning Act 2020 when enacted.

3.3 Accordingly, following the introduction of the Act, the Council, using the delegated powers authorised decision making, made provisions for the operation of the Pavement Licensing regime under the Act. The legislation was brought in specifically because of the Covid-19 pandemic and was intended to be temporary. The current delegation only has effect until 30 September 2021, when the legislation was originally intended to cease.

3.4 In light of the third lockdown and the continuation of the government's policy and recovery of the business sector, the Government have introduced secondary legislation which will see the temporary pavement licence legislation extended to 30 September 2024. As the current delegation expired on 30 September 2023, this now requires further consideration as to the delegation of the pavement licensing functions.

3.5 The Act permits premises to apply for a pavement licence to place furniture outside, adjacent to their premises on the public highway. In this context, furniture means stalls for selling or serving food or drink, tables and chairs and articles such as patio umbrellas, barriers and heaters.

3.6 The application process remains streamlined and fast track in order to enable businesses to boost trade and assist with social distancing. The fast-track pavement licensing process requires a 7-day consultation period and a 7-day determination period. This is different to the street trading legislation which has a 28-day consultation period and thereafter sufficient time for determination. The implications for the authority if it fails to determine the application within 7-days is that the licence is deemed to be granted. Thus, the Council can lose the ability to refuse an application or to impose restrictions or bespoke conditions onto the license.

3.7 The current Act caps the fee which can be charged for such applications to £100 and the guidance recommends that such licenses be granted for a period of 1 year. This is significantly less than the Council charges in respect of an annual street trading licence under existing legislation and does not cover the cost of administration of the license process.

3.8 All existing licence holders were invited to re-apply for a pavement licence in advance of the expiry of their current licence on 30 September 2023, and all licenses issued as a result, both renewal and new, shall have now be given an expiry date of 30 September 2024.

3.9 Since August 2020, LB Bromley has received, processed and granted 124 applications. 94 are currently in the process of being re-determined.

3.10 The London Borough of Bromley Pavement Licensing Policy (the Policy) shown at Appendix 1, defines the application and determination process, the licence fee, duration, conditions, and enforcement options where necessary.

3.11 The Policy currently states that a licence issued by LB Bromley can be issued for any period subject to a minimum of 3 months. The Policy is appended for comment and consideration of any alterations that the Committee may wish to implement. However, the end date for all pavement licences under the Business & Planning Act 2020 currently must expire on the 30th of Sept 2024, in accordance with the B&P Amendment Regulations.

3.12 In determining the applications, the principal matters the Council need to consider are set out in the Act and guidance and include the amount of available pavement to allow passers-by free, clear access and egress to and from the area covered by the Pavement License, ensuring access along the pavement, especially for wheelchair users, those with reduced mobility and the visually impaired, and ensuring that there is no obstruction of statutory undertakers, utility providers or operators of an electronic communications code network in having access to any apparatus of theirs kept, installed, under, in, on or over the highway.

3.13 Accordingly authorisation is sought via a delegation of authority to the Director of Environment & Public Protection who will exercise further delegations to his officers to do all things necessary to implement and operate the pavement licensing arrangements under the Business and Planning Act 2020, as amended, including, but not limited to, the determination of standard conditions which apply, determining applications made at the fee set by the licensing committee, revocation of licenses and authorizing officers to enforce and exercise these functions.

4. IMPACT ON VULNERABLE ADULTS AND CHILDREN

4.1 The Licensing regime provides for additional controls through specific permissions to undertake licensable activities. The Licensing Act 2003 contain 4 licensing objectives one of which is to protect children from harm. Businesses and the Council are required to promote this objective in the way they operate and/or make decisions.

4.2 The Business and Planning Act does not explicitly consider public protection to the same level as the licensing regime, however, where they relate to premises undertaking the sale of alcohol the licensing objectives apply to the Pavement Licence as well. The Council has a duty to protect the public, which includes children and vulnerable adults, and to promote equality, and should be fully aware of these duties when considering any Pavement Licensing application.

4.3 There is some potential for Pavement Licenses granted without controlling conditions to inadvertently impede the passage of pushchairs, prams and wheelchairs however that is balanced with the improved access to the premises Pavement License area and the services and facilities they provide by those same persons.

5. POLICY IMPLICATIONS

5.1 The Licensing Act 2003 requires the Council to prepare, consult on, and publish a statement of licensing policy. This policy must be reviewed at least every 5 years under the Licensing Act 2003.

5.2 The Pavement Licensing Policy is currently in place until the 30th of Sept 2023 and is provided based on a non-statutory provision to bring together the requirements of the Business and Planning Act 2020. Approval of this report's recommendation will extend that date to 30th of Sept 2024.

5.3 Members should note these current policies:

- Statement of Licensing Policy 2021 to 2026

- The Pavement Licensing Policy in place until 30th Sept 2024

[LBB pavement licence policy | London Borough of Bromley](#)

6. FINANCIAL IMPLICATIONS

6.1 The fee for temporary pavement licences has been fixed by the Government at £100.

6.2 For 2021/22, the issuing of 117 licences generated income of £11,700. For 2022/23, 99 licences have been issued generating income of £9,900 and in 23-24, 71 licenses have been issued so far, for £7,100.

6.3 The cost to the Council of processing each application and issuing of licences is estimated at c£230, including all oncosts and share of overheads – some £130 more than the fee received. However, the Government announced a New Burdens Grant funding for councils, with Bromley receiving £11,114 in 2022/23 and £21,248 in 2021/22. In 2021/2022 additional £2,000 were received from the Covid 19 grant and in 2020/21, £45,000 were received from the Compliance and Enforcement Grant. A further allocation of funding for this extension has not been provided for at this point.

6.4 It is important to note the impact this scheme and the pandemic has had on the Council's permanent pavement licensing arrangements, which form part of the Street Trading Licensing scheme managed with Environment and Community Services. Fees under this scheme are significantly higher and can range up to c£1,800 for a prime town centre location. In the current financial year, there is an estimated shortfall in income of £80k for this budget, partly reflecting businesses using the alternative, reduced fee fast-track process.

7. PERSONNEL IMPLICATIONS

7.1 No additional personnel were made available to administer the temporary Pavement Licensing scheme. This workstream will continue to be undertaken with existing staff resources.

8. LEGAL IMPLICATIONS

8.1 Decisions in relation to Pavement Licences are included in Schedule 1 (at B73) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as a non-executive function, which therefore comes under the remit of the General Purposes & Licensing Committee, and thus the decision can be delegated.

8.2 Section 3(9) of the Business and Planning Act 2020 is clear that any application made to the Council and not determined by the end of the determination period will be deemed granted, so the Council has no option but to agree a process to decide these applications or face uncontrolled licences. Officially adopting the extension of the legislation and extending the currently agreed process means the Council can continue imposing generic and specific conditions or reject applications (see s3(3) of the Planning & Business Act below.

3 Determination of applications

(9) *If the local authority does not make a determination under subsection (3) by the end of the determination period, the licence for which the application was made is deemed to be granted by the authority to the applicant.*

8.3 The attached policy covers all necessary points, including enforcement, which is essential when legislation requires such a short determination period. Effective enforcement protects residents' rights and safeguards the Council's reputation.

8.4 Section 149 of the Equality Act 2010 applies to all functions of the Council and will specifically need to be considered during the decision making process for each and every application. Although some aspects are already included in the Business and Planning Act 2020 (mainly in relation to wheelchair users) not all are cited:

Part 11 Advancement of Equality

Chapter 1

Public Sector Equality Duty

149 – Public sector equality duty

- (1) *A public authority must, in the exercise of its functions, have due regard to the need to—*
- (a) *eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
 - (b) *advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
 - (c) *foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

8.5 As the Council has decided to include Climate Change at the heart of all its decisions, this aspect needs to be included in all decisions, strategic or operational, practicalities of which will vary depending on the type of application. In this instance, littering, re-use, noise, light and heat pollution should be considered for each application and strictly enforced.

9. PROCUREMENT IMPLICATIONS

None

10. EQUALITIES IMPLICATIONS

10.1 The Equality Act (2010) requires public bodies to have due regard to the need to:

- *eliminate unlawful discrimination, harassment, victimization and any other*

- *conduct prohibited by the Act;*
- *advance equality of opportunity between people who share a protected characteristic and people who do not share it; and*
- *foster good relations between people who share a protected characteristic and people who do not share it.*

10.2 The protected characteristics covered by the Act are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

10.3 The recommendation is to extend the current delegated powers in relation to pavement licensing. There are no changes proposed to the licensing arrangements that have been operating under the Business and Planning Act 2020 since last summer. No equalities concerns have been raised under these licensing arrangements to date.

10.4 There is no indication that the proposed recommendation will have a disproportionate impact on any individuals or groups with a shared protected characteristic.

11. ENVIRONMENTAL IMPLICATIONS

11.1 There are no further perceived environmental impacts associated with the recommendation of this report in comparison to the existing arrangements for temporary Pavement Licences.

Non-Applicable Sections:	[List non-applicable sections here]
Background Documents: (Access via Contact Officer)	<p>The Business and Planning Act 2020</p> <p>The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021</p> <p>The Alcohol Licensing (Coronavirus) (Regulatory Easements) (Amendment) Regulations 2021</p>

Pavement Licensing Policy



Effective: 21st July 2020
Version Sept 2023

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1. Introduction

The Covid-19 pandemic has affected businesses across the economy causing many to cease trading for several months while others have had to significantly modify their operations.

As the economy started to re-open, on 25 June 2020 the Government announced a further and urgent relaxation to planning and licensing laws to help the hospitality industry recover from the coronavirus lockdown by removing short term obstacles that could get in their way.

The Business and Planning Act 2020 made it easier for premises serving food and drink such as bars, café's, restaurants and pubs, as lockdown restrictions were lifted but social distancing guidelines remained in place to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.

The measures included in the Act modified provisions in the Licensing Act 2003 to provide automatic extensions to the terms of on-sales alcohol licences to allow for off-sales. It was to be a temporary measure to boost the economy, with provisions initially lasting until the end of September 2021 now extended to end of September 2024.

The Act also introduced a temporary fast-track process for these businesses to obtain permission, in the form of a "pavement licence", from the London Borough of Bromley for the placement of furniture such as tables and chairs on the pavement outside their premise which enabled them to maximise their capacity whilst adhering to social distancing guidelines.

Prior to the Summer of 2020, tables and chairs permissions were granted as Pavement licences by *Bromley* Council, the Highways Authority, only under Part 7A of the Highways Act 1980. The fee varies between local authorities and there is a time consuming 28 day consultation period.

The temporary measure placed a cap on the application fee for businesses, and introduced a new 7-day determination period, ensuring that businesses could obtain licences in a timely and cost effective manner aiding to their financial recovery.

2. Scope

2.1 Definition of pavement café

A pavement licence is a licence granted by the local authority, or deemed to have been granted by the Local Authority, which allows the licence-holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, for certain purposes.

2.2 Eligible Businesses

A business which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises) can apply for a licence. Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours.

A licence permits the business to use furniture placed on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the premises.

2.3 Eligible Locations

Licences can only be granted in respect of highways listed in section 115A (1) Highways Act 1980.

Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. Highways maintained by Network Rail or over the Crown land are exempt (so a licence cannot be granted).

2.3 Type of furniture permitted

The furniture which may be used is:

- counters or stalls for selling or serving food or drink;
- tables, counters or shelves on which food or drink can be placed;
- chairs, benches or other forms of seating; and
- umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink.

This furniture is required to be removable, which in principle means it is not a permanent fixed structure and is able to be moved easily, and stored away at the end of an evening.

The Council would also expect the type of furniture to be 'in keeping' with the local area.

2.4 Planning Permission

Once a licence is granted, or deemed to be granted, the applicant will also benefit from deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid.

3. Application and Determination of Pavement Licences

3.1 Submission of the Application

An application for a Pavement Licence must be made to the Council, and the following will be required to be submitted with the application:

- a completed Application Form
- the required fee of £100, paid by credit or debit card online
- a plan showing the location of the premises shown by a red line, so the application site can be clearly identified
- a plan clearly showing the proposed area covered by the licence in relation to the highway, if not to scale, with measurements clearly shown. The plan must show the positions and number of the proposed tables and chairs, together with any other items that the applicant wishes to place on the highway. The plan shall include clear measurements of, for example, pathway width/length, building width and any other fixed item in the proposed area.
- the proposed days of the week on which, and the times of day between which, it is proposed to put furniture on the highway,
- the proposed duration of the licence if less than 6 months

- evidence of the right to occupy the premises (e.g. the lease) or current premises licence issued under the Licensing Act 2003
- photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied;
- (if applicable) reference of existing pavement licence currently under consideration by the local authority;
- evidence that the applicant has met the requirement to give notice of the application (for example photographs of the notice outside the premises and of the notice itself);
- a copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million, and
- any other evidence needed to demonstrate how the Council's local conditions and any national conditions will be satisfied.

3.2 Fees

The fee for applying for a licence under the new process are set locally, but are capped at £100. The Council has determined that the fee for applications will be £100. The licence will be valid until 30th Sept 2024

3.3 Consultation

Applications are consulted upon for 7 days, starting with the day following the day a valid application was made to the Council.

The Council will publish details of the application on its website at www.Bromley.gov.uk On the Search Licensing Application Portal

The Council is required by law to consult with the Highways Authority. In addition, to ensure that there are not detrimental effects to the application the Council will consult with:

- London Borough of Bromley Environmental Health Service (
- Environmental Protection, Health, Safety, Food and Licensing Teams
- Any other Department or Agency deemed relevant to the application

Members of the public and others listed above can contact the Council to make representations.

The Council must take into account representations received during the public consultation period and consider these when determining the application.

3.4 Site Notice

An applicant for a pavement licence must on the day the application is made, fix a notice of the application to the premises so that the notice is readily visible to, and can be read easily by, members of the public who are not on the premises, including wheelchair users. The notice must be constructed and secured so that it remains in place until the end of the public consultation period. Evidence of the site notice requirement must be supplied to the Council and may be checked on site at any time without prior notice.

The Site Notice must:

- state that the application has been made and the date on which it was made;
- state the statutory provisions under which the application is made;

- state the address of the premises and name of the business;
- describe the proposed use of the furniture;
- indicate that representations relating to the application may be made to the Council during the public consultation period and when that period comes to an end;
- state the Council's website where the application and any accompanying material can be viewed during the consultation period;
- state the address to which representations should be sent during the consultation period; and
- the end date of the consultation (7 days starting the day after the application is submitted to the authority).

A Template for the Site Notice is shown as Appendix 1.

3.5 Site Assessment

The following matters will be used by the Council and consultees in considering the suitability of the proposed application:

- public health and safety – for example, ensuring that uses conform with latest guidance on social distancing and any reasonable crowd management measures needed as a result of a licence being granted and businesses re-opening;
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour and / or litter; and
- accessibility – taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made, its surroundings and its users, taking account of:
 - any other temporary measures in place that may be relevant to the proposal, for example, the reallocation of road space. This could include pedestrianised streets and any subsequent reallocation of this space to vehicles;
 - whether there are other permanent street furniture or structures in place on the footway that already reduce access;
 - the impact on any neighbouring premises
 - the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.2 of <https://www.gov.uk/government/publications/inclusive-mobility-making-transport-accessible-for-passengers-and-pedestrians>, and
 - other users of the space, for example if there are high levels of pedestrian or cycle movements.

Applicants are strongly encouraged to talk to neighbouring businesses and occupiers prior to applying to the local authority and so take any issues around noise, and nuisance into consideration as part of the proposal.

3.6 Determination

Once the application is submitted the Council has 14 days from the day after the application is made (excluding public and bank holidays) to consult on, and determine the application. This consists of 7 days for public consultation, and then 7 days to consider and determine the application after the consultation.

If the local authority determines the application before the end of the determination period the local authority can:

- grant the licence in respect of any or all of the purposes specified in the application,
- grant the licence for some or all of the part of the highway specified in the application, and impose conditions, or

- refuse the application.

If the local authority does not determine the application within the 14 day period, the application will be deemed to have been granted for one year (but will come to an end on 30 September 2024).

3.7 Approval of Applications

The Council may approve applications meeting the criteria contained within these guidelines.

On approving the application, the Council will issue a Pavement Licence to which conditions will be attached. The licence will also contain specific terms such as days and hours when tables and chairs are permitted and appearance and location of the furniture corresponding to the application.

A copy of the Council's standard conditions, which will be attached to all Pavement Licences are shown at Appendix 2. Additional conditions may be attached if the Council considers it appropriate in the circumstances of any particular case.

The Council generally will only permit Pavement Licences between 09:00 and 21:00.

Applications outside these hours will be assessed in terms of the criteria detailed above. The Council however retains the right to specify permitted hours of trading that are less than those specified above in appropriate circumstances.

3.8 Licence Duration

If the Council determines an application before the end of the determination period (which is 7 days, beginning with the first day after the public consultation period, excluding public holidays) the *Council* can specify the duration of the licence, subject to a minimum duration of 3 months.

The Licence will generally be granted until 30th Sept 2024, unless there are good reasons for granting a licence for a shorter period such as plans for future changes in use of road space.

If the Council does not determine an application before the end of the determination period, the licence is deemed granted until 30th September 2024.

A licence granted or deemed to be granted will not be valid beyond 30 September 2024.

Licences previously granted without an end date are extended to 30th September 2024 without the need for a further application.

3.9 Refusal of Applications

If the site is deemed unsuitable for a Pavement Licence, or if relevant representations are made which cannot be mitigated by conditions, then the application may be refused.

There is no statutory appeal process against decision to refuse an application so the correct approach to challenge the decision would be via Judicial Review.

4. Conditions

The Council's standard conditions are set out at Appendix 2. In some cases, extra measures may be required. This will be determined when assessing any application, on a case by case basis.

Where a local authority sets a local condition that covers the same matter as set out in national published conditions, then the locally set condition takes precedence over the national condition where there is reasonable justification to do so.

However, this is not the case for the statutory no-obstruction and smoke-free zone conditions which apply to all Licences. The National 'no obstruction' and "smoke-free zone" conditions are shown in Appendix 3.

5. Enforcement

The Council aims to work closely with licence holders and other enforcement authorities to enforce the provisions of all appropriate legislation. The case remains that an obstruction of the Highway is an offence under The Highways Act 1980 and will be dealt with by the Highways Authority or the Police.

Obtaining a Consent does not confer the holder immunity in regard to other legislation that may apply, e.g. Public Liability, Health & Safety at Work, Food Hygiene and Safety, Alcohol and Entertainment Licensing, Social distancing controls and applicants must ensure all such permissions, etc. are in place prior to applying.

If a condition imposed on a licence either by the Council or via a National Condition is breached, the Council will be able to issue a notice requiring the breach to be remedied and the authority can take action to cover any costs.

The authority may revoke a licence in the following circumstances:

1. For breach of condition, (whether or not a remediation notice has been issued) or
2. Where:
 - There are risks to public health or safety – for example where users breach government guidance on social distancing by placing tables and chairs too close together;
 - the highway is being obstructed (other than by anything permitted by the licence);
 - there is anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise or light generated late at night and litter is not being prevented or cleaned up;
 - it comes to light that the applicant provided false or misleading statements in their application – for example they are operating a stall selling hot food and had applied for tables and chairs on which drinks could be consumed; or
 - the applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.
3. The Council may also revoke the licence where all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, the licensed area (or road adjacent) is no longer to be pedestrianised. The Council will give reasons where these powers are used.

6. Review Procedures

This Policy covers the Temporary Permission for Pavement Licences under the Business and Planning Act which are scheduled to expire on 30 September 2024.

This Policy will be reviewed from time to time should changes occur in relevant legislation, the nature of Pavement Licences generally, relevant social distancing measures or as a result of local considerations within the Bromley Borough.



Public Protection &
Enforcement

Site Notice for display by an applicant for a Pavement Licence.

Issued under the Business and Planning Act 2020.

We *(name of applicant)*,

do hereby give notice that on *(date of application)* [I/we] have applied to London Borough of Bromley for a 'Pavement Licence' at:

(postal address of premises)

known as

(name premises known by)

The application is for:

(brief description of application (e.g. outdoor seating to the front of the premises for serving of food and drink))

Any person wishing to make representations to this application may do so by writing, preferably by email, to:

Licensing Team
London Borough of Bromley
Stockwell Close
Bromley
BR 3UH
0208 313 4218
Licensing@bromley.gov.uk

by: *(last date for representations being the date 7 days starting from the day after the date the application is submitted to the local authority (excluding public holidays))*

The application and information submitted with it can be viewed on the Council's website at: www.Bromley.gov.uk

Signed

Dated *(date the notice was placed which must be the same date as the date of application)*

Standard Pavement Licence Conditions

1. Permission to operate a pavement café does not imply an exclusive right to the area of public highway. The licence holder must be aware that London Borough of Bromley and others (e.g. police, highways authority, statutory undertakers) will need access at various times (including emergencies) for maintenance, installation, special events, improvements etc or any other reasonable cause. This may mean that the pavement café will need to cease operating and/or be removed for a period of time. On these occasions there would be no compensation for loss of business.
2. The licence holder will have Public Liability Insurance at all times the Pavement Licence is operational. This must cover indemnity to London Borough of Bromley against all claims for injury, damage or loss to users of the public highway, arising from the use of the highway for the permitted purpose. The minimum level of indemnity must be £5 million in respect of any one incident.
3. Tables and chairs must not be placed in position outside of permitted times. When the licence is not in use, all tables and chairs and other furniture must be stored securely inside premises away from the highway.
4. London Borough of Bromley is empowered to remove and store or dispose of furniture from the highway, at the cost of the licensee, if it is left there outside the permitted hours, or should any conditions of the licence be ignored.
5. The licence holder is not to make or cause to be made any claim to London Borough of Bromley in the event of any property of the licence holder becoming lost or damaged in any way from whatever cause.
6. An unimpeded pedestrian route must be maintained at all times for people wishing to use the footway as per the National Licence Conditions.
7. The method of marking the boundary of the licensed area must be agreed between the licence holder and Bromley Licensing Department. Whatever method is agreed, a minimum of 1.5 metre clear walkway must be maintained for the use of pedestrians.
8. Emergency routes to the premises and adjacent buildings must not be obstructed by the Pavement Café, which should not, in normal circumstances, extend beyond the width of the premises frontage.
9. Tables and chairs should be of an approved type and should be kept in a good state of repair. Furniture must be placed so as not to obstruct driver sightlines, or road traffic signs. Placement of tables and chairs must allow pedestrians to use the footway parallel to the frontage of the premises. Care should be taken in the use of hanging baskets, awnings, protruding umbrellas etc. Alternative items may not be used without first seeking the written authority of the Council.
10. All potential obstructions must be removed from the public highway when the premises are closed to prevent a safety hazard to pedestrians, particularly during the hours of darkness.

11. The licensee must ensure that the area operates in a safe and orderly manner, thereby ensuring that any safety risk or nuisance to customers, other users of the public highway or any adjacent land or premises, is minimised.
12. The operation of the area must not interfere with highway drainage arrangements.
13. During the hours of darkness suitable and sufficient lighting must be provided to ensure safe use of the area. Any proposals to provide additional lighting to the licensed areas must be agreed with the Highway Authority.
14. All detritus (food and drink remnants, spillages, bottles, cans, wrappers etc) must be regularly removed from the footway surface to reduce hazards to pedestrians. The licence holder must make arrangements to regularly check for and to remove litter and rubbish on pedestrian walkways, caused by persons using the Facility, for a distance of up to 10 metres from the boundary of the Facility. The licence holder must ensure that any tables are cleared in an efficient manner during the hours of operation. The licence holder must ensure the licensed area and surrounding highway is washed down at the completion of each day's usage using a method sufficient to remove food debris, grease and other spillages that may occur.
15. The licence holder is not permitted to make any fixtures, or excavations of any kind, to the surface of the highway without prior written approval. Any costs incurred as a result of damage to the highway, due to the positioning of tables and chairs etc, will be recovered in full from the licence holder by London Borough of Bromley or the Highway Authority.
16. The Licensee of premises not licensed under the Licensing Act 2003 or any modification or re-enactment thereof, must not allow the consumption of alcoholic liquor within the area covered by the Pavement Licence.
17. The Alcohol licence obtained under the Licensing Act 2003 for the main premises extends to the area covered by the Pavement Licence. The Licensee of premises licensed under the Licensing Act 2003 or any modification or re-enactment thereof, must not allow the consumption of alcoholic liquor within the Facility outside the hours in force for the premises itself.
18. The licence must be displayed on the premises with a plan of the agreed layout of the pavement café.
19. The licensee is responsible for ensuring that the conditions of the licence and any other necessary permissions and regulations are adhered to, including in the area covered by the Pavement Licence. The Licence holder is to use the highway solely for the purpose of the licence in line with the provisions of this licence and for no other purpose whatsoever.
20. The licence holder must remove any tables, chairs and other furniture immediately at the end of the licence period and on revocation of the licence.
21. London Borough of Bromley reserves the right to revoke this licence at any time if any of the above conditions are not fulfilled and maintained.
22. The Premises Licence Holder or nominated person shall erect suitable and sufficient conspicuous signage on the exterior of the premises advising patrons of the need not to cause excessive noise whilst queuing due to the proximity of residential dwellings.

23. The Premises Licence Holder or nominated person shall control levels of noise and light in the outside area and advise customers of the need to respect local residents.
24. No speakers for the amplification of music shall be placed on the outside of any building forming a part of the premises (including land), other than for events where the prior written approval of the Licencing Authority, upon consultation with Environmental Health, has been obtained in accordance with the appropriate application process

Appendix 3

National Conditions

1. To the extent that conditions imposed or deemed to be imposed on a pavement licence do not require the licence holder to require clear routes of access to be maintained, taking into account the needs of disabled people and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.2 of <https://www.gov.uk/government/publications/inclusive-mobility-making-transport-accessible-for-passengers-and-pedestrians>, the licence is granted subject to those requirements.
2. To the extent that a licence is granted subject to a condition which imposes requirements to maintain clear routes of access that are inconsistent with the requirements set out in this condition this condition is not imposed on the licence.
3. where the furniture to be put on the relevant highway consists of seating for use by persons for the purpose of consuming food or drink, the licence-holder must make reasonable provision for seating where smoking (including vaping) is not permitted.

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Agenda Item 7

Report No.
CSD23113

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: GENERAL PURPOSES AND LICENSING COMMITTEE

Date: 8 November 2023

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

Title: INTRODUCTION OF NEW MEASURES UNDER THE ELECTIONS ACT 2022 AND UPDATE ON POLLING ARRANGEMENTS

Contact Officer: Carol Ling, Electoral Services Manager
Tel: 0208 313 4367 E-mail: carol.ling@bromley.gov.uk

Chief Officer: Ade Adetosoye CBE, Returning Officer/Electoral Registration Officer/Chief Executive

Ward: All

1. Reason for decision/report and options

- 1.1 To update Members on i) the key measures being introduced through the Elections Act 2022 and ii) polling arrangements.

2. **RECOMMENDATION(S)**

Members are asked to note this report.

Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
-

Transformation Policy

1. Policy Status: Not Applicable
 2. Making Bromley Even Better Priority (delete as appropriate):
 - (1) For children and young People to grow up, thrive and have the best life chances in families who flourish and are happy to call Bromley home.
 - (2) For adults and older people to enjoy fulfilled and successful lives in Bromley, ageing well, retaining independence and making choices.
 - (3) For people to make their homes in Bromley and for business, enterprise and the third sector to prosper.
 - (4) For residents to live responsibly and prosper in a safe, clean and green environment great for today and a sustainable future.
 - (5) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.Not Applicable:
-

Financial

1. Cost of proposal: Not Applicable
 2. Ongoing costs: Not Applicable
 3. Budget head/performance centre: Not Applicable
 4. Total current budget for this head: Not Applicable
 5. Source of funding: Department of Levelling Up, Communities and Housing under the New Burdens doctrine:
-

Personnel

1. Number of staff (current and additional): 5 full time, 3 casual staff and approximately 1,000 temporary staff recruited by the Returning Officer at an election for staffing polling stations, opening and verifying postal votes and staffing the count
 2. If from existing staff resources, number of staff hours: Not Applicable
-

Legal

1. Legal Requirement: Statutory Requirement
 2. Call-in: Not Applicable
-

Procurement

1. Summary of Procurement Implications: Not Applicable
-

Property

1. Summary of Property Implications: Not Applicable
-

Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: Not Applicable

Customer Impact

1. Estimated number of users or customers (current and projected): c240,000 registered electors, candidates, agents and staff
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

INTRODUCTION ON THE ELECTIONS ACT 2022

- 3.1 Members may recall that in a report to this committee on 22 September 2022 details were given of the major changes being made by the UK Government through the Elections Act 2022.
- 3.2 The **first tranche** of these changes (including the introduction of showing photo ID at polling stations, the issue of a free Voter Authority Certificate (VAC) to eligible residents without valid photo ID, and new accessibility requirements) were implemented at elections held in May 2023. Members will be aware that Bromley had no elections in May 2023.
- 3.3 The **second tranche** of these changes come into force in advance of the May 2024 elections - Bromley has the Greater London Authority (GLA) elections on 2 May 2024. These will include new measures relating to:
- Absent Voting
 - Overseas Electors
 - European (EU) Citizens Voting and Candidacy rights
 - Other election related changes
- 3.4 They will apply at UK Parliamentary (General) elections in Great Britain, Local elections in England (including the GLA elections) and any by elections.

FIRST TRANCHE of new measures

1. VOTER ID

- 3.5 Electors will have to show an approved form of photo identification before being issued with a ballot paper at the polling station.
- 3.6 Legislation defines the list of acceptable documentation (including a passport, a driving licence, specified concessionary travel passes etc (see Appendix 1). Polling station staff will not have latitude to accept other documents in lieu of those specified in the Act.
- 3.7 If an elector fails to present a form of accepted photo identification, they will not be issued with a ballot paper. If they forget or bring the wrong type of identification with them, they will be able to return later with the correct photo identification, during the hours of poll.
- 3.8 Expired photo identification will be accepted so long as the photo remains a good enough likeness to be able to identify the elector.
- 3.9 Polling Stations will be required to have a private area for the elector to produce identification in private, if requested. This can be achieved through using a separate room (depending on the size or nature of the polling station), or a privacy screen.

2. VOTER AUTHORITY CERTIFICATE

- 3.10 If electors cannot provide one of the required forms of identification as set out in the legislation, they will be able to apply for a free Voter Authority Certificate (VAC) from their local Electoral Registration Officer (ERO).
- 3.11 Electors will be able to apply for a VAC either:
- online through a new Government portal <https://www.gov.uk/apply-for-photo-id-voter-authority-certificate>, or

- by paper application <https://www.gov.uk/government/publications/apply-for-a-voter-authority-certificate-by-post-if-youre-living-in-the-uk>

3.12 Regardless of the way a person applies, they will need to provide their National Insurance Number (NINO) and a recent photo of themselves.

3. ACCESSIBILITY

3.13 From May 2023 changes were introduced aimed to provide extra support to voters with disabilities when voting in person at a polling station.

3.14 Disabled voters will be able to choose anyone who is over 18 to accompany them in the polling station to help them vote, including carers who may not themselves be eligible to vote at the election.

SECOND TRANCHE of new measures

1. ABSENT VOTING

Online Postal Vote Applications and Identity Verification

3.15 From 31 October 2023, electors can apply for postal votes and some types of proxy votes using a new online portal, hosted on Gov.Uk – the same portal as is used for applying for a VAC.

3.16 Applicants will continue to be required to supply their personal identifiers (date of birth and handwritten signature) as part of a postal vote application – these are matched against the personal identifiers they submit on their postal vote statement which accompanies the ballot paper, when voting.

3.17 All applicants for postal votes will require their identity to be verified as part of the application process. This requirement will apply to both paper and online applications. It will bring the postal vote application process in line with the registration process, in which the ERO must verify the identity of all applicants before they can be added to the electoral register. The information an elector will need to provide will be very similar to the requirements for registration applications, whereby an applicant provides their NINO which is matched against Department of Work and Pensions (DWP) data. There will also be an ‘exceptions’ process (requiring additional documentary evidence to be produced such as the applicant’s passport) for electors to follow if they are unable to provide a NINO or cannot be verified through such data matching and failing that an ‘attestation’ process.

Postal Vote Arrangements

3.18 Postal vote arrangements will be limited to a maximum of three (3) years, at which point the elector will need to make a fresh application. This will replace the current requirement to submit a fresh signature every five (5) years. Postal vote arrangements will run until the third 31 January after they are granted and will then cease.

3.19 The transitional process for moving existing postal voters to the new three-year-re-application system has been recently altered by the Department of Levelling Up, Housing & Communities. Electors who needed to refresh their signature by 31 January 2024, or 31 January 2025 under current provisions are *no longer required to do so*. They are only required to re-apply for their postal by 31 January 2026.

3.20 This means that:

- All existing postal voters who provided a signature prior to 31 October 2023 will be required to reapply for their postal vote by 31 January 2026, AND

- Anyone who applied for a postal vote from 1 November 2023 to 30 January 2024 under the new system will also be required to re-apply for their postal vote by 31 January 2026

Online Proxy Vote Applications and Identity Verification

3.21 All voters who currently hold a permanent proxy will be required to re-apply for their proxy vote before 31 January 2024.

3.22 Electors **will** be able to apply online for the following proxy arrangements:

- For a particular election
- For a definite/indefinite period for:
 - overseas electors
 - armed forces voters
 - crown servants
 - British Council employees

3.23 Electors will **NOT** be able to apply online (so will be paper based) for the following proxy arrangements:

- A permanent proxy i.e. a proxy for a definite or indefinite period due to disability, employment, occupation or service
- A postal vote applied for by a proxy voter
- An emergency proxy
- A proxy application by an anonymous elector

3.24 All applications will need to go through the new verification/identity process, and if they fail will need to go through the exceptions and possibly attestation process (see above).

Proxy Vote Arrangements

3.25 From 31 October 2023 electors will only be able to vote as a proxy in any electoral area for no more than four (4) electors, of which no more than two (2) electors can be domestic/ordinary electors (previously electors could act as a proxy for two (2) domestic/ordinary electors and unlimited number of close family members).

3.26 The personal identifiers refresh process for proxy voters remain the same. Therefore, proxy voters will continue to refresh their absent voter identifiers at 5 yearly intervals.

New Emergency Proxy Provision

3.27 Where an elector submits a proxy application:

- prior to 5pm, 6 days before an election via the online portal
- but due to a technical fault with the online service, it is not received by the Electoral Registration Officer until after 5pm, 6 days before an election.
the elector is entitled to an emergency proxy (no attestation required)

2. POSTAL VOTE HANDLING and SECRECY

3.28 From May 2024 there will be changes to the handling of postal votes and secrecy arrangements relating to them.

3.29 The restrictions on the handling of postal votes will include:

- A ban on political parties and campaigners handling postal votes (but not paper postal vote application forms)

- A limit on the number of postal votes that a person can hand in at polling stations and council offices

3.30 An elector will be permitted to hand in their own postal vote, and the postal votes of up to five (5) other electors (total of 6).

3.31 Any person who hands in postal votes at a polling station or the council offices will be required to complete a form. If the person refuses, the postal votes will be rejected.

3.32 The aim is to deter the handing in of large numbers of postal votes by a single person, thereby reducing both the occurrence and perception of fraud associated with postal voting.

3.33 Secrecy requirements will be extended to postal and proxy votes.

3. OVERSEAS ELECTORS

3.34 The following measures are expected to come into force in January 2024:

- The removal of the 15-year limit on expatriates' right to vote in UK Parliamentary elections.
- The ability for all British citizens overseas to register in respect of the last UK address at which they were registered, or if they were never registered, the last UK address at which they were resident.
- The increase of the registration period to three (3) years (currently one year) and renewals will be linked to a fixed point of 1 November (this is intended to tie in with the new three (3) yearly cycle for absent vote applicants).
- The use of register checks, where possible, to verify an applicant's connection to a previous UK address.
- The undertaking of identity verification which will comprise:
 - Checks of applicant's details against DWP records, or
 - Documentary evidence, or
 - An attestation from another registered elector

3.35 Overseas electors will have the option to re-apply for a postal or refresh their proxy vote, which will then be 'tied' to the new 3-year period of registration (unless a shorter period for the absent vote is specified by the elector and it therefore expires before).

4. EU CITIZENS' VOTING AND CANDIDACY RIGHTS

Changes to Voting Rights

3.36 Now that the UK has left the Europe Union (EU), the automatic right of European citizens to register to vote and to vote will be removed. New provisions will take effect after the elections in May 2024

3.37 Two groups of EU citizens will retain their voting rights:

- 'Qualifying EU citizens' – citizens of EU countries which have a reciprocal agreement with the UK Government, currently Luxembourg, Poland, Portugal and Spain. It is feasible that, in future, other countries will be added to this list.
- 'EU citizens with retained rights' – EU citizens from any other EU country who were already legally resident in the UK before 31 December 2020 (the date we exited the EU).

- 3.38 This change will NOT affect the rights of citizens from Ireland, Malta or Cyprus.
- 3.39 A one-time review of the electoral register will be required to be carried out to determine the eligibility of EU citizens on the register – this process will be carried out after the scheduled elections in May 2024 and must be completed by 31 January 2025.
- 3.40 There will be the creation of a new franchise marker for the electoral register (probably a 'B' marker).
- 3.41 There will also be a change to the application process in order to determine applications under the new eligibility criteria.

Changes to Candidacy Rights

- 3.42 Likewise, the automatic right of European citizens to stand in UK elections will be removed.
- 3.43 The changes to candidacy rights for EU citizens are due to come into force after the polls in May 2024 (from 7 May 2024). Transitional arrangements will enable EU citizens elected to office before this date, to remain in office for their full term.
- 3.44 After this date EU citizens standing as candidates will need to have been legally resident in the UK prior to 31 December 2020 (i.e. have leave to enter or remain in the UK, or do not require such leave), or be a citizen from an EU country which has a reciprocal agreement with the UK Government, currently Luxembourg, Poland, Portugal and Spain, in order to be eligible to stand as a candidate.

5. OTHER NEW MEASURES

Voting systems

- 3.45 From May 2023, the voting system at certain elections (including the Mayor of London at the GLA elections) will change from a supplementary vote system to a simple majority known as the 'first past the post' where you vote for one candidate only, and the candidate with the most votes will win.

Undue Influence and Intimidation

- 3.46 From November 2023, the offence of undue influence will be simplified and clarified, and the types of illegal behaviour used to unfairly influence someone's vote will be defined.
- 3.47 A new disqualification order will be introduced, providing that anyone who has been convicted of an existing criminal offence of an intimidatory nature will be disqualified from standing for election, being elected to, or holding a relevant elected office for a period of five (5) years.

Digital Imprints

- 3.48 From November 2023, campaigners will be required to include imprints on their digital political campaign material.

Commonly Used Names

- 3.49 From May 2024, there will be greater flexibility in the names a candidate can put on their nomination paper. This will allow, for example, someone who is commonly known by their middle name, to use only this name on their nomination papers rather than having to use both their first and middle names as is currently the case.

PUBLIC AWARENESS

- 3.50 There will be extensive and targeted awareness raising campaigns by the Electoral Commission and the GLA (which will be supplemented locally by Bromley) to ensure that residents and prospective candidates know about the upcoming changes (especially around Voter ID) at the next scheduled elections to be held in the borough namely the GLA elections on 2 May 2024.

RESOURCES

- 3.51 The implementation of these new measures will be a huge additional burden on the resources of the ERO and Returning Officer (RO).
- 3.52 Electoral staff will require extensive training on the new systems/online services and processes.
- 3.53 The additional checks required may substantially increase the work involved in staff processing VACs and absent votes applications. It is not known at this stage how many applications will be received, and how many absent vote applications will not be verified by DWP (so will need to follow an exceptions process and failing that an attestation process).
- 3.54 There is a “new burdens” agreement between Central Government and Local Government whereby Central Government promise to fully fund additional burdens. However, as this will be an ongoing pressure, the ERO/RO may require additional resources from the Council, unless Central Government fully funds the ongoing costs associated with these new measures.

4. COMMENTARY

INTRODUCTION ON POLLING ARRANGEMENTS

- 4.1 Members may recall that following the completion of a review by the Local Government Boundary Commission and in a report to this committee on 21 September 2021, details were given of the new **ward** arrangements – which came into force at the last Local Council Elections on 5 May 2022.
- 4.2 Under legislation the Local Government Boundary Commission could not take into account the existing parliamentary boundaries during this review.
- 4.3 Members may also recall that at that time the Boundary Commission for England was in the process of reviewing **parliamentary** boundaries throughout England. The final recommendations were published on 28 June 2023 with legislation expected to come into force late November 2023 or early December 2023. The new constituencies will apply at the next UK Parliamentary (General) election.
- 4.4 Under legislation the Boundary Commission could only consider ward boundaries which existed as of 1 December 2020. Therefore, the Commission could not take Bromley’s new ward boundaries into account during this review.
- 4.5 As a result the RO compiled a scheme of **polling districts** which identified and separated the anomalies between the old and new ward arrangements so that both the current and new parliamentary constituency boundaries could be managed, as they may not have been coterminous.
- 4.6 Now that the new ward boundaries have been implemented and we have details of the new parliamentary boundaries, we can review the polling district scheme taking into account the

necessity to reflect both the current parliamentary boundaries (in case of a Parliamentary by-election occurring before the next General election) and the new parliamentary boundaries to take effect at the next General election.

4.7 The amended **polling district scheme** (see Appendix 2) is simply to tidy up the electoral register (by amending some of the polling district codes) and is for administrative purposes only. There are no changes to the ward boundaries, and no changes to electors' polling stations.

4.8 Following the next General election, we can then undertake a further review of the polling district scheme, and this should only leave three (3) anomalies in the wards of Darwin, Petts Wood & Knoll and Shortlands.

5 IMPACT ON VULNERABLE ADULTS AND CHILDREN

None arising from this report.

6 TRANSFORMATION/POLICY IMPLICATIONS

None arising from this report.

7 FINANCIAL IMPLICATIONS

The Department of Levelling Up, Communities and Housing will provide additional funding under the New Burdens doctrine.

8 PERSONNEL IMPLICATIONS

Some Council employees are recruited by the Returning Officer to help with the various duties concerning the conduct of polls. However, a majority of staff are recruited from other sources.

Under the provisions of section 35(6) of the Representation of the People Act 1983 the Council shall place the services of its officers at the disposal of the Returning Officer.

9 LEGAL IMPLICATIONS

The Council has an obligation to comply with the Elections Act 2022 and subsequent secondary legislation in the form of Regulations and to ensure that the Council meets its obligation (under section 54 of the Representation of the People Act 1983) to provide sufficient resources to the Electoral Registration Officer/Returning Officer.

10 PROCUREMENT IMPLICATIONS

None arising from this report.

11 PROPERTY IMPLICATIONS

None arising from this report.

12 CARBON REDUCTION/SOCIAL VALUE IMPLICATIONS

None arising from this report.

13 CUSTOMER IMPACT

None arising from this report.

14 WARD COUNCILLOR VIEWS

None arising from this report.

Non-Applicable Headings:	[List any of headings 4 to 13 that do not apply.]
Background Documents: (Access via Contact Officer)	[Title of document and date]

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APPENDIX 1

Accepted forms of photographic identification

You must present one of the following forms of photographic identification to vote at a polling station:

- a passport issued by the UK, any of the Channel Islands, the Isle of Man, a British Overseas Territory, an EEA state or a Commonwealth country (including an Irish Passport Card)
- a driving licence issued by the UK, any of the Channel Islands, the Isle of Man or an EEA state
- a biometric immigration document
- an identity card bearing the Proof of Age Standards Scheme hologram (a PASS card)
- a Ministry of Defence Form 90 (Defence Identity Card)
- a Blue Badge
- a national identity card issued by an EEA state
- an Older Person's Bus Pass
- a Disabled Person's Bus Pass
- an Oyster 60+ Card
- a Freedom Pass
- a Scottish National Entitlement Card issued in Scotland
- a 60 and Over Welsh Concessionary Travel Card issued in Wales
- a Disabled Person's Welsh Concessionary Travel Card issued in Wales
- a Senior SmartPass issued in Northern Ireland
- a Registered Blind SmartPass or Blind Person's SmartPass issued in Northern Ireland
- a War Disablement SmartPass or War Disabled SmartPass issued in Northern Ireland
- a 60+ SmartPass issued in Northern Ireland
- a Half Fare SmartPass issued in Northern Ireland
- an Electoral Identity Card issued in Northern Ireland
- a Voter Authority Certificate or a temporary Voter Authority Certificate.

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APPENDIX 2

Current PD	New PD	Ward	Constituency	Proposed Constituency	Outcome
BEC1	BEC1	Beckenham Town & Copers Cope	Beckenham	Beckenham & Penge	
BEC2	BEC2	Beckenham Town & Copers Cope	Beckenham	Beckenham & Penge	
BEC3	BEC3	Beckenham Town & Copers Cope	Beckenham	Beckenham & Penge	
BEC3X		Beckenham Town & Copers Cope	Beckenham	Beckenham & Penge	NOT anomaly under NEW or EXISTING Parliamentary Boundaries - to be merged with BEC3 (X removed)
BIC1	BIC1	Bickley & Sundridge	Bromley & Chislehurst	Bromley & Biggin Hill	
BIC2	BIC2	Bickley & Sundridge	Bromley & Chislehurst	Bromley & Biggin Hill	
BIC3	BIC3	Bickley & Sundridge	Bromley & Chislehurst	Bromley & Biggin Hill	
BIC4	BIC4	Bickley & Sundridge	Bromley & Chislehurst	Bromley & Biggin Hill	
BIC5	BIC5	Bickley & Sundridge	Bromley & Chislehurst	Bromley & Biggin Hill	
BIC6X	BIC6	Bickley & Sundridge	Bromley & Chislehurst	Bromley & Biggin Hill	NOT anomaly under NEW or EXISTING Parliamentary Boundaries - Whole PD (X to be removed)
BIG1	BIG1	Biggin Hill	Orpington	Bromley & Biggin Hill	
BIG2	BIG2	Biggin Hill	Orpington	Bromley & Biggin Hill	
BIG2X		Biggin Hill	Orpington	Bromley & Biggin Hill	NOT anomaly under NEW or EXISTING Parliamentary Boundaries (Boundary Commision took new PD into account) - to be merged with BIG2 (X removed)
BIG2Y		Biggin Hill	Orpington	Bromley & Biggin Hill	NOT anomaly under NEW or EXISTING Parliamentary Boundaries (Boundary Commision took new PD into account) - to be merged with BIG2 (Y removed)
BIG3	BIG3	Biggin Hill	Orpington	Bromley & Biggin Hill	
BRC1	BRC1	Bromley Common & Holwood	Beckenham	Bromley & Biggin Hill	
BRC2	BRC2	Bromley Common & Holwood	Beckenham	Bromley & Biggin Hill	
BRC3	BRC3	Bromley Common & Holwood	Beckenham	Bromley & Biggin Hill	
BRC4	BRC4	Bromley Common & Holwood	Beckenham	Bromley & Biggin Hill	
BRC5X	BRC5X	Bromley Common & Holwood	Bromley & Chislehurst	Bromley & Biggin Hill	Anomaly under EXISTING Parliamentary Constituency Boundaries - X to be kept
BRT1	BRT1	Bromley Town	Bromley & Chislehurst	Bromley & Biggin Hill	
BRT2	BRT2	Bromley Town	Bromley & Chislehurst	Bromley & Biggin Hill	
BRT2X		Bromley Town	Bromley & Chislehurst	Bromley & Biggin Hill	NOT anomaly under NEW or EXISTING Parliamentary Boundaries - to be merged with BRT2 (X removed)
BRT2Y		Bromley Town	Bromley & Chislehurst	Bromley & Biggin Hill	NOT anomaly under NEW or EXISTING Parliamentary Boundaries - to be merged with BRT2 (Y removed)
BRT2Z		Bromley Town	Bromley & Chislehurst	Bromley & Biggin Hill	NOT anomaly under NEW or EXISTING Parliamentary Boundaries - to be merged with BRT2 (Z removed)
BRT3	BRT3	Bromley Town	Bromley & Chislehurst	Bromley & Biggin Hill	
BRT3X		Bromley Town	Bromley & Chislehurst	Bromley & Biggin Hill	NOT anomaly under NEW or EXISTING Parliamentary Boundaries - to be merged with BRT3 (X removed)
BRT3Y		Bromley Town	Bromley & Chislehurst	Bromley & Biggin Hill	NOT anomaly under NEW or EXISTING Parliamentary Boundaries - to be merged with BRT3 (Y removed)
BRT4	BRT4	Bromley Town	Bromley & Chislehurst	Bromley & Biggin Hill	
BRT5X	BRT5X	Bromley Town	Beckenham	Bromley & Biggin Hill	Anomaly under EXISTING Parliamentary Constituency Boundaries - X to be kept
CHE1	CHE1	Chelsfield	Orpington	Orpington	
CHE2	CHE2	Chelsfield	Orpington	Orpington	
CHE2X		Chelsfield	Orpington	Orpington	NOT anomaly under NEW or EXISTING Parliamentary Boundaries - to be merged with CHE2 (X removed)
CHE3	CHE3	Chelsfield	Orpington	Orpington	
CHE4	CHE4	Chelsfield	Orpington	Orpington	
CHS1	CHS1	Chislehurst	Bromley & Chislehurst	Eltham & Chislehurst	
CHS2	CHS2	Chislehurst	Bromley & Chislehurst	Eltham & Chislehurst	
CHS3	CHS3	Chislehurst	Bromley & Chislehurst	Eltham & Chislehurst	
CHS4	CHS4	Chislehurst	Bromley & Chislehurst	Eltham & Chislehurst	
CHS5	CHS5	Chislehurst	Bromley & Chislehurst	Eltham & Chislehurst	
CLH1	CLH1	Clock House	Lewisham West & Penge	Beckenham & Penge	
CLH2	CLH2	Clock House	Lewisham West & Penge	Beckenham & Penge	
CLH2X		Clock House	Lewisham West & Penge	Beckenham & Penge	NOT anomaly under NEW or EXISTING Parliamentary Boundaries - to be merged with CLH2 (X removed)

CLH3	CLH3	Clock House	Lewisham West & Penge	Beckenham & Penge	
CLH4	CLH4	Clock House	Lewisham West & Penge	Beckenham & Penge	
CLH5	CLH5	Clock House	Lewisham West & Penge	Beckenham & Penge	
CLH5X		Clock House	Lewisham West & Penge	Beckenham & Penge	NOT anomaly under NEW or EXISTING Parliamentary Boundaries - to be merged with CLH5 (X removed)
CPA1	CPA1	Crystal Palace & Anerley	Lewisham West & Penge	Beckenham & Penge	
CPA2	CPA2	Crystal Palace & Anerley	Lewisham West & Penge	Beckenham & Penge	
DAR1X	DAR1X	Darwin	Orpington	Bromley & Biggin Hill	Anomaly under NEW Constituency Parliamentary Boundary - (Boundary Commission used PD) X to be added
DAR2	DAR2	Darwin	Orpington	Orpington	
DAR3	DAR3	Darwin	Orpington	Orpington	
DAR4	DAR4	Darwin	Orpington	Orpington	
DAR4X		Darwin	Orpington	Orpington	NOT anomaly under NEW or EXISTING Parliamentary Boundaries - to be merged with DAR4 (X removed)
DAR5	DAR5	Darwin	Orpington	Orpington	
DAR6	DAR6	Darwin	Orpington	Orpington	
DAR7	DAR7	Darwin	Orpington	Orpington	
DAR8X	DAR8	Darwin	Orpington	Orpington	NOT anomaly under NEW or EXISTING Parliamentary Boundaries - Whole PD (X to be removed)
FAC1	FAC1	Farnborough & Crofton	Orpington	Orpington	
FAC2	FAC2	Farnborough & Crofton	Orpington	Orpington	
FAC3	FAC3	Farnborough & Crofton	Orpington	Orpington	
FAC4	FAC4	Farnborough & Crofton	Orpington	Orpington	
FAC5	FAC5	Farnborough & Crofton	Orpington	Orpington	
FAC6X	FAC6	Farnborough & Crofton	Orpington	Orpington	NOT anomaly under NEW or EXISTING Parliamentary Boundaries - Whole PD (X to be removed)
HCH1	HCH1	Hayes & Coney Hall	Beckenham	Bromley & Biggin Hill	
HCH2	HCH2	Hayes & Coney Hall	Beckenham	Bromley & Biggin Hill	
HCH3	HCH3	Hayes & Coney Hall	Beckenham	Bromley & Biggin Hill	
HCH4	HCH4	Hayes & Coney Hall	Beckenham	Bromley & Biggin Hill	
HCH5	HCH5	Hayes & Coney Hall	Beckenham	Bromley & Biggin Hill	
HCH6X	HCH6	Hayes & Coney Hall	Beckenham	Bromley & Biggin Hill	NOT anomaly under NEW or EXISTING Parliamentary Boundaries - Whole PD (X to be removed)
KEP1	KEP1	Kelsey & Eden Park	Beckenham	Beckenham & Penge	
KEP2	KEP2	Kelsey & Eden Park	Beckenham	Beckenham & Penge	
KEP3	KEP3	Kelsey & Eden Park	Beckenham	Beckenham & Penge	
KEP4	KEP4	Kelsey & Eden Park	Beckenham	Beckenham & Penge	
MOT1	MOT1	Mottingham	Bromley & Chislehurst	Eltham & Chislehurst	
MOT2	MOT2	Mottingham	Bromley & Chislehurst	Eltham & Chislehurst	
MOT3	MOT3	Mottingham	Bromley & Chislehurst	Eltham & Chislehurst	
MOT4	MOT4	Mottingham	Bromley & Chislehurst	Eltham & Chislehurst	
MOT4X		Mottingham	Bromley & Chislehurst	Eltham & Chislehurst	NOT anomaly under NEW or EXISTING Parliamentary Boundaries - to be merged with MOT4 (X removed)
ORP1	ORP1	Orpington	Orpington	Orpington	
ORP2	ORP2	Orpington	Orpington	Orpington	
ORP3	ORP3	Orpington	Orpington	Orpington	
ORP4	ORP4	Orpington	Orpington	Orpington	
ORP5	ORP5	Orpington	Orpington	Orpington	
PEC1	PEC1	Penge & Cator	Lewisham West & Penge	Beckenham & Penge	
PEC2	PEC2	Penge & Cator	Lewisham West & Penge	Beckenham & Penge	
PEC3	PEC3	Penge & Cator	Lewisham West & Penge	Beckenham & Penge	
PEC4	PEC4	Penge & Cator	Lewisham West & Penge	Beckenham & Penge	

PEC5	PEC5	Penge & Cator	Lewisham West & Penge	Beckenham & Penge	
PEC6	PEC6	Penge & Cator	Lewisham West & Penge	Beckenham & Penge	
PEC7X	PEC7	Penge & Cator	Lewisham West & Penge	Beckenham & Penge	NOT anomaly under NEW or EXISTING Parliamentary Boundaries - Whole PD (X to be removed)
PEK1	PEK1	Petts Wood & Knoll	Orpington	Orpington	
PEK1X	PEK1X	Petts Wood & Knoll	Beckenham	Bromley & Biggin Hill	Anomaly under BOTH Constituency Parliamentary Boundaries - X to kept
PEK2	PEK2	Petts Wood & Knoll	Orpington	Orpington	
PEK2X	PEK2X	Petts Wood & Knoll	Bromley & Chislehurst	Orpington	Anomaly under EXISTING Parliamentary Constituency Boundaries - X to kept
PEK3	PEK3	Petts Wood & Knoll	Orpington	Orpington	
PEK3X		Petts Wood & Knoll	Orpington	Orpington	NOT anomaly under NEW or EXISTING Parliamentary Boundaries - to be merged with PEK3 (X removed)
PEK4	PEK4	Petts Wood & Knoll	Orpington	Orpington	
PEK5X	PEK5	Petts Wood & Knoll	Orpington	Orpington	NOT anomaly under NEW or EXISTING Parliamentary Boundaries - Whole PD (X to be removed)
PLA1	PLA1	Plaistow	Bromley & Chislehurst	Bromley & Biggin Hill	
PLA2	PLA2	Plaistow	Bromley & Chislehurst	Bromley & Biggin Hill	
PLA3	PLA3	Plaistow	Bromley & Chislehurst	Bromley & Biggin Hill	
PLA4	PLA4	Plaistow	Bromley & Chislehurst	Bromley & Biggin Hill	
SHP1	SHP1	Shortlands & Park Langley	Beckenham	Beckenham & Penge	
SHP1X		Shortlands & Park Langley	Beckenham	Beckenham & Penge	NOT anomaly under NEW or EXISTING Parliamentary Boundaries - to be merged with SHP1 (X removed)
SHP2	SHP2	Shortlands & Park Langley	Beckenham	Beckenham & Penge	
SHP2X		Shortlands & Park Langley	Beckenham	Beckenham & Penge	NOT anomaly under NEW or EXISTING Parliamentary Boundaries - to be merged with SHP2 (X removed)
SHP2Y		Shortlands & Park Langley	Beckenham	Beckenham & Penge	NOT anomaly under NEW or EXISTING Parliamentary Boundaries - to be merged with SHP2 (Y removed)
SHP3	SHP3	Shortlands & Park Langley	Beckenham	Beckenham & Penge	
SHP4	SHP4	Shortlands & Park Langley	Beckenham	Beckenham & Penge	
SHP5X	SHP5X	Shortlands & Park Langley	Bromley & Chislehurst	Bromley & Biggin Hill	Anomaly under BOTH Constituency Parliamentary Boundaries - X to kept
SMC1	SMC1	St Mary Cray	Orpington	Orpington	
SMC2	SMC2	St Mary Cray	Orpington	Orpington	
SMC3	SMC3	St Mary Cray	Orpington	Orpington	
SMC4	SMC4	St Mary Cray	Orpington	Orpington	
SMC5	SMC5	St Mary Cray	Orpington	Orpington	
SMC6X	SMC6X	St Mary Cray	Bromley & Chislehurst	Orpington	Anomaly under EXISTING Parliamentary Constituency Boundaries - X to kept
SMC7X	SMC7	St Mary Cray	Orpington	Orpington	NOT anomaly under NEW or EXISTING Parliamentary Boundaries - Whole PD (X to be removed)
SPC1	SPC1	St Paul's Cray	Bromley & Chislehurst	Orpington	
SPC2	SPC2	St Paul's Cray	Bromley & Chislehurst	Orpington	
SPC3	SPC3	St Paul's Cray	Bromley & Chislehurst	Orpington	
SPC4X	SPC4X	St Paul's Cray	Orpington	Orpington	Anomaly under EXISTING Parliamentary Constituency Boundaries - X to kept
WEW1	WEW1	West Wickham	Beckenham	Beckenham & Penge	
WEW2	WEW2	West Wickham	Beckenham	Beckenham & Penge	
WEW3	WEW3	West Wickham	Beckenham	Beckenham & Penge	
WEW4	WEW4	West Wickham	Beckenham	Beckenham & Penge	

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Agenda Item 8

Report No.
CSD23108

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: GENERAL PURPOSES AND LICENSING COMMITTEE

Date: Wednesday 8 November 2023

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

Title: REVIEW OF THE CONSTITUTION

Contact Officer: Graham Walton, Democratic Services Manager
Tel: 0208 461 7743 E-mail: graham.walton@bromley.gov.uk

Chief Officer: Tasnim Shawkat, Director of Corporate Services and Governance

Ward: All

1. Reason for decision/report and options

- 1.1 At the Committee's meeting on 11th July 2023 a report was presented setting out a new, simplified structure for the Council's Constitution. The Committee deferred the proposals pending consideration by the Constitution Working Group. The Working Group has now met and considered the proposals, which are set out in the attached appendices to this report. This is an exercise to make the Constitution clearer and easier to use; no changes of substance are proposed. The detailed changes are track-changed in red, with additional changes requested by the Constitution Working Group highlighted in yellow.

2. **RECOMMENDATION**

That the Committee recommends to Council that the new structure and updated contents of the Constitution attached to this report be adopted.

Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
-

Transformation Policy

1. Policy Status: Existing Policy
 2. Making Bromley Even Better Priority:
(5) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.
-

Financial

1. Cost of proposal: No Cost
 2. Ongoing costs: Not Applicable
 3. Budget head/performance centre: Democratic Services
 4. Total current budget for this head: £402k
 5. Source of funding: Revenue Budget
-

Personnel

1. Number of staff (*current and additional*): 6fte
 2. If from existing staff resources, number of staff hours: Not Applicable
-

Legal

1. Legal Requirement: Statutory Requirement: Local Government Acts 1972 and 2000
 2. Call-in: Not Applicable: This report does not involve an executive decision
-

Procurement

1. Summary of Procurement Implications: Not Applicable
-

Property

1. Summary of Property Implications: Not Applicable
-

Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: Not Applicable
-

Impact on the Local Economy

1. Summary of Local Economy Implications: Not Applicable
-

Impact on Health and Wellbeing

1. Summary of Health and Wellbeing Implications: Not Applicable
-

Customer Impact

1. Estimated number of users or customers (*current and projected*): Not Applicable
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

3.1 The Constitution Working Group has approved a new structure for the Council's Constitution, which is recommended for support by this Committee and referral to full Council for approval. The aim of the proposal is to simplify the Constitution, replacing a confusing mix of several Parts and various appendices with a streamlined structure of eleven chapters as follows –

1. The Constitution
2. The Full council
3. The Leader and executive
4. Scrutiny
5. Committees
6. Scheme of Delegation to Officers
7. Ethical Governance
8. Access to Information Procedure Rules
9. Finance Rules (*not changed and not attached to this report*)
10. Officer Employment Procedure
11. Councillors Allowance Scheme (*not changed and not attached to this report*)

3.2 As part of the review, out of date or duplicate material has been removed and references to legislation checked and updated, with hyperlinks included where possible. Although the layout and presentation of the Constitution has been changed significantly, there is no intention to make changes of substance at this stage.

3.2 The amended Constitution is attached. The track changes show amendments made as part of the review, with additional changes requested by the Constitution Working Group showing as yellow highlights.

3.4 Working with the Constitution Working Group, the Monitoring Officer intends to carry out further reviews focussing on significant sections of the Constitution. These will include –

- Financial Procedure Rules and Contract Procedure Rules (following consultation with the S.151 Officer and the Executive)
- Key Decision Thresholds (a review in consultation with the Leader and Executive)
- Local Planning Protocol and Code of Conduct (with the assistance of Development Control Committee)
- Outside Bodies (to check the guidance meets Members' requirements)

4. FINANCIAL IMPLICATIONS

4.1 There are no financial implications relating to this decision.

5. LEGAL IMPLICATIONS

5.1 The Local Government Act 2000 requires the Council to have and maintain a Constitution. The Monitoring Officer is satisfied that the Council's proposed Constitution, as attached to this report, continues to fulfil its stated purposes.

Non-Applicable Headings:	Impact on vulnerable adults and children/Policy/ Procurement/Property/Carbon Reduction/ Local Economy/Health and Wellbeing/Customers/ Ward Councillors
Background Documents: (Access via Contact Officer)	Report to GP&L 11/7/23 Council Constitution

CONSTITUTION

OF THE

LONDON BOROUGH OF BROMLEY

CHAPTER 1 - THE CONSTITUTION

1. Summary and Explanation
2. Management of the Constitution
3. Roles and Functions of Elected Members
4. Citizen's Rights
5. Decision Making
6. Governance, including Finance, Contracts and Legal Matters
7. Officers

CHAPTER 2 - THE FULL COUNCIL

8. The Role and Functions of Council
9. Council Procedure Rules
10. The Mayor and Chairperson of the Council

CHAPTER 3 - THE LEADER AND THE EXECUTIVE

11. The Executive
12. Executive Assistants
13. Executive Procedure Rules
14. Budget and Policy Framework Procedure Rules
15. The Executive Portfolios
16. Responsibility for Functions
17. Joint Arrangements

CHAPTER 4 - SCRUTINY

18. Introduction to the Policy Development and Scrutiny Process and Committees
19. Policy Development and Scrutiny Procedure Rules
20. Terms of Reference of Policy Development and Scrutiny Committees
21. Members of Scrutiny

CHAPTER 5 - COMMITTEES

22. The Committees and Sub-Committees of the Council
23. The Committees - Terms of Reference
24. Area Committees and Forums
25. Members of the Committees

CHAPTER 6 - SCHEME OF DELEGATIONS TO OFFICERS

26. Scheme of Delegation to Officers

CHAPTER 7 – ETHICAL GOVERNANCE

27. Member's Code of Conduct
28. Employee Code of Conduct
29. Member / Officer Protocol
30. Local Planning Protocol and Code of Conduct
31. Code of Governance
32. Guidance to Councillors: Membership of Outside Bodies

CHAPTER 8 – ACCESS TO INFORMATION PROCEDURE RULES

33. Access to information Rules

CHAPTER 9 – FINANCE RULES

34. Financial Procedure Rules
35. Contracts Procedure Rules

CHAPTER 10 – OFFICER EMPLOYMENT PROCEDURE

36. Officer Employment Procedure Rules
37. Politically restricted posts

CHAPTER 11 – COUNCILLORS' ALLOWANCE SCHEME

38. Member's Allowance Scheme

CHAPTER 1 – THE CONSTITUTION

1. Summary and Explanation

1.1 The Council's Constitution

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

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

1.2 What's in the Constitution?

~~The Article 1 of the~~ Constitution commits the Council to having strategies to deliver delivering its priorities under the Making Bromley Even Better Strategy, providing clear Leadership in partnership with local people, businesses and others with a stake in the well-being of the Borough of Bromley. ~~exercise all its powers and duties in accordance with the law and this Constitution. It Articles 2-16 explains~~ the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (~~Article 2~~).
- Citizens and the Council (~~Article 3~~).
- ~~The Council meeting (Article 4).~~
- ~~The Executive Chairing the Council. (Article 5)~~
- ~~Committees~~
- ~~Policy Development and Scrutiny (including overview and scrutiny role) (Article 6).~~
- ~~The Executive (Article 7)~~
- ~~Regulatory and other Committees (Article 8)~~
- ~~The Standards Committee (Article 9).~~
- ~~Area Committees (Article 10).~~
- ~~Joint arrangements (Article 11).~~
- ~~Officers (Article 12) and their delegations~~
- ~~Members Allowances~~
- ~~Decision making (Article 13).~~
- ~~Finance, contracts and legal matters (Article 14).~~

- ~~Review and revision of the Constitution (Article 15).~~
- ~~—~~
- ~~Suspension, interpretation and publication of the Constitution (Article 16).~~

1.3 How the Council operates

The Council is composed of 58 Councillors elected every four years. Councillors are democratically accountable ~~to the whole community and owe particular responsibilities~~ to the residents of their Ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them. The names and addresses of all Councillors are published in this Chapter and on the Council's website.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee is responsible for ensuring that training and advice is given on the Code of Conduct ~~and in dealing with complaints about breaches of the Code.~~

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council will elect the Leader of the Council Executive at the Annual Meeting immediately following the ordinary election of who in turn appoints and provides leadership to an Executive ~~all Councillors who will normally hold office until the day of the Annual Meeting following from the next ordinary election of all Councillors.~~ The Executive will consist of the following:-

- the Executive Leader;
- at least 2 but not more than 9 Councillors appointed by the Leader.

The Council holds the Executive to account by appointing Policy Development and Scrutiny Committees to question decisions and to propose policy changes.

~~The Council will consider reports from the Policy Development and Scrutiny Committees (see Page 4 under "Overview and Scrutiny") where the Executive is believed to have taken a decision outside the powers of the Executive such as a decision taken contrary to policy or budget. In other cases, decisions of the Executive may be "called in" for scrutiny before being implemented.~~

The Council will also appoint central Committees to deal with development control, licensing, registration and other functions which cannot be undertaken by the Executive.

A Standards Committee ~~composed of non-Executive Councillors~~ will monitor the maintenance of high standards of conduct in all the Council's activities.

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

1.4 How decisions are made -

The Executive

The Executive is the part of the Council which is responsible for most day-to-day decisions. The Executive is made up of a Leader and between two and nine Councillors. The full Council elects the Leader who appoints all other members of the Executive. When key decisions are to be discussed or made, these are published in the Executive's forward plan in so far as they can be anticipated. Meetings of ~~If these key decisions are to be discussed~~

~~with Council officers at a meeting of~~ the Executive, ~~this~~ will generally be open for the public to attend except where personal or confidential matters are being discussed. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

1.5

How decisions are made – Council Functions

Whilst most decisions are taken by the Executive meeting together (ie by the Cabinet or by individual Portfolio holders) a number of important decisions are also taken by the full Council or by Committees or Sub-Committees of the Council eg planning and licensing applications.

1.6 Policy Development ~~Overview~~ and Scrutiny

There are 6 ~~Committees called~~ Policy Development and Scrutiny Committees. ~~They who~~ support the work of the Executive and the Council as a whole. They have a major role in policy development and scrutinise the decisions of the Executive. They make reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery. Policy Development and Scrutiny Committees also monitor the decisions of the Executive. They can 'call-in' a decision which has been made by the Executive but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Executive reconsider the decision. They may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

1.7 The Council's Staff

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A Protocol, in Chapter 7, governs the relationships between officers and members of the Council.

2. Management of the Constitution

2.1 Powers of the Council

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

2.2 The Constitution

This Constitution, and all its appendices, is the Constitution of the London Borough of Bromley ("the Council").

2.3 Purpose of the Constitution

The purpose of the Constitution is to:

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

2.4 Review of the Constitution

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

~~A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve its purposes. In undertaking this task, the Monitoring Officer may:~~

- ~~1. observe meetings of different parts of the member and officer structure;~~
- ~~2. undertake an audit trail of a sample of decisions;~~
- ~~3. record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders;~~
- ~~4. compare practices in this Authority with those in other comparable authorities, or national examples of best practice; and~~
- ~~5. in carrying out these functions the Monitoring Officer will regularly consult the Head of Paid Service and as and when appropriate the Standards Committee, Policy Development and Scrutiny Committee and the Executive before formulating proposals for change.~~

2.5 Changes to the Constitution

(a) **Approval**

Changes to the Constitution (other than minor drafting or consequential amendments) will normally only be approved by the full Council after consideration of a proposal by the General Purposes and Licensing Committee unless the Monitoring Officer considers it appropriate to directly refer amendments to Full Council or makes such amendments acting under delegated powers. However, proposals for change may be made by the Head of Paid Service, Monitoring Officer, the Executive, the General Purposes Committee, the Policy Development and Scrutiny and the Standards Committees. Any proposals for change will only be approved after consideration of a report from the Director of Corporate Services and Governance.

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

The Monitoring Officer shall have power to amend the constitution in line with the Scheme of Delegation to Officers:

- ~~i) to correct errors or comply with any legal requirement;~~
- ~~ii) to implement decisions of the Council, Committees, the Leader, the Executive, Portfolio Holders or Officers acting within the scope of their powers in relation to the Constitution.~~
- ~~iii) to make inconsequential amendments such as updating officer titles.~~

- (c) **Change from a Leader and Cabinet form of Executive to alternative arrangements.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

2.6 Suspension of the Constitution

- (a) **Limit to suspension.** The Rules specified below may be suspended by the full Council, Committees and the Executive to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in this **Chapter**.
- (c) **Rules capable of suspension.** The following Rules may be suspended:
- ~~• Standing Orders~~
 - Contracts Procedure Rules
 - Council Procedure Rules
 - Executive Procedure Rules
 - Financial Regulations

2.7 Interpretation

The ruling of the Mayor (or as the case may be, person presiding) as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution.

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above, in paragraph 2.3.

2.8 Publication

- (a) The Director of Corporate Services and Governance will circulate ~~give a printed~~ copy of this Constitution to each Member of the Authority upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.
- (b) The Director of Corporate Services and Governance will make available a full copy of this Constitution ~~ensure that copies are available for inspection at Council offices, libraries, on the Council's website and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.~~ (c) ~~The Director of Corporate Services and Governance will ensure that the summary of the Constitution is made widely available within the area and is updated as necessa~~

3. Roles and Functions of Elected members

3.1 Composition and eligibility

(a) **Composition.** The Council will comprise 58 members, otherwise called Councillors. Up to 3 Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Commission and approved by the Secretary of State.

(b) **Eligibility.** Only registered voters of the Borough or those living or working there will be eligible to hold the office of Councillor.

3.2 Election and terms of Councillors

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

3.3 Roles and functions of councillors

(a) Key roles

All Councillors will:

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
- (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (iv) balance different interests identified within the ward or electoral division and represent the ward or electoral division as a whole;
- (v) be involved in decision-making;
- (vi) be available to represent the Council on other bodies;
- (vii) maintain the highest standards of conduct and ethics.

(b) Rights and duties

- (i) Councillors will, subject to statute and the Council's Constitution, have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in **Chapter 8** of this Constitution.

3.4 Conduct

Councillors will at all times observe the Code of Conduct and the Member/ Officer Protocol set out in Chapter 7 ~~the appendix to of~~ this Constitution.

3.5 Allowances

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

3.6 — Councillors and their wards

Beckenham Town and Copers Cope ward

Clr Will Connolly (Liberal Democrat)
Clr Chloe Jane Ross (Liberal Democrat)
Clr Michael Tiekner (Conservative)

Bickley and Sundridge ward

Clr Kira Gabbert (Conservative)
Clr Kate Lymer (Conservative)
Clr Colin Smith (Conservative)

Biggin Hill ward

Clr Sophie Dunbar (Biggin Hill Independent)
Clr Melanie Stevens (Biggin Hill Independent)

Bromley Common and Holwood ward

Clr Sunil Gupta FRCP, FRCPath (Conservative)
Clr David Jefferys (Conservative)
Clr Jonathan Laidlaw (Independent)

Bromley Town ward

Clr Graeme Casey (Liberal Democrat)
Clr Julie Ireland (Liberal Democrat)
Clr Sam Webber (Liberal Democrat)

Chelsfield ward

Clr Mike Botting (Conservative)
Clr Angela Page (Conservative)

Chislehurst ward

Clr Mike Jack (Chislehurst Matters)
Clr Mark Smith (Chislehurst Matters)

Clr Alison Stammers (Chislehurst Matters)

Clock House ward

Clr Jeremy Adams (Labour)

Clr Jessica Arnold (Labour)

Clr Josh King (Labour)

Crystal Palace and Anerley ward

Clr Ruth McGregor (Labour)

Clr Ryan Thomson (Labour)

Darwin ward

Clr Jonathan Andrews

Farnborough and Crofton ward

Clr Robert Evans (Conservative)

Clr Charles Joel (Conservative)

Clr Christopher Marlow (Conservative)

Hayes and Coney Hall ward

Clr Andrew Lee (Conservative)

Clr Alexa Michael (Conservative)

Clr Thomas Turrell (Conservative)

Kelsey and Eden Park ward

Clr Peter Dean (Conservative)

Clr Christine Harris (Conservative)

Clr Diane Smith (Conservative)

Mottingham ward

Clr David Cartwright QFSM (Conservative)

Clr Will Rowlands (Conservative)

Orpington ward

Clr Kim Botting FRSA (Conservative)

Clr Pauline Tunnicliffe (Conservative)

Penge and Cator ward

Clr Kathy Bance MBE (Labour)

Clr Simon Jeal (Labour)

Clr Kevin Kennedy Brooks (Labour)

Petts Wood and Knoll ward

Clr Simon Fawthrop (Conservative)

Clr Keith Onslow (Conservative)

Clr Tony Owen (Conservative)

Plaistow ward

Clr Alisa Igoe (Labour)

Clr Tony McPartlan (Labour)

Shortlands and Park Langley ward

Clr Felicity Bainbridge (Conservative)

Clr Aisha Cuthbert (Conservative)

Clr Adam Grant (Conservative)

St Mary Cray ward

Cllr Yvonne Bear (Conservative)

Cllr Shaun Slator (Independent)

Cllr Harry Stranger (Conservative)

St Paul's Cray ward

Cllr Colin Hitchins (Conservative)

Cllr Chris Price (Labour)

Cllr Rebecca Wiffin (Labour)

West Wickham ward

Cllr Nicholas Bennett MA, JP (Conservative)

Cllr Mark Brock (Conservative)

Cllr Hannah Gray (Conservative)

4. Citizens' Rights

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

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

Citizens have the right to:

- vote at local elections if they are registered;
 - contact their local Councillor about any matters of concern to them;
 - obtain a copy of the Constitution;
 - attend meetings of the Council and its Committees except where, for example, personal or confidential matters are being discussed;
 - petition to request a referendum on a mayoral form of Executive;
 - participate in the Council's question time and contribute to investigations by the Policy Development and Scrutiny Committees;
 - find out, from the Executive's forward plan, what key decisions are to be discussed by the Executive or decided by the Executive or officers, and when;
 - attend meetings of the Executive ~~where key decisions (non-personal or non-confidential) are being discussed or decided;~~
 - see reports and background papers, and any record of decisions made by the Council and Executive subject to personal or confidential restrictions;
 - complain to the Council about any aspect of Council services;
 - complain to the [Local Government and Social Care Ombudsman](#) if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
 - complain **in writing** to the ~~Monitoring Officer Council's Standards Committee~~ if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
 - inspect the Council's accounts and make their views known to the external auditor.
- ~~• The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Director of Corporate Services and Governance.~~ inspect the Council's [Members' Interests Register](#).

- request information under the [Freedom of Information Act 2000](#) or the [Environmental Information Regulations 2004](#)

The Council welcomes participation by its citizens in its work. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in **Chapter 8** of this Constitution. For further information on your rights as a citizen, please contact the Director of Corporate Services and Governance.

~~Citizens' responsibilities include~~ The Council will not tolerate citizens being violent, abusive or threatening to Councillors or officers ~~or and not~~ wilfully harming things owned by the Council, Councillors or officers.

Members of the public may film, audio-record, take photographs and use social media to report on meetings as they are taking place and the Council will make reasonable provision for this to take place. Members of the public are advised to contact the Council in advance so that necessary arrangements can be made. Any person whose recording activities are disruptive to the meeting may be required by the chairperson to stop recording and may be removed from the meeting.

5. Decision Making

5.1 Responsibility for decision making

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

5.2 Principles of Decision Making

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

- (a) proportionality (i.e. the action resulting from the decision must be proportionate to the desired outcome);
- (b) after taking and considering professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes
- (f) identification of the options which were considered in reaching the decision; and
- (g) the giving of reasons for reaching the decision

5.3 Types of Decision

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

(b) Key decisions.

(i) A key decision is an executive decision made by the Executive, a Portfolio Holder or an officer which meets either of the following criteria set out in regulations:

- It results in significant expenditure (or savings) above thresholds for each portfolio, currently:
 - Adult Care & Health/Children, Education & Families/Environment & Community Services – £500,000
 - Resources, Commissioning & Contract Management – £250,000
 - Renewal, Recreation & Housing /Public Protection & Enforcement – £50,000

(ii) It has a significant impact on the community in two or more wards.

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

5.4 Decision making by the full Council

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

5.5 Decision making by the Executive

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

5.6 Decision making by Policy Development and Scrutiny

Policy Development and Scrutiny Committees will follow the Policy Development and Scrutiny Procedure Rules set out in **Chapter 4** of this Constitution when considering any matter.

5.7 Decision making by other Committees established by the Council

Other Council Committees and Sub-Committees will follow those parts of the Council Procedure Rules set out in **Chapter 2** of this Constitution as apply to them.

54.8 Decision making by Council bodies acting as tribunals

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

8 Council Structure

FULL COUNCIL

(58 Members)

(5 meetings p.a.)

Agrees designated plans and Budget

GENERAL PURPOSES & LICENSING COMMITTEE

(Meets 6 times p.a.)

(Membership proportional)

Responsible for—

- electoral issues
- by-laws
- staffing matters
- licensing
- complaints procedures
- Registrars services
- the Constitution
- All other non-executive functions

DEVELOPMENT CONTROL COMMITTEE

(Meets bi-monthly)

(Membership proportional)

Responsible for—

- Strategic planning issues and major planning applications
- All other planning applications normally dealt with at Plans Sub-Cttees.

EXECUTIVE

(Meets 8 times pa)

(Up to 10 Members)

Leader and 7 portfolio holders for—

- Adult Care & Health
- Children, Education & Families
- Public Protection & Enforcement
- Renewal, Recreation & Housing
- Resources, Commissioning & Contract Management
- Sustainability, Green Services & Open Spaces
- Transport, Highways & Road Safety

POLICY DEVELOPMENT & SCRUTINY COMMITTEES

(Memberships proportional)

Executive, Resources & Contracts PDS Cttee

(Co-ordinates PDS and its annual work programme, manages call in and scrutinises the Resources Portfolio)

5 Portfolio PDS Committees.

STANDARDS COMMITTEE

URGENCY COMMITTEE

PENSIONS COMMITTEE

AUDIT AND RISK MANAGEMENT COMMITTEE

HEALTH AND WELLBEING BOARD

PARTNERS

6. Governance including Finance, Contracts and Legal Matters

6.1 Governance

The Council recognises that effective local government relies upon maintaining the confidence of the public in both the elected Members and Officers of the Council. The Council continually reviews Governance arrangements and related procedures to ensure best practice so that the highest standards are maintained.

The CIPFA/SOLACE Delivering Good Governance in Local Government Framework introduced the requirement to produce an annual governance statement. The An Annual Governance Statement is available on the Council's website;- the Statement is updated following the end of each financial year.

The Council has an Audit and Risk Management Committee, independent of both the Executive and the Scrutiny process as recommended by CIPFA.

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

6.2 Financial management

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in **Chapter 9** of this Constitution.

6.3 Contracts

Every contract made by the Council will comply with the Contracts Procedure Rules set out in **Chapter 9** of this Constitution.

6.4 Legal proceedings

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

6.5 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Director of Corporate Services and Governance 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.

Every contract whatever its value will be in writing and signed by or on behalf of the appropriate Chief Officer. Contracts exceeding £200,000 will be made under the Common Seal of the Council and signed by the Director of Corporate Services and Governance, or by

some other person authorised by him/her ~~and by a Councillor~~. Electronic sealing and execution of documents will be acceptable.

6.6 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Director of Corporate Services and Governance. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Director of Corporate Services and Governance should be sealed. The affixing of the Common Seal will be attested by the Director of Corporate Services and Governance or some other person authorised by him/her. Electronic sealing and execution of documents will be acceptable.

7. Officers

7.1 Management structure

(a) General

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

All officers are employees of the Council as a whole. ~~They serve the Council as a whole and are accountable to the Council as a whole. The Chief Executive has overall responsibility for all staff, which responsibility will be shared with all Chief Officers.~~

(b) Chief Officers

The full Council will engage persons for the following posts, who will be designated Chief Officers, each of whom will have responsibility for specific portfolios.

Post	Functions and areas of responsibility
Chief Executive (and Head of Paid Service)	<p>Overall corporate management and operational responsibility (including (including overall management responsibility for all staff)- overall management responsibility for all officers)</p> <p>Staffing of the authority; ensuring that the work of officers is effectively co-ordinated and making sure the organisation runs efficiently.</p> <p>Provision of professional advice to all parties in the decision-making process.</p> <p>Together with the Monitoring Officer, has responsibility for a system of record keeping for all the Council's decisions.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council).</p> <p>Ensuring that the Mayor has comprehensive and independent advice on exercising the functions of Mayor.</p>
Director of Corporate Services and Governance (and Monitoring Officer)	<p>To work with the Chief Executive and colleague Chief Officers on the strategic management and co-ordination of Council-wide initiatives and projects; to develop cross service policies; and to take overall responsibility for the direction and performance of the services for which he/she is responsible including responsibility for all the Council's democratic processes.</p> <p>To perform the statutory responsibilities of the Monitoring Officer <u>under the Local Government and Housing Act 1989 and successive legislation as set out in paragraph 7.3 below and in the Scheme of Delegation to Officers</u> and to act as the Council's solicitor.</p>

	Ensuring that the Mayor has comprehensive and independent advice on exercising the functions of Mayor.
Director of Finance	<p>To work with the Chief Executive and colleague Chief Officers on the strategic and financial management of the Council and the co-ordination of Council wide initiatives and projects; to develop cross service policies and financial planning and control systems; and to take overall responsibility for the direction and performance of the services for which he/she is responsible.</p> <p>To discharge the statutory function for the Council's financial administration given by Section 151 Local Government Act 1972.</p>
Director of Children, Education and Families, Director of Adult Services, Director of Public Health, Director of Environment and Public Protection, Director of Housing, Planning and Regeneration and Director of Human Resources, Customer Services and Public Affairs	<p>To work with the Chief Executive and colleague Chief Officers on the strategic management and co-ordination of Council wide initiatives and projects; to develop cross service policies; and to take overall responsibility for the direction and performance of the services for which he/she is responsible.</p> <p>The Directors of Children's Services, Adult Services and Public Health to perform the statutory responsibilities relating to their services. <u>Schools and Services for Children, Young People and Families</u></p>
<u>Director of Adult Services</u>	<u>Adult Social Care and relationships with Health services</u>
<u>Director of Public Health</u>	<u>Public Health Functions</u>
<u>Director of Environment and Public Protection</u>	<u>Street and Premises Management including Highways, Parking, Parks and Open Spaces</u> Sports and Leisure and Communities
<u>Director of Housing, Planning and Regeneration</u>	<u>Planning, Housing and Regeneration</u>
<u>Director of Human Resources, Customer Services and Public Affairs</u>	<u>Human Resources, Customer Services omplaints, and Public Affairs</u>

In addition, aAll Chief Officers will work with the Chief Executive and colleague Chief Officers on the strategic management and co-ordination of Council-wide initiatives and projects; to develop cross service policies; and to take overall responsibility for the direction and performance of the services for which he/she is responsible.

~~will discharge their statutory and professional responsibilities with independence and in a manner which will enhance the reputation of the Council. It is recognised that the ability to discharge these responsibilities effectively depends on excellent working relationships between Chief Officers and Councillors. It also depends on Chief Officers and Councillors recognising and respecting their differing roles. The relationship between all officers and Councillors should be friendly and courteous but maintaining the degree of distance which is essential for the differing roles to be effectively carried out in a way which always puts first the overall interests of the Council. Councillors in their relationships with officers will abide by the Member's Code of Conduct.~~

~~The Chief Executive and all Chief Officers will, in addition to their overall statutory and professional responsibilities, each have a lead role in respect of one of the Council's portfolios. In exercising that lead role, Chief Officers will work closely with the member of the Executive holding the particular portfolio.~~

~~Chief Officers will also have a role in supporting the Chairmen of the Policy Development & Scrutiny Committees and the Chairmen of other Council Committees and Area Committees.~~

(c) **Head of Paid Service, Monitoring Officer and, Chief Finance Officer and Scrutiny Officer**

The Council will designate the following posts as shown (the Deputy Monitoring Officer and the Deputy Chief Finance Officer being appointed by the Monitoring Officer and the Chief Finance Officer respectively, not the Council):

Post	Designation
Chief Executive	Head of Paid Service
Director of Corporate Services and Governance	Monitoring Officer
Director of Finance	Chief Finance Officer
Democratic Services Manager	Statutory Scrutiny Officer

The Chief Executive, the Director of Corporate Services and Governance and the Director of Finance will meet regularly to consider and recommend action in connection with current issues of governance and other matters of concern regarding probity. ~~They will maintain a close working relationship on all such matters.~~

~~The Council will provide the Chief Executive, the Director of Corporate Services and Governance and the Director of Finance with the resources (staff, accommodation and finance) they require to discharge their statutory functions.~~

~~The Head of Paid Service, Monitoring Officer and Chief Finance Officer have statutory protection; which means the post holders cannot be dismissed by the Council without an investigation involving an independent person.~~

(d) **Structure**

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



~~This is set out in the appendix to this Constitution.~~

(e) **Deputy Chief Executive**

A Chief Officer shall be nominated by the Chief Executive to act when the Chief Executive is absent or unable to act.

7.2 Statutory Functions of the Head of Paid Service

(a) **Discharge of functions by the Council.**

The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

(b) **Restrictions on functions.**

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

7.3 Statutory Functions of the Monitoring Officer

(a) **Maintaining the Constitution**

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

(b) **Ensuring lawfulness and fairness of decision making**

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Executive in relation to an Executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness ~~or if any decision or omission has given rise to maladministration~~. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered. He or she will also report where the Local Government & Social Care Ombudsman has carried out an investigation.

(c) **Supporting the Standards Committee**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee ~~and its sub-committee~~. This support will include arranging for investigations on Code of Conduct complaints.

~~(d) **Receiving reports**~~

~~The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.~~

~~(e) **Conducting investigations**~~

~~The Monitoring Officer will conduct (or appoint another to conduct), investigations into matters referred by the Standards Committee for investigation or to pursue such action as the Standards Committee directs, to make reports or recommendations in respect of investigations or alternative action to the Standards Committee.~~

(d) **Proper Officer for access to information**

The Monitoring Officer as proper officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

(e) **Advising whether Executive decisions are within the budget and policy framework**

The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework in consultation with the Head of Paid Service, Chief Finance Officer and other Chief Officers as appropriate.

(f) **Providing advice**

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues.

The Monitoring Officer will contribute to the corporate management of the Council in particular through the provision of legal advice.

(g) **Restrictions on posts**

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

7.4 Statutory Functions of the Chief Finance Officer

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

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Executive in relation to an Executive function and to the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is likely to lead to a loss or deficiency or to the Council entering into an item of account unlawfully.

(b) **Administration of financial affairs**

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

(c) **Contributing to corporate management**

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

(d) **Providing advice**

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

(e) **Give financial information**

The Chief Finance Officer will provide financial information to the media, Members of the public and the community.

7.5 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

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

7.6 Other Statutory Functions of the Scrutiny officers

The Democratic Services Manager is the Scrutiny Officer who will promote the role of the Council's Policy Development and Scrutiny Committees, ~~provide support to those Committees and provide support and guidance to Members of the authority on the functions of overview and scrutiny.~~ and the Assistant Director, IT Services, is the Council's Data Protection Officer.

7.7 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Member/ Officer relations set out in **Chapter 7** of this Constitution.

7.8 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in **Chapter 10** of this Constitution.

CHAPTER 2 – THE FULL COUNCIL

8. The Role and Functions of the Council

8.1 Meanings

(a) Policy Framework. The policy framework means the following plans and strategies.

- Library Strategy;
- Children’s Services Plan;
- Community Strategy;
- Crime and Disorder Reduction Strategy;
- Local Development Framework;
- Youth Justice Plan;

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

(b) Budget. The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax base, setting the Council tax and decisions relating to the control of the Council’s borrowing requirement, the control of its capital expenditure and the setting of virement limit

8.2 Functions of the full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution (other than minor drafting or other consequential changes authorised in **Chapter 1**);
- (b) approving or adopting the Policy Framework and the Budget;
- (c) making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget. This function to be subject to the urgency procedure contained in the Access to Information Procedure Rules **Chapter 8**.
- (d) appointing and removing the Leader;
- (e) agreeing and/or amending the terms of reference of the Leader and also non-Executive committees, in the latter case deciding on their composition and making appointments to them;
- (f) adopting an allowances scheme under **Chapter 11**;
- (g) changing the name of the area, conferring the title of honorary alderman or granting freedom of the borough;

- (h) the appointment of the Chief Executive as head of the paid service and the dismissal and other disciplinary action of the Chief Executive together with the appointment and disciplinary action and dismissal of Chief Officers and Deputy Chief Officers (which have not been delegated) in accordance with the Officer Employment Procedure Rules in **Chapter 10**;
- (i) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (j) all local choice functions set out in this constitution which the Council decides should be undertaken by itself rather than the Executive and which have not been delegated;
- (k) appointing the Councillors who are to sit on the Policy Development and Scrutiny Committees;
- (l) considering reports of the Policy Development and Scrutiny Committees;
- (m) all other matters which, by law, must be reserved to the Council.

8.3 Council Meetings

There are three types of Council meeting:

- (a)** the annual meeting
- (b)** ordinary meetings
- (c)** special meetings

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

9. Council Procedure Rules

1. ANNUAL MEETING OF THE COUNCIL

1.1 Timing and business

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 April or May.

The annual meeting will:

- (i) choose a person to preside if the Mayor is absent;
- (ii) elect the Mayor;
- (iii) note the Deputy Mayor;
- (iv) approve the Minutes of the last meeting;
- (v) elect the Leader;
- (vi) receive notification from the Leader of the Members to be appointed to the Executive;
- (vii) appoint the Policy Development and Scrutiny Committees, a Standards Committee and such other Committees as the Council considers appropriate;
- (viii) agree the scheme of delegation– or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution);
- (ix) consider any business set out in the notice convening the meeting.
- (x) receive any announcements from the Mayor and/or Head of Paid Service and, if the Leader of the Council so elects to make a statement to receive that statement on the Executive plans for the year;

1.2 Selection of Councillors on Committees

At the annual meeting, the Council meeting will:

- (i) decide which Committees to establish for the Municipal Year;
- (ii) decide the size and terms of reference for those Committees;
- (iii) decide the allocation of seats to political groups in accordance with the political balance rules;
- (iv) appoint the Chairperson and Vice-Chairpersons of Committees;
- (v) receive nominations of Councillors to serve on each Committee; and

- (vi) appoint to those Committees except where appointment has been delegated by the Council or is exercisable only by the Executive.

2. ORDINARY MEETINGS

Ordinary meetings of the Council will take place in accordance with a programme and normally commence at 7pm. Ordinary meetings will:

- (i) elect a person to preside if the Mayor is not present;
- (ii) approve the Minutes of the last meeting;
- (iii) receive any declarations of interest from Members;
- (iv) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
- (v) receive questions on notice from members submitted in accordance with rule 10 for up to 30 minutes, if any
- (vi) deal with any business from the last Council meeting;
- (vi) (a) to receive a statement from the Leader of the Council at the first ordinary Council meeting on the Executive Plans for the year if not made at the annual meeting;
- (b) at the last meeting of each Municipal year to receive a statement from the Leader of the Council on performance against matters set out in the Opening Statement;
- (vii) receive statements, if any, from the Leader of the Council, Portfolio Holders and Chairpersons of all Committees, and receive questions and answers arising from those questions. A statement may arise in two ways –
 - (a) the Leader, a Portfolio Holder or a Chairperson may decide to make a statement by noon, three working days before the meeting of the Council; or
 - (b) a PDS Chairperson and one other Member, a Group Leader and one other Member or any five Members may request that a statement be made by the Leader, a Portfolio Holder or a Chairperson.

Statements must be requested by noon, three working days before the meeting (i.e. on the previous Thursday for a Monday meeting); requests for statements on matters of urgency may be allowed at the discretion of the Mayor.

Notice of the intended statement will be circulated by email as soon as possible after notification to the Director of Corporate Services and Governance.

Statements will be limited to five minutes each, with an overall time limit of thirty minutes to ensure that more time is available for Council questions,

subject to the Mayor having discretion to ask the meeting whether the session can be extended.

- (viii) receive reports from the Executive and the Council's Committees and receive questions and answers on any of those reports;
- (ix) consider motions;
- (x) 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 Policy Development and Scrutiny Committees for debate;
- (xi) receive any announcements from the Mayor, Leader, Members of the Executive or the Head of Paid Service; and
- (xii) debate any matter on which the Executive is to make a decision where a request has been received by the Leader or five Members of the Council.

3. SPECIAL MEETINGS

3.1 Calling special meetings.

Those listed below may request the proper officer to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Mayor of the Council;
- (iii) any five Members of the Council if they have signed a requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.
- (iv) the Director of Corporate Services and Governance as Monitoring Officer; the Head of Paid Service; the Director of Finance.

3.2 Business

The business to be considered shall be as set out on the agenda

3.3 Additional Items

Any Member of the Council may require the proper officer to add an item relevant to that body's functions to the agenda for the next scheduled meeting of the Council, a committee or sub-committee, or, where this will not permit the matter to be dealt with adequately, to convene a special meeting.

3.4 Questions

There will not be a general public question time at special meetings of the Council, except in exceptional circumstances agreed in advance by the Mayor, but questions

seeking clarification of the details of a report on the agenda may be submitted within two working days of the report being published on the Council website.

- 3.5 A special meeting shall be held in February or March each year to consider the Council's budget and Council Tax and related issues.

4. TIME AND PLACE OF MEETINGS

The time and place of meetings will be determined by the proper officer and notified in the summons. Evening meetings will normally commence at 7pm.

5. NOTICE OF AND SUMMONS TO MEETINGS

The proper officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the proper officer will send a summons signed by him or her to every Member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

6. CHAIRPERSON OF MEETING

The person presiding at the meeting may exercise any power or duty of the Mayor. Where these rules apply to Committee and Sub-Committee meetings, references to the Chairperson also include the Chairperson of Committees and Sub-Committees.

7. QUORUM

- 7.1 The quorum of a meeting will be one third of the whole number of Members. During any meeting if the Mayor counts the number of Members 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 he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.
- 7.2 A meeting may be postponed or cancelled in exceptional and unforeseen circumstances by the Chief Executive at the request of a Committee or Sub-Committee Chairperson (or by the Leader or a Portfolio Holder in the case of an executive meeting.)

8. DURATION OF MEETING

- 8.1 The Mayor may, at the commencement of each Council meeting, put a time limit for discussion on any item where a time limit is not set elsewhere in these Council Procedure Rules, provided, always, this time limit may be extended with the agreement of the meeting during the course of an item if it is considered that more time is required.
- 8.2 **Interruption of the meeting**

If the business of the meeting has not been concluded by 10.00 pm (or after three hours, if the meeting did not commence at 7pm) the Mayor will, at the first convenient opportunity, draw the attention of the Council to the time and to the provisions of this Standing Order.

8.3 **Adjournment of the meeting**

The Mayor will then decide if any of the remaining business is of sufficient importance to warrant an adjournment of the meeting and, if so, will declare the meeting adjourned to such date and time (prior to the next ordinary meeting of the Council) as he/she may direct at the time or afterwards.

8.4 **Voting on outstanding business**

With the exception of business so specified, the Mayor will put to the vote one by one and without debate all outstanding Committee reports and motions on the agenda for this meeting and then close the meeting.

9. **QUESTIONS FROM THE PUBLIC**

9.1 **General**

Members of the public may ask one question for either an oral or written reply at each meeting of Members of the Executive or any Committee Chairperson at ordinary meetings of the Council and a maximum period of 30 minutes will be allowed for such questions. This is subject to the discretion of the Mayor to refer the question to another Council body if the Mayor considers it a more appropriate body to respond to the question.

9.2 **Order of questions**

Questions will be asked in the order notice of them was received. The Mayor may group together similar questions or vary the order as he or she sees fit. Where there are several questions on the same issue, the responding Member may make a general statement answering these questions together.

9.3 **Notice of questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the proper officer no later than 5pm, ten working days before the meeting. Each questioner must give their name and an address in the borough where they live, work or study and must name the Member of the Council to whom it is to be put.

Questions which are submitted after the ten working day deadline has passed will only be accepted if they seek clarification of the details of a report to the meeting and the question could not have been tabled until the report had been published. These questions must be submitted within two working days of the report being published on the Council website.

9.4 **Scope of questions**

The proper officer may reject a question if it:

- is not about a matter for which the Local Authority has a responsibility or which affects the borough;
- is defamatory, frivolous or offensive;

- is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- requires the disclosure of confidential or exempt information;
- requires excessive research – more than three hours; or
- exceeds fifty words in length.

9.5 Record of questions

The proper officer will record each question 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.

Copies of all questions will be circulated to all Members and will be made available to the public attending the meeting.

9.6 Asking the question at the meeting

The Mayor will invite the Member named in the notice to answer the question. If a questioner who has submitted a question for oral reply is unable to be present, they may ask the Mayor to put the question on their behalf. The Mayor may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

9.7 Supplementary questions

A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in Rule 9.4 above.

After a reply to a supplementary question has been given, the Mayor may, having regard to the time available and other matters on the agenda, allow further supplementary questions to be asked by Members (this will usually be no more than one per Member.)

9.8 Written answers

Any question for oral reply which cannot be dealt with during the 30 minute period of public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer.

9.9 Reference of question to the Executive or a Committee

Unless the Mayor decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Executive or the appropriate Committee or Sub-Committee. Once seconded, such a motion will be voted on without discussion.

10. QUESTIONS BY MEMBERS

10.1 On reports of the Executive or Committees

A Member of the Council may ask the Leader or the Mayor or the Chairperson of a Committee any question without notice upon an item of the report of the Executive or a Committee or on a motion when that item is being received or is under consideration by the Council.

10.2 Questions on notice at full Council

Subject to Rule 9.4, a Member of the Council may ask:

- the Mayor
- a Member of the Executive
- the Leader or
- the Chairperson of any Committee, Sub-Committee or Policy Development and Scrutiny Committee

a question on any matter in relation to which the Council has powers or duties or which affects the area of the Council

General

10.2.1 The number of questions a Member asks at any meeting be limited to no more than two written questions and two oral questions. For the purposes of calculating the number of questions, a request for information or action shall be regarded as a question, even when asked as a subsidiary part of the main question;

10.2.2 A Member may ask another Member to submit a question on their behalf having notified the Director Corporate Services and Governance of the situation beforehand;

10.2.3 A Member may send questions in via either their personal LBB email account, their personal home email account, or in writing;

10.2.4 Questions will be asked in the order notice of them was received, with all first questions heard first, then all second questions. The Mayor may group together similar questions or vary the order as he or she sees fit. Where there are several questions on the same issue, the responding Member may make a general statement answering these questions together.

10.2.5 Members of the Executive may not submit questions on notice at full Council except where the matter is a non-executive function.

10.2.6 Executive Assistants may not submit questions to the Portfolio Holder that they assist, nor can they ask questions of the Chairman of the PDS Committee that scrutinises that portfolio.

10.2.7 Questions to the chairpersons of working groups set up by Committees or Sub-Committees shall be addressed to the Chairperson of the appointing Committee or Sub-Committee.

10.3 Questions on notice at the Executive, Committees and Sub-Committees

Subject to Rule 10.4, a member of the Executive, a Committee or Sub-Committee may ask the Chairperson of it a question on any matter in relation to which the Council has powers or duties or which affect the area and which falls within the terms of reference of that Committee or Sub-Committee.

10.4 Notice of questions

A Member may only ask a question under Rule 10.2 or 10.3 if either:

- (a) they have given notice in writing of the question to the proper officer by 5pm ten working days before the meeting; or
- (b) if the question is about a report on the agenda, it has been submitted before 5pm on the second working day after the final day on which the agenda may be published; or
- (c) the question relates to urgent matters, they have the consent of the Chairperson to whom the question is to be put and the content of the question is, if possible, given to the proper officer by 10.00 am on the day of the meeting.
- (d) The proper officer may reject a question if it –
 - Is not about a matter for which the Local Authority has a responsibility or which affects the borough;
 - Is defamatory, frivolous or offensive;
 - Is substantially the same as a question which has been put at a meeting of the Council in the past six months;
 - Requires the disclosure of confidential or exempt information;
 - Requires excessive research – more than three hours;
 - Exceeds fifty words in length.

10.5 Response

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer sent later to the questioner;
- (d) replies to questions will be recorded in the Minutes and shall be made available to members within five days of the meeting.
- (e) every question shall be put and answered without discussion. The person to whom the question is directed may decline to answer or may ask another Member to answer it on their behalf, but will give reasons for so doing.

10.6 **Supplementary question**

A member asking a question under Rule 10.2 or 10.3 may ask one supplementary question without notice of the member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

After a reply to a supplementary question has been given, the Mayor may, having regard to the time available and other matters on the agenda, allow further supplementary questions to be asked by other Members (this will usually be no more than one per Member.)

10.7 **Written replies**

Notwithstanding the provisions for other forms of questions, Members may put down questions requiring a written reply, at Full Council Meetings, where the question requires a fuller or more in depth answer than can be accommodated in an oral response.

11. **MOTIONS WITH NOTICE**

11.1 **Notice**

Except for motions which can be moved without notice under Rule 12, written notice of every motion, signed by the Member or Members giving the notice, must be delivered to the Director of Corporate Services and Governance at least ten working days before the date of the meeting unless

- (a) it is urgent, or
- (b) it may be moved without notice

11.2 **Motion set out in agenda**

The Director of Corporate Services and Governance will, maintaining the order of receipt, publish each motion in the agenda for the following Council meeting.

11.3 **Scope**

Every motion shall be relevant to a matter in which the Council has powers or duties or which affects the Borough. The Mayor shall, if a need arises, give a ruling on the relevance of motions.

11.4 **Motions withdrawn or not withdrawn**

A motion may be withdrawn by the mover. If a motion is not moved at the Council meeting by the person giving notice or by some other Members on the mover's behalf it shall, unless postponed by consent of the Council, be treated as withdrawn.

11.5 **Automatic reference to the Executive, an Executive Member or a Committee**

If the subject matter of a motion comes within the Terms of Reference of the Executive, an Executive Member or a Committee, it shall, after being moved and seconded, be referred without debate for consideration and report unless previously resolved.

11.6 **Discretion of Mayor**

A motion may be dealt with at the meeting at which it is brought forward if the Mayor considers it convenient and conducive to the despatch of business. A motion will be rejected if the Mayor considers it to be defamatory, frivolous or offensive.

12. **MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

- (a) to appoint a Chairperson of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a Committee or Member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of the Executive, Committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular Council procedure rule;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a Member named under Rule 18.3 or to exclude them from the meeting under Rule 18.4; and

- (p) to give the consent of the Council where its consent is required by this Constitution;
- (q) a motion without notice may be dealt with at the meeting at which it is brought forward if the Mayor considers it convenient and conducive to the despatch of business.

13. RULES OF DEBATE

13.1 No speeches until motion seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded, and until any amendments have been moved and seconded.

13.2 Right to require motion in writing

Unless notice of the motion has already been given, the Mayor may require it to be written down and handed to him/her before it is discussed.

13.3 Secunder's speech

When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

13.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Mayor.

13.5 When a Member may speak again

A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) in exercise of a right of reply; and/or
- (b) on a point of order; and/or
- (c) by way of personal explanation.

13.6 Amendments to motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
 - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or

- (iv) to insert or add words

as long as the effect of (ii) to (iv) is not to negate the motion.

- (b) Amendments to formal motions should be submitted in writing at least two days before the start of the meeting.
- (c) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion.

13.7 **Alteration of motion**

- (a) A Member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A Member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

13.8 **Withdrawal of motion**

A Member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

13.9 **Right of reply**

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.
- (d) Following the conclusion of all votes on amendments to the original motion there shall be only one speech allowed, namely the mover of the original motion or, if amended, the mover of the successful amended motion (the new substantive motion), shall have a right of reply before the final vote.

13.10 **Motions which may be moved during debate**

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (a) to withdraw a motion;
- (b) to amend a motion;

- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a Member named under Rule 18.3 or to exclude them from the meeting under Rule 18.4.

13.11 Closure motions

- (a) A Member may move, without comment, the following motions at the end of a speech of another member:
 - (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

13.12 Point of order

A Member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Mayor on the matter will be final.

13.13 Personal explanation

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may

appear to have been misunderstood in the present debate. The ruling of the Mayor on the admissibility of a personal explanation will be final.

13.14 Chief Officers

Chief Officers will participate in debates at Council only if invited to do so by the Mayor but the Mayor will always exercise the discretion to permit a Chief Officer to speak to facilitate the exercise of a statutory responsibility of a Chief Officer.

14. PREVIOUS DECISIONS AND MOTIONS

14.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 20 Members.

14.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 20 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

15. VOTING

15.1 Majority

Any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put unless the meeting decides otherwise. Members should only vote on a matter if they have been present in the room for the whole of that item.

15.2 Mayor's casting vote

If there are equal numbers 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.

15.3 Show of hands

Unless a ballot or recorded vote is demanded under Rules 15.4 and 15.5, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

15.4 Ballots

The vote will take place by secret ballot if one third of the Members present at the meeting demand it. The Mayor will announce the numerical result of the ballot immediately the result is known.

15.5 **Recorded vote**

If five of the Members present at the meeting demand it by rising in their seats, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot. A recorded vote will be taken on Budget and Council Tax setting matters and where required by law.

15.6 **Right to require individual vote to be recorded**

Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

15.7 **Voting on appointments**

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

16. **MINUTES**

16.1 **Signing the Minutes**

The Mayor will sign the Minutes of the proceedings at the next suitable meeting. The Mayor will move that the Minutes of the previous meeting be signed as a correct record. The only part of the Minutes that can be discussed is their accuracy.

16.2 **No requirement to sign Minutes of previous meeting at special meeting**

Where in relation to any meeting, the next meeting for the purpose of signing the Minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (a Special Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of Minutes.

16.3 **Form of Minutes**

Minutes will contain all motions and amendments agreed in the exact form and order the Chairperson put them.

17. **EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Chapter 8 of this Constitution or Rule 19 (Disturbance by Public).). All Members shall have the right to attend all meetings of the Council (including for items where the public are excluded) and to have access to agendas for those meetings, except:

- where the Member has a de-barring interest in an item as set out in the Council's Code of Conduct;

- exceptionally where the Council is unable to comply with the presumption due to a conflict with another legal duty and the Monitoring Officer has set out the reasons on the relevant agenda.

18. MEMBERS' CONDUCT

18.1 Standing to speak

When a Member speaks at full Council they must stand, if they are able to do so, and address the meeting through the Mayor. If more than one Member stands, the Mayor will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

18.2 Mayor standing

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

18.3 Member not to be heard further

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. If seconded, the motion will be voted on without discussion.

18.4 Member to leave the meeting

If the Member continues to behave improperly after a motion at 18.3 is carried, the Mayor may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

18.5 General disturbance

If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as he/she thinks necessary.

19. DISTURBANCE BY THE PUBLIC

19.1 Removal of a member of the public

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.

19.2 Clearance of part of meeting room

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.

19.3 Clearance of whole public gallery

The Mayor may exercise discretion to remove all persons from the public gallery whether or not all of them are causing a disturbance.

20. **SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

20.1 **Suspension**

All of these Council Rules of Procedure except Rule 15.6 and 16.2 may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

20.2 **Amendment**

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

21. **SUBSTITUTES**

- 21.1 All Members of the Council except for the Executive may serve as substitute Members of a Committee or Sub-Committee in the absence of the appointed Member. Members of the Executive may serve as substitutes on the regulatory Committees, provided that **only one they only substitute for other Executive Member; is sitting at any one time. s.**
- 21.2 Recognised groups shall substitute no more than one half of their Members at any Committee or Sub-Committee (all figures to be rounded up to the nearest whole number.)
- 21.3 The substitute member shall:
- a) be from the same group as the Member who is unable to attend the meeting;
 - b) not substitute for more than one Member;
 - c) not be a Member of the Committee or Sub-Committee already.
- 21.4 Subject to any legal limits, a substitute Member may attend, speak and vote as a Member of the Committee or Sub-Committee at the meeting.
- 21.5 Substitution is not permitted for any reconvened meetings for quasi-judicial bodies.
- 21.6 If the appointed Member attends the meeting when he or she has already been substituted, he or she may not attend as a Member of the Committee.
- 21.7 There shall be no substitution on the Executive or Standards Committee.
- 21.8 Only Members of the General Purposes and Licensing Committee may act as substitutes on Licensing Sub-Committees.

22. **APPLICATION TO THE EXECUTIVE COMMITTEES AND SUB-COMMITTEES**

All of the Council Rules of Procedure apply to meetings of full Council. Only Rules 3-13 and 15-22 (but not Rule 18.1) apply to meetings of the Executive, Committees and Sub-Committees. Rule 21 applies to all Council Committees but not to meetings of the Executive or Standards Committees.

10. The Mayor and Chairperson of the Council

10.1 Role and function of the Mayor

The Chairperson of the Council will be the Mayor, and in his/her absence - the Deputy Mayor, and will have the following roles and functions:

- (a) the Mayor will, as the first citizen of the Borough, be the ceremonial representative of the Council, taking precedence on all such occasions;
- (b) the Mayor will chair meetings of the full Council and in this connection will exercise all the powers and duties described in the Council's Rules of Procedure set out in **this Chapter** of the Constitution.
- (c) The Mayor will be elected by the Council annually. The Mayor will have the following responsibilities:
 1. to uphold and promote the purpose of the Constitution, and to interpret the Constitution when necessary;
 2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
 3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Councillors who are not on the Executive or hold committee chairs are able to hold the Executive and Committee Chairpersons to account;
 4. to promote public involvement in the Council's activities;
 5. to attend such civic and ceremonial functions as the Mayor in his/her discretion shall think appropriate;
 6. generally to act as a representative of both the Council and the community.

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CHAPTER 3 – THE LEADER AND THE EXECUTIVE

11. The Executive

11.1 Role

The Executive will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

11.2 Form and composition

~~(a) — The Executive will consist of the Executive Leader plus at least two but not more than 9 other Councillors.~~

~~11.(b) The Leader will oversee the development of the Council's policy priorities and may also exercise Executive functions.~~

~~(c) — Within the discretion allowed by statute the form and composition of the Executive may change.~~

3 Leader

The Leader will be a Councillor elected to the position of Leader ~~by normally at the Annual Meeting of the full Council following on from the ordinary election of all Councillors signified by a show of hands.~~ The Leader will hold office until ~~the day of the next Annual meeting following the ordinary election of all Councillors unless:~~

(a) he/she resigns from the office; or

(b) he/she ceases to be a Councillor ~~except where the Leader fails to be returned as a Councillor following an ordinary election of all Councillors when unless the Leader resigns, is disqualified or is otherwise removed from office he/she shall continue as Leader until the day of the Annual Meeting;~~ or

~~(c) — he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or~~

~~(cd) he/she is removed from office by resolution of the Council for misconduct or other good reason established following investigation by the Standards Committee; or~~

~~(e) — he/she is removed by resolution at a special Meeting of the Council called for that purpose; or~~

~~(f) — by resolution of the Council where he/she fails for six months to attend any meeting of the Executive, or any Committee of the Executive or, acting alone, fails to discharge any functions which are the responsibility of the Leader then unless the failure was due to some reason approved by the Local Authority, he/she shall cease to be a member of the Local Authority.~~

The Leader of the Council will be elected at the Annual Council Meeting in the year of the Borough-wide elections.

~~Where the Annual Meeting or any other meeting of the Council fails to elect a Leader a Special Meeting of the Council shall be held within a maximum of ten working days for the purpose of electing a Leader. Where a Leader resigns then a Special Meeting of the Council shall be held within ten working days of the resignation for the purpose of electing a Leader. Where a meeting of the Council removes a Leader from office then a new Leader is to be elected at that meeting.~~

In the period between the ordinary election of Councillors and the appointment of a Leader, if ~~for any reason~~ there is not a Leader in place then any executive decisions normally reserved to Members which need to be taken as a matter of urgency ~~to protect the interest of the Council or which cannot be delayed until the appointment of the Leader~~ shall be taken by the Chief Executive in consultation with the Leader of the Group with the majority of seats following the election. In the event of there being no group with an overall majority of seats the Chief Executive shall consult with all Group Leaders.

11.4 Other Executive Members

Each Executive Member shall be appointed by the Leader and shall hold office for a period determined by the Leader which must terminate no later than the fourth day after the ordinary election of all Councillors unless:

- (a) he/she resigns from office; or
- (b) he/she ceases to be a Councillor; or
- ~~(c) he/she is disqualified or suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension at the discretion of the Leader); or~~
- ~~(cd) he/she is removed from office by the Leader of the Council. The Leader shall serve the Councillor, the Chief Executive and all Members with written notice (including e-mail) of the removal which shall take effect upon service of the Chief Executive.~~
- ~~1-(e) the Council removes them from office by resolution following a recommendation to that effect from the Standards Committee;~~
- ~~(f) he/she fails for six months to attend any meeting of the Executive, or any Committee of the Executive or, acting alone, fails to discharge any functions which are the responsibility of the Executive then unless the failure was due to some reason approved by the Local Authority, he/she shall cease to be a member of the Local Authority.~~

1.5 Proceedings of the Executive

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in **this Chapter** of the Constitution.

1.6 ~~Responsibility for Functions~~

The exercise of functions which are the responsibility of the Executive will be determined by the Leader. The ~~Proper Officer will, on behalf of the Leader, will~~ maintain a list in ~~Part 3 of this the~~ Constitution setting out which individual Members of the Executive, Committees of the Executive, officers or joint arrangements are responsible for the exercise of particular executive functions. ~~The list shall include the general areas of responsibility of the individual member of the Executive. The Leader shall also maintain a list of Executive functions delegated to officers. The Leader shall advise all Members and the Chief Executive and monitoring officer in writing (to include e-mail) where the identity of an Executive member or portfolio holder or the scope of a portfolio changes or where a new portfolio is created or a portfolio is terminated.~~

11.7 Deputy Leader

The Leader will appoint one of the Executive members as his/her Deputy to act when the Leader is absent or otherwise unable to act. This shall include any period following the resignation or removal of the Leader and the appointment of a new Leader. Provided always that the Deputy Leader:

(a) is not permitted to make changes to Executive Functions or delegations or appoint or dismiss any member of the Executive;

(i) except following the resignation or removal of the Leader to protect the interests of the Council and which action cannot be delayed until the appointment of a new Leader and following consultation with the Chairperson of the main Policy Development and Scrutiny Committee and the Chairperson of the General Purposes and Licensing Committee and the Chief Executive, or

(ii) where in the opinion of the Chief Executive the Leader of the Council is incapacitated for such a period of time that the efficient operation of the Council would be impaired and only then following consultation by the Deputy Leader. ~~with members at a meeting of the full Council.~~

(b) shall not act in the Leader's stead for a consecutive period of more than three or a combined period of six months in any municipal year without having obtained the endorsement of the full Council. If the Council is not prepared to endorse the Deputy Leader then a special meeting shall be held within 10 working days to consider the removal of the Leader and the appointment of a new Leader. Subject to the restrictions in paragraph 1.4 of this Chapter, the Deputy Leader can continue to act until the appointment of a new Leader.

11.8 —Portfolios

~~The Executive comprises of the following Members –~~

- ~~Leader of the Council~~
- ~~Portfolio Holder for Children and Young People~~
- ~~Portfolio Holder for Adult Care and Health~~
- ~~Portfolio Holder for Public Protection and Enforcement~~
- ~~Portfolio Holder for Renewal, Recreation and Housing~~
- ~~Portfolio Holder for Resources, Commissioning and Contract Management~~
- ~~Portfolio Holder for Environment~~
- ~~Portfolio Holder for Transport, Highways and Road Safety~~

11.9 Key decisions.

(a) A key decision is an executive decision made by the Executive, a Portfolio Holder or an officer which meets either of the following criteria set out in regulations:

(i) It results in significant expenditure (or savings) above thresholds for each portfolio, currently:

▪ Adult Care & Health/Children, Education & Families/Environment/Transport, Highways and Road Safety - £500,000

• Resources, Commissioning & Contract Management - £250,000

• Renewal, Recreation & Housing /Public Protection & Enforcement - £50,000

(ii) It has a significant impact on the community in two or more wards.

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

12. Executive Assistants

- The Council's Constitution allows the Leader to appoint Executive Assistants to support Portfolio Holders. Their overall role will be to provide support and advice to their Portfolio Holder.
- The budget currently allows for up to six Executive Assistants to receive a special responsibility allowance.
- Each Portfolio Holder should ensure that any councillor appointed as their Executive Assistant is in a position to undertake the role and accept the receipt of the SRA and that Executive Assistant is clear as to what will be their role and responsibilities during the year.
- Executive Assistants cannot exercise executive powers, and therefore cannot take executive decisions in the place of their respective executive Members. However, they can represent their Portfolio Holder, and deputise for him or her, in most other circumstances. This might include attending, and speaking at, Executive and Policy Development and Scrutiny meetings, and answering questions in the Portfolio Holder's absence.
- Executive Assistants will usually accompany the Portfolio Holder to relevant meetings, such as Policy Development and Scrutiny Committees, partnership board meetings, site visits and meetings with senior officers or partners.

-
- Executive Assistants may be asked by their portfolio holders to take a lead on specific issues, or carry out particular tasks, within the portfolio.
 - Executive Assistants may not serve as Chairpersons or Vice-Chairpersons of Policy Development and Scrutiny Committees, or as members of Executive, Resources and Contracts PDS Committee.
 - PDS Committees should consider inviting the Executive Assistants at the first meeting of each Municipal Year to set out what they hope to do and to be questioned by the Committee.
 - ~~Executive Assistants will provide a report once a year to the General Purposes and Licensing Committee on the work they have undertaken in justification of the receipt of their allowance.~~

13. Executive Procedure Rules

1. How does the Executive operate?

1.1 Who may make Executive decisions?

The arrangements for the discharge of Executive functions ~~will be~~ are set out in **this Chapter** ~~Executive arrangements~~. If they are not set out, then the Leader may decide how they are to be exercised. In either case, the arrangements of the Leader ~~and~~ may provide for Executive functions to be discharged by:

- i) the Executive as a whole; ~~and/or~~
- ii) a Committee of the Executive; ~~and/or~~
- iii) him/herself or an individual Member of the Executive, including the Leader; ~~and/or~~
- iv) an officer; ~~and/or~~
- v) joint arrangements; ~~and/or~~
- vi) another local authority.

1.2 Delegation by the Leader

At the annual meeting of the Council, immediately following the full Borough Council elections (or otherwise if necessary), the Leader will provide ~~present~~ to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation at **Chapter 6 Part 3** to this Constitution. The document presented by the Leader will contain the following information about Executive functions in relation to the coming year:

- i) the names and addresses ~~for correspondence and wards of the Councillors of the people~~ appointed to the Executive by the Leader ~~if applicable~~;
- ii) the extent of any authority delegated to Executive Members individually, including details of the limitation on their authority;
- iii) the Terms of Reference and Constitution of such Executive Committees as may be appointed from time to time and the names of Executive Members appointed to them;
- iv) the nature and extent of any delegation of Executive functions to Area Committees, any other authority or any joint arrangements and the names of those Executive Members appointed to any joint committee for the coming year; and
- v) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

1.3 Sub-delegation of Executive functions

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- (a) Unless the Council directs otherwise, the Executive may delegate further to a committee of the Executive or to an officer.
 - (b) Unless the Leader directs otherwise, a committee of the Executive to whom functions have been delegated by the Leader may delegate further to an officer.
 - (c) Unless the Leader directs otherwise, an Executive- member to whom functions have been delegated by the Leader may delegate further to an officer. ~~Where the Executive, a Committee of the Executive or an individual Member of the Executive is responsible for an Executive function, they may delegate further to an Area Committee, joint arrangements or an officer.~~
- ~~(db)~~ Where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

1.4 Amending Executive Delegations

- (a) The Leader may amend the scheme of delegation relating to Executive functions at any time during the year. To do so, the Leader must give written notice to the proper officer and to the person, body or Committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, Committee or the Executive as a whole. The proper officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (b) Where the Leader seeks to withdraw a delegation from a Committee, notice will be deemed to be served on that Committee when he/she has served it on its Chairperson.

1.5 Conflicts of Interest

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Chapter 7~~the appendix to this Constitution~~.
- (b) If every Member of the Executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in ~~the appendix to this Constitution~~ Chapter 7.
- (c) If the exercise of an Executive function has been delegated to a Committee of the Executive, an individual Member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Chapter 7~~in the appendix to this Constitution~~.

1.6 Executive meetings – when and where?

- (a) The Executive will have scheduled meetings. The time and place of meetings are set out in the Council's calendar of meetings~~conventions~~. Additional unscheduled meetings may be called if necessary.

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- (b) The Executive will meet in public. Any member of the public may attend Executive meetings except for the discussion of confidential or exempt items. ~~The rights of Councillors to attend meetings of the Executive are set out in the conventions.~~

1.7 Quorum

The quorum for a meeting of the Executive, or a Committee of it, shall be 3 ~~of which 2 are from the majority (Administration Party) and does not have to include the Leader.~~

1.8 How are decisions to be taken by the Executive?

- (a) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Chapter 8 Part 4 of the Constitution.
- (b) Where Executive decisions are delegated to a Committee of the Executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.
- (c) Where Executive decisions are taken by the Leader or are delegated to a Portfolio Holder, they shall follow the agreed procedures of the Council, including seeking pre-decision scrutiny. ~~The current procedures are summarised in Appendices 1, 2 and 3 to the Executive Procedure Rules.~~
- (d) For the classes of decision set out in appendix 3, where there is agreement between a portfolio holder and the relevant PDS Committee, proposed decisions will be published five clear working days before the decision is to be taken, but it will not be necessary for pre-decision scrutiny to be carried out at a meeting. Any member may request that a matter be referred to the relevant PDS Committee meeting before a decision is taken.
- (e) ~~Where a scrutiny committee is operating as a select committee, the An~~ Executive Portfolio Holder may publish a “minded to” report at least ~~report~~ five clear days before making a decision which will be circulated to all Members of the Council. The following may make a referral for scrutiny within this five day period:
- The chairperson of the relevant select committee
 - A group leader and one other Member;
 - Where a decision affects a particular ward, all ward Members (or the ward Member plus one other Member in the case of Darwin ward);
 - Any five Members.

Where a referral for scrutiny is made, the issue must be considered by the relevant select committee within ten working days of the decision being referred.

In cases of urgency, where agreed by the Leader and the select committee chairperson, the five day period for referral for scrutiny may be waived.

2. How are the Executive Meetings Conducted?

2.1 Who presides?

~~The If the Leader, or in is present he/she will preside. In his/her absence, then the Deputy Leader will preside. If the Leader and the Deputy are absent then In his/her absence an Executive member_ person appointed to do so by those voting members present shall preside.~~

2.2 What business?

At each meeting of the Executive the following business will be conducted:

- i) consideration of the minutes of the last meeting;
- ii) declarations of interest, if any;
- iii) matters referred to the Executive (whether by a Policy Development and Scrutiny Committee or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Procedure Rules or the Budget and Policy Framework Procedure Rules set out in **Part 4** of this Constitution;
- iv) matters set out in the agenda for the meeting, ~~and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.~~

Where a debate at full Council has been requested under rule 2 (xii) of the Council Procedure Rules on an executive matter, the Executive may not make a decision until that debate has taken place unless the Council would be in breach of a legal obligation by delaying the decision.

2.3 Consultation

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

2.4 Who can put items on the Executive agenda?

- (a) Any Member of the Executive ~~can request may require that~~ the proper officer ~~to make sure that place~~ an item ~~is placed~~ on the agenda ~~for of the next available meeting of~~ the Executive ~~to consider~~for consideration. If ~~the proper officer~~he/she receives such a request the proper officer will comply.
- (b) The proper officer will ~~make sure that an item is place~~ an item ~~d~~ on the agenda of the next available meeting of the Executive where a relevant Policy Development and Scrutiny Committee or the full Council have resolved that an item be considered by the Executive.
- (c) Any Councillor may ask the proper officer to put an item on the agenda of an Executive meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Executive. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. ~~[This Councillor will be invited to attend the meeting, whether or not it is a public meeting and given the opportunity to speak.]~~

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- (d) The Head of Paid Service, Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of an Executive meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. Any other Chief Officer may similarly include an item for consideration and require the proper officer to call a meeting.

2.5 Right to attend and speak

Over and above the rights of the public, the following have the right to attend meetings of the Executive and Executive Committees (whether public or private):

- all Members of the Executive
- Chairperson of Policy Development & Scrutiny Committees
- **Group Leaders** ~~Nominees of the two major opposition parties~~
- the Chief Executive, the Director of Corporate Services and Governance and the Director of Finance
- all other Chief Officers for items within their sphere of responsibility
- all Councillors but with the right to speak only on items in respect of which they have a ward or special interest and subject to the overriding discretion of the Chairperson
- in addition, the Executive and Executive Committees have discretion to permit other persons to attend meetings for public and private items (including Councillors who have been appointed to support the Executive in their work) and to speak

2.6 Meetings of Portfolio Members

The meetings of Portfolio members of the Executive will be held in public, except for those items dealt with in private under the statutory provisions relating to access to information. The following have the right to attend and speak when individual Members of the Executive are making decisions

- the Chairperson of the relevant Policy, Development & Scrutiny Committee
- the Chief Executive, the Director of Corporate Services and Governance and the Director of Finance
- all other Chief Officers for items within their sphere of responsibility
- Councillors, but with the right to speak only on items in respect of which they have a Ward or special interest and subject to the overriding discretion of the Portfolio member
- any other person at the discretion of the individual Portfolio Member of the Executive

2.7 Individual Portfolio Holder decisions

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

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

if the relevant Chief Officer is unwilling to refer a matter (or class of matters) falling within his/her delegated powers to the Executive Member for decision, then the

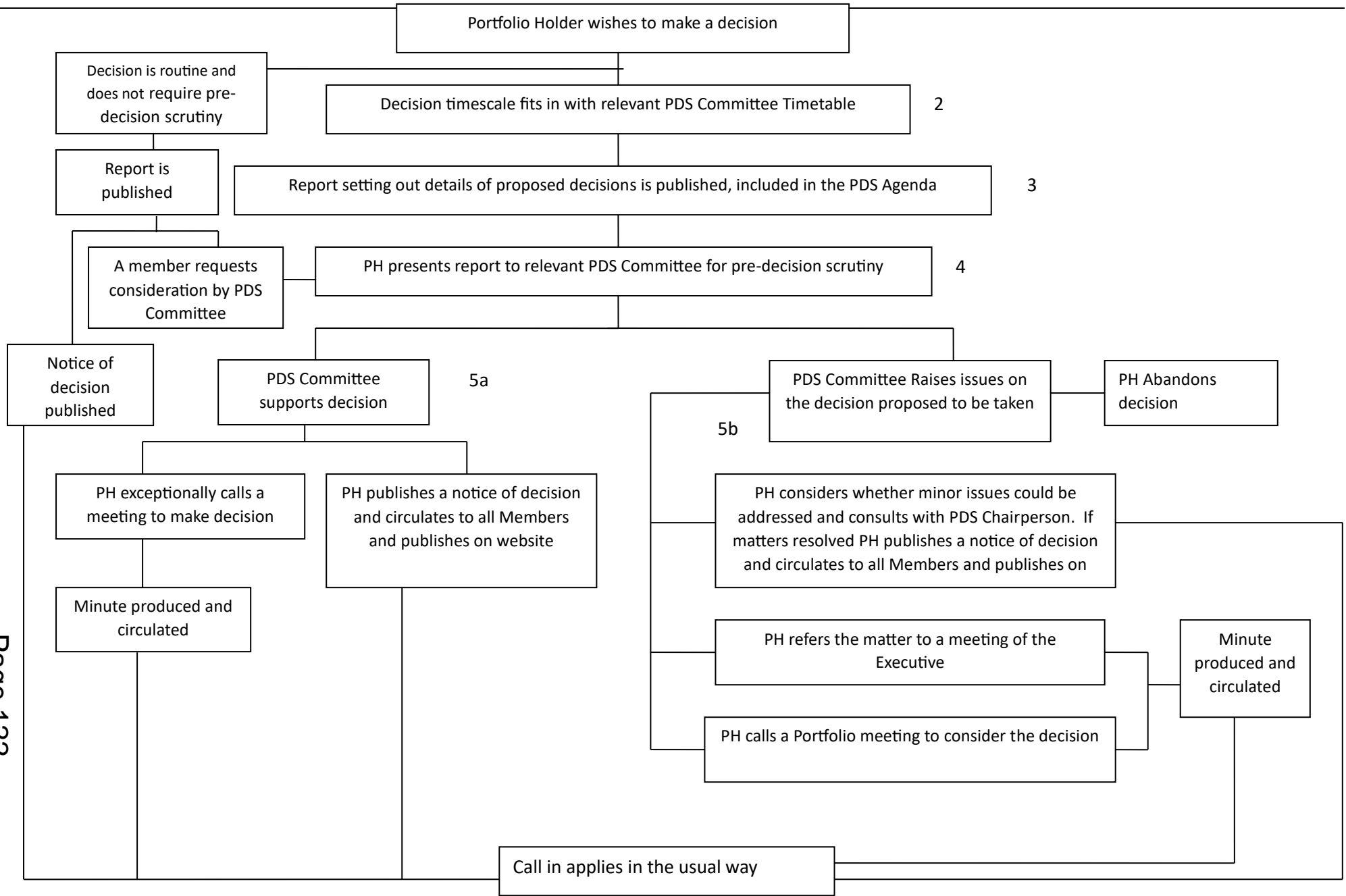
Executive member may call the matter (or class of matters) in for his/her own decision by giving written notice to the relevant Chief Officer. A copy of the written notice shall at the same time be given to the Council's Monitoring Officer.

Where a matter or class of matters has been "called in", in accordance with this provision, the power/s in question shall, until the notice is withdrawn, be exercisable by the Executive member and not the Chief Officer unless the notice is countermanded by the Leader, or the Monitoring Officer advises that the power or powers in question are not appropriate to be discharged by the Executive member for legal or technical reasons.

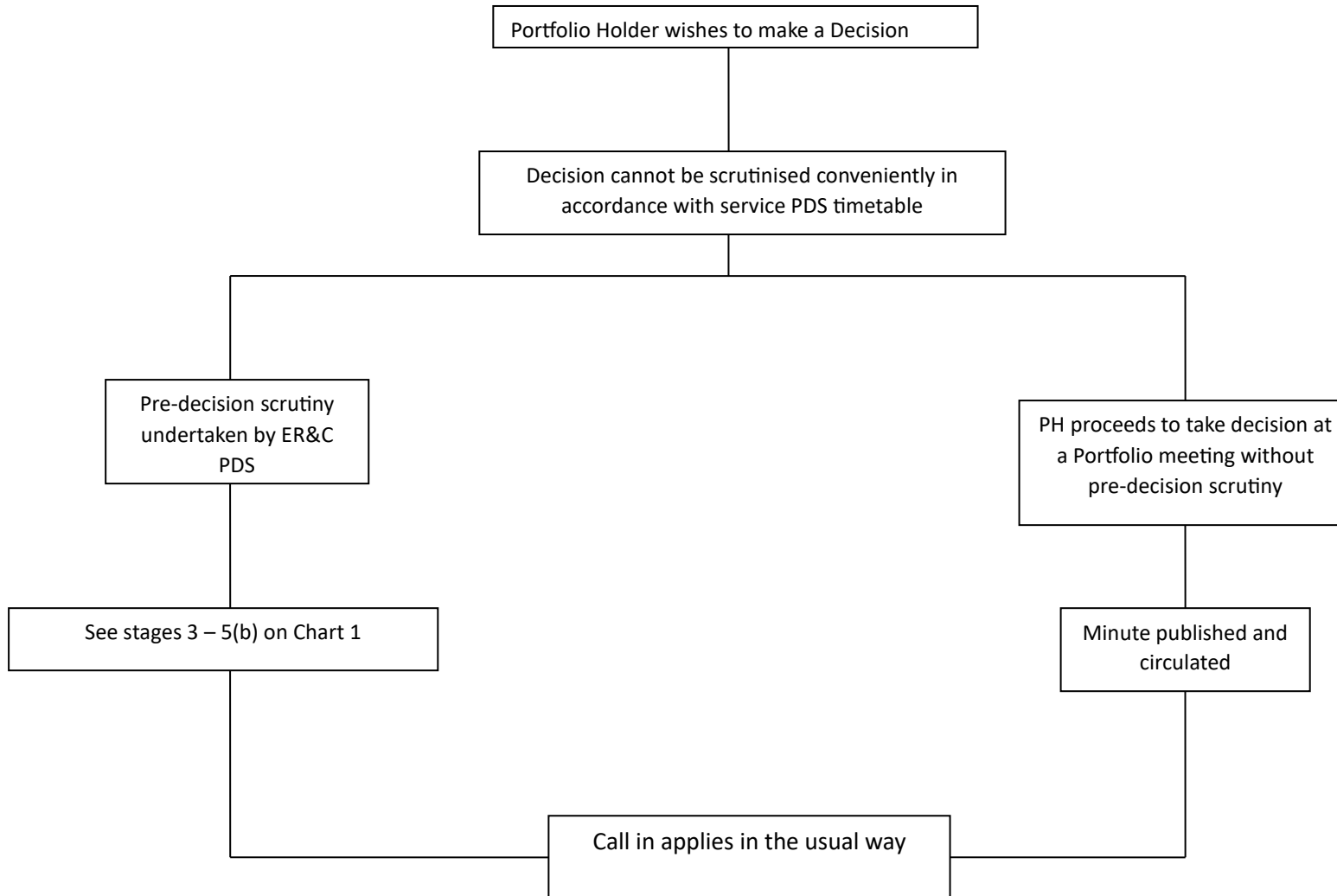
2.8 Member support for the Executive

The Executive may appoint other Members of the Council to support them in their work in accordance with arrangements agreed from time to time, covering numbers and roles of such support Members.

Appendix 1 – Decision Making Procedures



Appendix 2 - Decision Making Charts



Appendix 3

Where PDS Committees and Portfolio Holders are in agreement, Portfolio Holders may make decisions without formal pre-decision scrutiny in the following categories and circumstances –

- Appointments made by the Portfolio Holder where there is only one nominee;
- Local schemes costing less than £35k which affect only one ward, e.g. minor highways schemes, where all ward Councillors are in support of the proposal;
- Contract extensions where there are no performance issues with the contractor and the contract includes a provision to extend;
- Contract awards where there has been a gateway review and the award is proposed to be made to the most economically advantageous tenderer;
- Contract waivers where the Portfolio Holder is required to agree single tender action;
- Matters considered by the Executive where further action can appropriately be delegated to a Portfolio Holder;
- Any other matter that the Portfolio Holder can decide under the Scheme of Delegation where there has been no objection from any Member of the relevant PDS Committee.

All these categories of decision will be subject to the Portfolio Holder circulating his proposed decision to all Members in advance by email as a “minded to” decision; any Member may request that a matter be referred to the relevant PDS Committee before a decision is taken.

14. Budget and Policy Framework Procedure Rules

1. The framework for Executive decisions

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

2. Process for developing the framework

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

Consultation by Executive and PDS Committee conflict resolution by simple majority

- (a) Before a plan/strategy/budget needs to be adopted, the Executive will publish initial proposals for the budget and policy framework. Details of the Executive's consultation process shall be included in relation to each of these matters in the Forward Plan. Any representations made to the Executive shall be taken into account in formulating the initial proposals, and shall be reflected in any report dealing with them.
- (b) The Executive's initial proposals shall be referred formally to the relevant PDS Committee for consideration and comment. The proposals will be referred by sending a copy to the proper officer who will forward them to the Members of the relevant PDS Committee. The relevant PDS Committees shall report to the Executive on the outcome of its considerations at the next available Executive meeting unless the Executive considers that there are special factors that make this timescale inappropriate. If it does, it will inform the PDS Committee of the time for response when the proposals are referred to it.
- (c) The plans that are specified in **Chapter 2** must be referred to Full Council. Having considered the report of the PDS Committee, the Executive, if it considers it appropriate, may amend its proposals before submitting them to the Council meeting for consideration. It will also report to Full Council on how it has taken into account any recommendations from the PDS Committee. ~~Conventions will state how the Executive will report at Full Council meeting.~~
- (d) The Council will consider the recommendations of the Executive and may adopt ~~them~~, amend and/or them, refer them back to the Executive for further consideration, or substitute its own proposals in their place.
- (e) The Council's decision will be publicised in accordance with the Access to Information Rules in **Chapter 8** and a copy shall be given to the Leader and Executive Members. The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Executive's recommendations without amendment) or (if the Executive's recommendations are not accepted without amendment), that the Council's decision will become effective on the expiry of 5 working days after the publication of the notice of decision, unless the Leader objects to it in that period. If a meeting of the Executive on or after 8th

February submits to the Council matters relating to the adoption of the budget, the decision of Council shall be effective immediately even if it involves any amendments to the Executive's proposals.

- (f) If the Leader objects to the decision of the Council, he/she shall give written notice to the proper officer to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the proper officer shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.
- (g) The Council meeting must take place within 5 working days of the receipt of the Leader's written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.
- (h) The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance [the Access to Information Rules](#) in **Chapter 8**, and shall be implemented immediately.
- (i) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Executive, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the budget and policy framework are reserved to the Council.

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

- (a) Subject to the provisions of paragraph 5 (virement) the Executive, Committees of the Executive, individual members of the Executive and any officers, or joint arrangements discharging Executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full council, then that decision may only be taken by the Council, subject to 4 below.
- (b) If the Executive, Committees of the Executive, individual Members of the Executive and any officers, or joint arrangements discharging Executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. The Monitoring Officer and/or the Chief Finance Officer will consult with the relevant Chief Officers regards appropriate advice. If the advice of the Monitoring Officer and/or Chief Finance Officer is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

4. **Urgent decisions outside the budget or policy framework**

(a) The Executive, a Committee of the Executive, an individual Member of the Executive or officers, or joint arrangements discharging Executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:

- i) if it is not practical to convene a quorate meeting of the full Council; and
- ii) if the chairperson of the relevant PDS committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the chairperson of the relevant PDS Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chairperson of the relevant PDS Committee the consent of the Mayor must be sought.

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

5. **Virement**

- (a) The financial regulations shall state the budget heads of the Council.
- (b) Steps taken by the Executive, a Committee of the Executive, an individual member of the Executive or officers, Area Committees or joint arrangements discharging Executive functions to implement Council policy shall not exceed those budgets allocated to each budget head. However, such bodies or individuals shall be entitled to vire across budget heads. The financial regulations of the Council will specify the virement limits of each decision making body or individual and their ability to increase the budget. Beyond that limit, approval to any virement across budget heads shall require the approval of the full Council.

6. **In-year changes to policy framework**

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Executive, a Committee of the Executive, an individual Member of the Executive or officers, or joint arrangements discharging Executive functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes:

- (a) which will result in the changes to, closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) necessary to ensure compliance with the law, ministerial direction or government guidance;

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- (c) 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.

7. Call-in of decisions outside the budget or policy framework

- (a) Paragraph 16 of the Policy Development and Scrutiny Procedure Rules (in **Chapter 4**) states the procedure for calling-in an Executive decision. Any five Members of the Council can call-in an Executive decision which must then be referred to the PDS Committee for consideration.
- (b) Where the PDS Committee are of the opinion that an Executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.
- (c) If the advice of the Monitoring Officer and/or the Chief Finance Officer is that the decision would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the PDS Committee shall refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 5 days of the request by the PDS committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Financial Officer. The Council may either:
- i) endorse a decision or proposal of the Executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Members in the normal way;
- Or*
- ii) amend the council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Members in the normal way;
- Or*
- iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Finance Officer.

15. The Executive Portfolios

~~(Required by the Local Government Act 2000 (Constitution)~~

~~(England) Direction 2000 – paragraph 3h.)~~

The Leader will appoint or remove Portfolio Holders and allocate portfolio responsibilities in accordance with **this Chapter** of the Constitution ~~and the Executive Procedure Rules~~. Changes can be made by the Leader for insertion without the need to formally change the constitution at Council

All Portfolio Holders will provide an integrated response to future challenges; engage in appropriate partnerships, and deliver a ‘whole Council’ response on the quality of life and wellbeing needs of clients and communities.

Current Portfolio Holder responsibilities are as follows -

1. Resources, Commissioning and Contract Management

This Portfolio is concerned with the delivery of the Council’s financial strategy and monitoring the revenue and capital budgets; the Council’s land and property including the sale of Council assets; Biggin Hill Airport; information and communication technology; procurement; human resources strategy and registrars.

2. Adult Care and Health Services

This Portfolio is concerned with care services for adults and older people; learning disabilities; health; joint commissioning and mental health.

3. Children, Education and Families

This Portfolio is concerned with care services for children and families and all the Council’s education services including school admissions; education welfare services; special educational needs; early years development; standards and effectiveness in schools and youth offending.

4. Public Protection and Enforcement

This Portfolio is concerned with anti-social behaviour; environmental health and trading standards; partnership with the police and drug action.

5. Renewal, Recreation and Housing

This Portfolio is concerned with town centres; business regeneration and employment opportunities; further education and lifelong learning; leisure, culture and libraries; planning and building control; and housing.

6. **Sustainability, Green Services and Open Spaces Environment**

This Portfolio is concerned with sustainability, street services, waste and re-cycling and parks & open spaces.

7. **Transport, Highways and Road Safety**

This portfolio is concerned with transport, highways development, traffic, road safety and parking.

The Leader shall ensure that any changes to the above allocation of portfolios and responsibilities is updated as soon as is practically possible to do so and in addition to any other notification required by the Constitution the Leader shall provide the Monitoring Officer with written notice of the change to allow this part of the Constitution to be updated.

16. Responsibility for Functions

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and subsequent Regulations give effect to section 13 of the Local Government Act 2000 by specifying which functions are not to be the responsibility of the Executive, which may (but need not) be the responsibility of the Executive (the “local choice functions”) and which are to some extent the responsibility of the Executive. All other functions not so specified are to be the responsibility of the Executive. These Executive arrangements make clear how these distinctions are given effect by setting out the local choice functions identifying:

- (a) the responsibilities of the Council and / or its committees; and
- (b) the responsibilities of the Executive; and
- (c) those functions which are not the responsibility of the Executive to a specified extent.

Those functions which are delegated on to an officer are included in the Scheme of Delegation to Officers in **Chapter 6** of this Constitution.

i. Responsibility for Local Choice Functions

- (a) The Council has determined that all local choice functions contained in Schedule 2 of [The Local Authorities \(Functions and Responsibilities\) \(England\) Regulations 2000](#) (as amended) (to be known as the “Functions Regulations”) are to be Non-Executive functions, ~~except for Best Value Reviews which shall be both an Executive and Non-Executive function~~; and
- (b) That all local choice functions contained in [Schedule 3](#) of the Functions Regulations are to be Non-Executive functions.

ii. Responsibility for Council Functions

The Council has delegated the responsibilities and functions to the Committees and Sub-Committees named below and these delegations will include appointment of Councillors to all relevant outside bodies that fall within the Council’s policy for making such appointments. These Committees may consider and decide any matter of relevant Non-Executive business referred to the Committee by a Sub-Committee or a Chief Officer.

<u>Committee</u>	<u>Functions</u>	<u>Delegation of Functions</u>
<u>General Purposes and Licensing Committee (and Sub-Committees).</u>	<u>All the functions in the Functions Regulations relating to Health and Safety, Public Rights of Way, non-executive functions - trees, hedgerows and pavements, elections and Bye-laws and all other non-Executive Functions not assigned to any other Committee or reserved to Council. These functions are specified in detail in Chapter 5.</u>	<u>Functions which are delegated on, to an officer, and the limits on that delegation are set out in this Chapter 6.</u>

	<u>All the functions of the Council set out in Part B of Schedule 1 of the Functions Regulations. These functions are specified in detail in Chapter 5.</u>	
<u>Audit and Risk Management Committee</u>	<u>See Chapter 5</u>	
<u>Pensions Committee</u>	<u>See Chapter 5</u>	
<u>Appeals Sub-Committee</u>	<u>See Chapter 5</u>	
<u>Development Control Committee</u>	<u>Planning and conservation functions relating to town and country planning and development control as specified in Part A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) (“the Functions Regulations”). These functions are specified in detail in Chapter 5.</u>	<u>Functions which are delegated on, to an officer, and the limits on that delegation are set out in this Chapter 6.</u>
<u>Plans Sub-Committees</u>	<u>See Chapter 5</u>	
<u>Standing Advisory Council on Religious Education (SACRE)</u>	<u>See Chapter 5</u>	
<u>Urgency Committee</u>	<u>See Chapter 5</u>	
<u>Health & Wellbeing Board</u>	<u>See Chapter 5</u>	
<u>Standards Committee</u>	<u>The promotion and maintenance of high standards of conduct within the Council.</u> <u>To advise the Council on the adoption or revision of its Members’ Code of Conduct. These functions are specified in detail in Chapter 5.</u>	

iii. Responsibility for Executive Functions

Other than those matters reserved to the Council or delegated to a Non-Executive Committee or to a Chief Officer as a Non-Executive function, all other remaining functions are Executive functions.

1.9 Functions exercised by the full Executive

- a) Taking decisions on the Council's areas of policy priority.
- b) The approval of the Budget (Revenue and Capital) for recommendation to the Council.
- c) Strategic leadership of the Council's financial strategy.
- d) Proposed variations to the budget requiring recommendations to the Council
- e) Budget monitoring during the course of the financial year.
- f) Recommending to Full Council all plans forming part of the Policy Framework which require the Council's approval.
- g) Approval of all plans forming part of the Policy Framework which do not require referral to Full Council.
- h) Recommending sSignificant variations to all such plans forming part of the Policy Framework.
- i) any decision which would be contrary to the approved budget or approved Policy Framework; or any recommendation to the Council in respect of any such proposed decision.
- j) The consideration and determination of matters arising from any Best Value Review.
- k) The consideration and determination of any decision which has been referred back to the Executive by the Council or by a Policy, Development & Scrutiny Committee under the "call in" procedure; regardless of whether the original decision was taken by the Executive, an Executive Committee or by an individual Member of the Executive.
- l) Any decision which materially involves or has a significant impact on more than one Portfolio
- m) Any decision which is not specifically identified as being the responsibility of a Portfolio holder or Chief Officer.
- n) The provision or closure of any Council facility, particularly but not exclusively, the following:
 - a. schools and any other educational facility
 - b. libraries, sports centres, museums, parks and any other recreational facility
 - c. homes and similar facilities for children, young persons and the elderly
 - d. any facility for the disposal or treatment of waste and transport depots
 - e. the provision of a new highway for the purposes of vehicular traffic

provided that this paragraph shall not include the closure of any highway unless it has a significant impact on people working or living in an area comprising two or more wards.

Excluding decisions delegated under the Scheme of Delegations to Chief Officers, all other Executive decisions shall be taken by the member of the Executive with Portfolio responsibility for the matter in question. It shall always be open to the member of the Executive with portfolio responsibility to refer a matter to the full Executive for decision.

The Executive may, from time to time, set up Executive Committees for stipulated purposes and may delegate to such Executive Committees responsibility for any Executive decision which would otherwise come within the responsibility of a Portfolio Holder or a Chief Officer.

The exercise of all Executive functions shall be subject to the following:

- the Budget or Policy Framework as determined from time to time by the Council (subject to the powers of the Executive (1) to recommend to the Council the implementation of decisions which would be contrary to the approved budget or approved Policy Framework; or (2) to take such decisions on the grounds of urgency in accordance with the statutory procedure)
- Financial Regulations

17. Joint arrangements

17.1 Arrangements to promote well being

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

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

17.2 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions which are not Executive functions in any of the participating authorities, or advise the Council. [Such arrangements may involve the appointment of a joint Committee with these other local authorities]
- (b) The Executive may establish joint arrangements with one or more local authorities to exercise functions which are Executive functions. Such arrangements may involve the appointment of joint Committees with these other local authorities.
- (c) Except as set out below, the Executive may only appoint Executive Members to a joint Committee and those Members need not reflect the political composition of the local authority as a whole.
- (d) The Executive may appoint Members to a joint Committee from outside the Executive where in the following circumstances:

_the joint Committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population.

In such cases, the Executive may appoint to the joint Committee any Councillor who is a Member for a Ward which is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.
- (e) Details of any joint arrangements including any delegations to joint Committees will be found in **Chapter 5** of this Constitution.

17.3 Access to information

- (a) The Access to Information Rules in **Chapter 8** of this Constitution apply.

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- (b) If all the Members of a joint Committee are Members of the Executive in each of the participating authorities then its access to information regime is the same as that applied to the Executive.
 - (c) If the joint Committee contains Members who are not on the Executive of any participating authority then the access to information rules in Part V of the Local Government Act 1972 will apply.

17.4 Delegation to and from other local authorities

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

17.5 Contracting out

The Council or the Executive may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

CHAPTER 4 – POLICY DEVELOPMENT AND SCRUTINY

187. Introduction to the Policy Development Process and Committees

187.1 Introduction ~~Terms of reference~~

The full Council will appoint the Policy Development and Scrutiny Committees ~~set out in the left hand column of the table below~~ to discharge the functions conferred by section 21 of the Local Government Act 2000 ~~and any regulations under section 32 of the Act, in relation to the matters set out in the right hand column of the same table~~. The Executive, Resources and Contracts Policy Development and Scrutiny Committee will scrutinise the overall work of the Executive and will have a coordinating role for scrutiny, be known as the PDS Committee. The other Committees will reflect the Executive portfolios and may be referred to as the PDS-Portfolio PDS Committees.

Committee	Scope
Policy Development and Scrutiny Committee (PDS)	

~~PDS Portfolio Committees (reflecting Executive portfolios)~~

~~(1) Explore whether agreed plans are being achieved and if so how effectively~~

~~(2) Consulted by Executive on draft policy framework as it relates to this portfolio~~

~~(3) Conduct of Best Value reviews covered by each portfolio~~

~~(4) Considering call in matters referred to the Committee~~

~~(5) Responsible for scrutiny of non-Executive decisions~~

~~(6) Other statutory duties as directed by legislation outside of the Local Government Act 2000~~

187.2 General role

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

- i) make reports and recommendations to the full Council, the Executive or any policy, joint or area committee in connection with the discharge of any functions;
- ii) make reports or recommendations on any matter affecting the area or its inhabitants; and
- iii) review or scrutinise decisions made or actions taken in connection with the discharge of any of the Executive's or Council's functions;
- iv) call in of urgent decisions after the event and non-urgent, before implementation.
- v) undertake scrutiny of partner organisations.

187.3 Specific functions

- (a) **Policy development and scrutiny.** The Committees will within their terms of reference:
 - i) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
 - ii) examine whether agreed plans are being achieved and if so how effectively;
 - iii) conduct research and consultation in the analysis of policy issues and possible options;

-
- iv) consider and implement processes to encourage and enhance community participation in the development of policy options;
 - v) question members of the Executive, Committees and Chief and Senior Officers about council functions and issues and proposals affecting the area;
 - vi) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the quality of life and other interests of local people are enhanced by collaborative working;
 - vii) to seek information from partner organisations and to question representatives of partner organisations and to make recommendations for consideration by partner organisations; and
 - viii) to lead on Councillor calls for action.
- (b) **Scrutiny.** The Committees may within their terms of reference:
- i) review and scrutinise both decisions made and decisions to be made (as published in the Forward Plan) or submitted for pre-decision scrutiny by the Executive, including Executive Committees and Portfolio Holders, Committees of the Council and Council officers both in relation to individual decisions and over time;
 - ii) review and scrutinise the performance of the Executive and individual Portfolio Holders in relation to policy objectives, performance targets and/or particular service areas;
 - iii) question Members of the Executive, Committees and Chief and Senior Officers about their decisions, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
 - iv) make recommendations to the Executive, appropriate Committee or Council and partner organisations arising from the outcome of the scrutiny process;
 - v) review and scrutinise the exercise of statutory powers in relation to local NHS bodies and other partner organisations;
 - vi) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the relevant Policy Development and Scrutiny Committee.
- (c) **Finance.** The Committees may exercise overall responsibility for the finances made available to them.
- (d) **Annual report.** A report will be submitted annually to full Council on the Policy Development and Scrutiny functions and PDS budget, and amended working methods if appropriate. This report will be produced by the PDS Committee with input from the relevant portfolio PDS committees.
- (e) **Annual work programme.** The Policy Development and Scrutiny function will be responsible for undertaking and fulfilling annual programmed work which will encompass broad policy development and scrutiny issues.
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18.4 **Proceedings of Policy Development and Scrutiny Committees**

The Committees will conduct their proceedings in accordance with the Policy Development and Scrutiny Procedure Rules set out in this **Chapter** of the Constitution.

19. Policy Development and Scrutiny Procedure Rules

19.1. What will be the number and arrangements for Policy Development and Scrutiny Committees?

- (a) The Council will have the Policy Development and Scrutiny Committees set out in the Terms of Reference in this **Chapter** and will appoint to them as it considers appropriate from time to time. In addition further ad hoc Committees may be appointed from time to time to consider and report on specific issues.
- (b) ~~There will be One main or overarching Policy Development and Scrutiny (PDS) Committee will be responsible for coordinating scrutiny,~~ with its membership based on political proportionality. Chairpersons of all the portfolio Committees will sit on this Committee subject to the rules of proportionality.
- ~~(c) The terms of reference of the PDS Committee will be set out separately.~~

19.2 Who may sit on Policy Development and Scrutiny Committees?

All Councillors (except Members of the Executive. Executive Assistants may not serve on the PDS which mirrors the Portfolio they support on the Executive) may be Members of one or more Policy Development and Scrutiny Committee. However, a Member must declare an interest in a decision in which he/she has been involved and may not be involved in scrutinising that decision.

19.3 Co-optees

The Policy Development and Scrutiny Committees are empowered to appoint non-voting co-optees on such terms and conditions as they consider appropriate.

19.4 Education representatives

Each relevant Policy Development and Scrutiny Committee dealing with education matters shall include in its membership the following voting representatives:

- (a) Church of England diocese representative (at least one);
- (b) Roman Catholic diocese representative (at least one);
- (c) Parent Governor representatives (between 2 and 5); and
- (d) representatives of other faiths or denominations as may be directed by the Secretary of State.

A relevant Policy Development and Scrutiny Committee in this paragraph is a Policy Development and Scrutiny Committee or Committee of a local education authority, where the Committee's functions relate wholly or in part to any education functions which are the responsibility of the Authority's Executive. If the Policy Development and Scrutiny Committee deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

19.5. **Meetings of the Policy Development and Scrutiny Committees**

The cycle of meetings for Policy Development and Scrutiny Committees will be variable, the frequency of which to be decided on an annual basis. Special meetings may be called from time to time as and when appropriate. A Policy Development and Scrutiny Committee meeting may be called by the Chairperson of the relevant Policy Development and Scrutiny Committee, by any 5 members of the Committee or by the Director of Corporate Services and Governance as Proper Officer if he/she considers it necessary or appropriate.

19.6 **Quorum**

The quorum for a Policy Development and Scrutiny Committee shall be as set out for Committees in the Council Procedure Rules in **Chapter 2** of this Constitution.

19.7 **Work programme**

- (a) The Policy Development and Scrutiny Committees will be responsible for setting their own work programme having regard to the Council's annual performance planning process and the budget and policy framework and in doing so they shall take into account wishes of members on that committee who are not members of the largest political group or controlling group(s) on the Council.
- (b) In setting their work programme for each year, each Policy Development and Scrutiny Committee should allocate meetings at which it will require the relevant Executive Members to attend to give their account for the performance of their Portfolio, the delivery of the budget for which they are responsible and to answer questions from Members and members of the public in accordance with Council rules.

19.8 **Agenda items**

- (a) Any member of the Council shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next ordinary meeting of the Committee. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda.
- (b) The Chief Executive, Director of Corporate Services and Governance and Director of Finance and any other Chief Officer in respect of any matter coming within his or her sphere of responsibility will be entitled to have items included on the agenda of Policy Development and Scrutiny Committees.

19.9 **Review of policy and development**

- (a) The role of the Policy Development and Scrutiny Committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules in **Chapter 3**.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Policy Development and Scrutiny Committees may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.

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

19.10 Reports from Policy Development and Scrutiny Committees

- (a) Once recommendations on proposals for development have been formed, the Policy Development and Scrutiny Committees will prepare formal reports which will be submitted to the Proper Officer for consideration by the Executive or to the Council as appropriate.
- (b) If a Policy Development and Scrutiny Committee cannot agree on one single final report to the Council or Executive as appropriate, then minority reports prepared by Councillors may be submitted for consideration by the Council or Executive with the majority report.
- (c) The Council or Executive shall consider reports of the Policy Development and Scrutiny Committees normally at the first available meeting of the Executive (subject to the Executive having discretion for good cause to defer to a later meeting) after the meeting of the Policy Development and Scrutiny Committee or in any event within two months, or at the next ordinary Council meeting where appropriate.

19.11 Making sure that Policy Development and Scrutiny reports are considered by the Executive or Policy Committees

- (a) The agenda for Executive meetings shall include an item entitled 'Issues arising from Policy Development and Scrutiny Committees'.
- (b) All references from the Policy Development and Scrutiny Committees will be considered by the full Executive notwithstanding that the original decision may have been taken by an individual member of the Executive.

19.12 Rights of Policy Development and Scrutiny Committee Members to documents

- (a) In addition to their rights as Councillors, members of Policy Development and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in **Chapter 8** of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and Policy Development and Scrutiny Committees as appropriate depending on the particular matter under consideration.

19.13 Members and officers giving account

- (a) Any Policy Development and Scrutiny Committee may, within its terms of reference, scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any (other) member

of the Executive, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:

- i) any particular decision or series of decisions;
- ii) the extent to which the actions taken implement Council policy; and/or
- iii) their performance

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

- (b) Where any Member or officer is required to attend a Policy Development and Scrutiny Committee under this provision, the Chairperson of that Committee will inform the Proper Officer. The proper officer shall inform the Member or officer in writing giving at least 5 working days' notice of the meeting at which he/she is required to attend, except in cases of urgency. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) The right of Policy Development & Scrutiny Committees to require officers to attend before them is unlimited in terms of the status and functions of officers. By Council convention, the following officers may be subject to a requirement to attend to answer questions from time to time:
 - the Chief Executive
 - all other Chief Officers
 - any other officer (but the relevant Chief Officer shall be entitled to attend with that officer and to participate.)

19.14 Attendance by others

- (a) The following persons will be entitled to attend meetings of the committees by virtue of their office, rather than in exercise of public rights:
 - The Leader and all Members of the Executive
 - All other Members of the Council
 - All Chief Officers
- (b) A Policy Development and Scrutiny Committee may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders, business representatives and members and officers in other parts of the public sector and shall invite such people to attend.

19.15 Call-in

- (a) When a key decision is made by
 - (1) the Executive
 - (2) an individual member of the Executive or

-
- (3) a Committee of the Executive, or
 - (4) an officer with delegated authority from the Executive

the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 days of being made. All Members will be sent copies of the records of all such decisions within the same timescale, by the Proper Officer.

- (b) Call-in will not be allowed where a decision has already been scrutinised and the decision is substantially the same as that supported by the relevant Policy Development and Scrutiny Committee, ~~and this will be stated in the notice of the decision.~~
- (c) If the decision is subject to call-in, then during that period, the Proper Officer shall make arrangements to call-in a decision for scrutiny by the relevant Policy Development and Scrutiny Committee if so requested with reasons by any five Members of the Council and shall then notify the decision-taker of the call-in.
- (d) The notice of decision will bear the date on which it is published and will specify that the decision will come into force and may be implemented on the expiry of five working days, this being the first call-in period after the publication of the decision.
- (e) If a call-in is made, a Policy Development and Scrutiny Committee will meet within a time period agreeable to all parties to the call-in. This should be within ten working days (including the day of the call-in and the day of the meeting) unless the parties agree to extend the date or take the issue to the next ordinary meeting of the PDS Committee, if this is later. In cases where there is not unanimity on the date of the Committee to consider the call-in, the Chairperson of the ~~main coordinating~~ Policy Development and Scrutiny Committee to decide.
- (f) Having considered the decision, the Policy Development and Scrutiny Committee may refer it back to the full Executive, with its reasons. The Executive shall then reconsider. A decision which has been referred back to the Executive following a call-in must be considered within 20 working days of the call-in meeting, or it will fall.
- (g) The Policy Development and Scrutiny Committee will not exercise its right to refer decisions to the full Council except in exceptional circumstances such as, for example, an alleged intention by the Executive to act contrary to law or the policy and budget framework.
- (h) If following a “called-in” decision, a PDS Committee does not meet or does meet but does not refer the matter back to the full Executive, the decision shall take effect on the date of the PDS Committee meeting, or the expiry of that further 5 working day period, whichever is the earlier.
- (h) Where Executive decisions have been submitted for pre-decision scrutiny at full Council there will not be a right of call-in, provided that the Executive decision accords with the views of Council.
- (i) A Member who is a party to the call-in shall not chair the PDS meeting considering the call-in.

19.16 Call-in and Urgency

- (a) The call-in procedure set out above shall not apply where the Executive decision being taken is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, along with reasons why, and therefore not subject to call-in.
- (b) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

19.17 Procedure at Policy Development and Scrutiny Committee meetings

- (a) Policy and Development and Scrutiny Committees shall consider the following business:
 - i) minutes of the last meeting;
 - ii) declarations of interest;
 - iii) consideration of any matter referred to the committee for a decision in relation to call in of a decision;
 - iv) responses of the Executive to reports of the Policy Development and Scrutiny Committee; and
 - v) the business otherwise set out on the agenda for the meeting.
- (b) Where the Policy Development and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
 - i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and
- (c) Following any investigation or review, the Committee shall prepare a report, for submission to the Executive and/or Council as appropriate and shall save in exceptional circumstances make its report and findings public.
- (d) All Chief Officers and their nominees shall be entitled to attend Policy Development and Scrutiny Committees and are entitled to speak on any matter within their sphere of activity.

19.18 Right to Speak

The following will be entitled to speak at meetings of the committee:

- (a) any Councillor on a matter which affects his or her Ward or in respect of which he or she has a special interest, subject to the overriding discretion of the Chairperson of the Committee
- (b) the Chief Executive, the Director of Corporate Services and Governance and the Director of Finance in respect of any matter coming within their statutory responsibilities; they and all other Chief Officers in respect of matters coming within their sphere of responsibility (whether or not covered by a specific statutory provision)
- (c) any other person, subject to the agreement of the Committee.

19.19 Officer Support

Officer support for Policy Development and Scrutiny Committees will be provided by the Chief Executive and Chief Officers. Chief Officers and their departments will be “double hatted” (ie: will provide support not only to Policy Development & Scrutiny Committees but also to the Council and its Committees and the Leader and Executive). The Chief Executive will keep under review the support provided to Policy Development & Scrutiny Committees.

19.20 Minority Reports

Generally, any reports by Policy Development & Scrutiny Committees shall be prepared on the basis of majority decision. However, it shall be open to any Member or Members to produce a minority report.

19.21 Portfolio Holder Attendance at PDS Committees and Pre-decision Scrutiny

A key function of policy development and scrutiny is to hold the Executive and Portfolio Holders to account and to undertake pre-decision scrutiny of prospective executive decisions. Prospective executive decisions shall only be scrutinised at one Policy Development and Scrutiny Committee meeting unless there is a substantial change in the proposals. Policy Development and Scrutiny PDS Committees, in their work programmes, shall allocate a slot for Portfolio Holders to attend to answer questions from the public and Members and to give a general account for their Portfolios.

Where an executive decision cannot be considered by a service PDS Committee, the Executive, & Resources and Contracts PDS Committee can fulfil the pre-decision scrutiny function.

It is important to remember that PDS Committees cannot make decisions and are fulfilling the important role of challenge to the Portfolio Holder.

19.22 Matters within the remit of more than one Policy Development and Scrutiny Committee

Where a matter for consideration by a Policy Development and Scrutiny Committee also falls within the remit of one or more other PDS Portfolio Committees, the decision as to which Policy Development and Scrutiny Committee will consider it will be resolved by the PDS Committee.

20. Policy Development and Scrutiny Committee **Terms of Reference**

- ~~(1) — strategic direction and resources;~~
- ~~(2) — overall direction and co-ordination of the PDS function;~~
- ~~(3) — The Executive, the Resources, Commissioning and Contract Management Portfolio and any matters which cross individual portfolio boundaries (including cross-portfolio Best Value Reviews)~~
- ~~(4) — Review of Community Leadership and local well-being powers and partnership working;~~
- ~~(5) — participation in the preparation of an annual report;~~
- ~~(6) — the consideration of “call-ins” of Executive decisions.~~

Executive, Resources and Contracts Policy Development and Scrutiny Committee Terms of Reference

To fulfil the role of Policy Development and Scrutiny as it relates to the Executive and the Resources, Commissioning and Contract Management Portfolio and the strategic direction and resources of the Council including:

1. The development of the Council’s plans within the policy framework, including the revenue budget and capital programme, and exploring whether such plans are being achieved effectively.
2. Collaborative working with partner organisations and groups.
3. Receiving reports and making recommendations on performance monitoring of services falling within the remit of this portfolio which would include:
 - (a) cross-cutting services that are not included in the terms of reference of any other Policy Development and Scrutiny Committee;
 - (b) financial strategy;
 - (c) the Council’s overall policy priorities;
 - (d) Land and property;
 - (e) information and communication technology;
 - (f) human resources.
4. Management of call-in.
5. Overall coordination of the Policy Development and Scrutiny function, including the production of an Annual PDS report.

Adult Care and Health Policy Development and Scrutiny Committee Terms of Reference

To fulfil the role of Policy Development and Scrutiny as it relates to care and health services for adults including:

1. The development of the Council's plans within the policy framework that makes up this portfolio and exploring whether such plans are being achieved effectively.
2. Reviewing working with partner organisations and groups such as health trusts. This would include monitoring the effectiveness of partnership working as well as inviting partners/groups to attend meetings as appropriate.
3. Receiving reports and making recommendations on performance monitoring of services falling within the remit of this portfolio which would include:
 - (a) all care services for adults and older people, adults with physical disabilities, adults with mental health problems, learning difficulties, HIV/AIDS, or with drugs or alcohol related health problems and carers;
 - (b) benefits and welfare rights services;
 - (c) public health;
 - (d) scrutinising local health agencies under powers contained in the [Health and Social Care Act 2012](#) ~~Health and Social Care Act 2001~~;

Children, Education and Families Policy Development and Scrutiny Committee Terms of Reference

To fulfil the role of Policy Development and Scrutiny as it relates to children, education and families including:

1. The development of the Council's plans within the policy framework that make up this portfolio and exploring whether such plans are being achieved effectively.
2. Reviewing working with partner organisations and groups including the Early Years Development and Childcare Partnership. This would include monitoring the effectiveness of partnership working as well as inviting partners/groups to attend meetings as appropriate.
3. Receiving reports and making recommendations on performance monitoring of functions falling within the remit of this portfolio which would include:
 - a) all of the functions of the Council as an education authority under [the Education Acts, School Standards and Framework Act 1998](#) and all other relevant legislation in force from time to time;
 - b) all functions of the Council in so far as they relate to the provision of opportunities for education, training and learning outside the school environment including pre-school learning;
 - c) Youth offending services;
 - d) 16-19 education;
 - e) social work for children and young people, children with special needs, fostering and adoption and family support services;
 - f) Adult education.

Environment and Community Services Policy Development and Scrutiny Committee Terms of Reference

To fulfil the role of Policy Development and Scrutiny as it relates to environment and community services including:

1. The development of the Council's plans within the policy framework that make up this portfolio and exploring whether such plans are being achieved effectively.
2. Reviewing collaborative working with partner organisations and groups. This would include monitoring the effectiveness of partnership working as well as inviting partners/groups to attend meetings as appropriate.
3. Receiving reports and making recommendations on performance monitoring of services falling within the remit of this portfolio which would include:
 - a) Engineering and highways;
 - b) street services, waste management and refuse collection;
 - c) energy efficiency;
 - d) transport services, parking and road safety;
 - e) parks and open spaces, allotments and other like facilities.

Renewal, Recreation and Housing Policy Development and Scrutiny Committee Terms of Reference

To fulfil the role of Policy Development and Scrutiny as it relates to renewal, recreation and housing including:

1. The development of the Council's plans within the policy framework that make up this portfolio, and exploring whether such plans are being achieved effectively. Also, to perform a scrutiny role regarding Local Plan, which will be developed by the Development Control Committee.
2. Reviewing working with partner organisations and groups including local businesses, business support agencies, sub-regional and regional organisations including the Learning and Skills Council, Small Business Service and London Development Agency. This would include monitoring the effectiveness of partnership working as well as inviting partners/groups to attend meetings as appropriate.
3. Receiving reports and making recommendations on performance monitoring of services falling within the remit of this portfolio which would include:
 - a) town centre management;
 - b) regeneration;
 - c) business information services;
 - d) employment opportunities;
 - e) education and lifelong learning;
 - f) museums, archives and local history activities;
 - g) libraries, leisure and culture, including art galleries and theatres;
 - h) planning and building control.
 - i) housing, including the improvement of private sector housing, grants and loans to owner-occupiers, tenants landlords, and/or developers, homelessness, rehousing and special needs/supported housing;

Public Protection and Enforcement Policy Development and Scrutiny Committee Terms of Reference

To fulfil the role of Policy Development and Scrutiny as it relates to public protection and enforcement including:

1. The development of the Council's plans within the policy framework that make up this portfolio, and Exploring whether such plans are being achieved effectively.
2. Reviewing working with partner organisations and groups namely the Safer Bromley Partnership (including the Police, Probation and Fire Services). This would include monitoring the effectiveness of partnership working as well as inviting partners/groups to attend meetings as appropriate, and carrying out the Council's crime and disorder scrutiny responsibilities under the Police and Justice Act 2006.
3. Receiving reports and making recommendations performance monitoring of services falling within the remit of this portfolio, which would include:
 - a) drugs action team;
 - b) environmental health and trading standards;
 - c) anti-social behaviour.

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Chapter 5 – Committees

22. The Committees and Sub-Committees of the Council

General Purposes and Licensing Committee

Appeals Sub-Committee

Industrial Relations Sub-Committee

Licensing Sub-Committee

Rights of Way Sub-Committee

Audit and Risk Management Committee

Pensions Committee

Development Control Committee

Plans Sub-Committees

Urgency Committee

Standards Committee

Standing Advisory Council on Religious Education (SACRE)

Health & Wellbeing Board

23. The Committees Terms of Reference

General Purposes and Licensing Committee

(Membership proportional – may include one Member of the Executive from each recognised party group, subject to Executive Members not being in a majority.)

- (a) Electoral issues
- (b) Making byelaws
- (c) Staffing matters
- (d) Open Government
- (e) Complaint Procedures
- (f) Member appointments
- (g) Health and Safety
- (h) Licensing of births, deaths and marriages
- (i) Licensing matters, including, where appropriate, determining cases relating to individual licenses.
- (j) Non-executive highway functions as set out in Schedule 1 to the Functions Regulations (excluding functions under the Town and Country Planning Act 1990)
- (k) Any non-executive function not delegated elsewhere or reserved to Council.

Appeals Sub-Committee

(Membership excluding Members of the Executive drawn from a panel appointed by the Council and constituted as and when necessary by the Council or, where delegated, named decision-maker.)

To determine appeals against any decision of the Council including:

- staff dismissal, discipline, grading, capability, early retirement, pension entitlement or other reasons
- access to information
- social services matters including domiciliary charges, registration of child minders, persons providing day care for children, registration of residential care homes and others, which carry a statutory right of appeal
- education transport appeals.
- internal reviews relating to listing and compensation appeals under the community right to bid

(Note: This Sub-Committee will not consider appeals by Chief Officers concerning appraisal, disciplinary investigations or disciplinary matters).

Industrial Relations Sub-Committee

(Membership to include the Leader and Deputy Leader of the Council and the Chairperson and Vice-Chairperson of the General Purposes and Licensing Committee.)

1. To deal with all matters relating to industrial disputes whether threatened or actual, (a) including where considered necessary by the Chairman, any such matters which might otherwise come within the terms of reference of the General Purposes and Licensing Committee; and (b) together with power to take any action necessary to maintain any of the Council's services which may be affected by industrial action.
2. The Sub-Committee shall have the power to co-opt the Chairman of any Committee.

Licensing Sub-Committee

(Three Members to be drawn from the General Purposes and Licensing Committee and to include no more than one Member of the Executive)

Concurrently with General Purposes and Licensing Committee -

1. Gaming, entertainment, food and miscellaneous licensing and functions relating to licensing and registration as set out in Schedule 1 of the Functions Regulations.
2. All functions arising pursuant to the Licensing Act 2003 apart from a function conferred by Section 5 of that Act in respect of the Statement of Licensing policy.

Rights of Way Sub-Committee

(Membership proportional – may include one Member of the Executive from each recognised party group subject to Executive Members not being in the majority)

Functions relating to non-vehicular highway matters within the remit of the General Purposes & Licensing Committee and those vehicular highways within the terms of reference of the General Purposes and Licensing Committee, associated with routes shown, or capable of being shown, on the Definitive Map of Public Rights of Way.

Audit and Risk Management Committee

(Membership proportional, to exclude any member of the Executive, and to include up to two independent co-opted members.)

- To approve the internal audit charter.
- To approve the risk-based internal audit plan.
- To consider reports from the Head of Audit and Assurance on internal audit performance and outcomes during the year, including key findings and actions and areas where management has accepted a level of risk that may be unacceptable to the Council or there are concerns about progress with the implementation of agreed actions.
- To consider the Head of Audit and Assurance's annual report and opinion.
- To have oversight of, and contribute towards, the Quality Assurance and Improvement Programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years.
- To ensure the independence of Internal Audit, through making appropriate enquiries of both management and the Head of Audit and Assurance to determine if there are any inappropriate scope or resource limitations.
- To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the Head of Audit and Assurance. To approve and periodically review safeguards to limit such impairments.
- Consider the reports of external audit and inspection agencies.
- To monitor the effective development and operation of Risk Management in the Council.
- To monitor the Counter Fraud and Corruption strategy, actions and resources
- To monitor the effectiveness of Counter Fraud arrangements including assessment of fraud risks, actions and responses
- Seek assurances that action is being taken on risk related issues identified by auditors and inspectors.
- To review and approve the Annual Governance Statement, ensuring that this properly reflects the risk environment and any actions required to improve it.
- Ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is demonstrated and actively promoted.
- Review the financial statements, external auditor's opinion and reports to members, and monitor management action in response to the issues raised by external audit.

Pensions Committee

(Membership proportional – may include one Member of the Executive from each recognised party group, subject to Executive Members not being in a majority.)

- (a) monitoring the financial position of the Pension Fund, including consideration of the triennial actuarial valuations;
- (b) investment of the Pension Fund, including the appointment of investment managers;
- (c) management of the Council's additional voluntary contributions (AVC) scheme;

Development Control Committee

(Membership proportional – may include one Member of the Executive from each recognised party group, subject to Executive Members not being in a majority)

1. **Planning and Conservation and Building Control.** All the Council's powers and duties relating to town and country planning and development control and building control as specified in Schedule 1 of the Functions Regulations, including, where appropriate, determining cases relating to individual sites.
2. **Local Plan and Development Documents.** To be responsible for preparing, revising and recommending the Plan to the Executive.
3. **Highways use and regulation.** The exercise of powers relating to the regulation of the use of highways under the Town and Country Planning Act 1990, as set out in Schedule 1 to the Functions Regulations.
4. **Common land and village greens.** Power to register common land or village greens and to register variation of rights of common.

Plans Sub-Committees

(Membership proportional – may include one Member of the Executive from each recognised party group, subject to Executive Members not being in a majority)

Concurrently with Development Control Committee -

1. To exercise all the powers and duties of the Council as local planning authority – as set out in Schedule 1 of the Functions Regulations.
2. To exercise all the powers and duties of the Council in relation to Building Control matters – as set out in Schedule 1 to the Functions Regulations.

Urgency Committee

(Seven Members, comprising the Mayor, the Chairperson of the General Purposes and Licensing Committee, the Chairperson of the Executive, Resources and Contracts PDS Committee, the relevant Portfolio Holder or Committee Chairperson and the Leaders of the three largest party groups).

To deal with urgent non-executive decisions that are not of a sensitive nature – any such decisions made shall be reported to the next available meeting of the full Council.

Standards Committee

The Standards Committee will have a membership comprising one member from each minority group and sufficient members of the majority group to maintain a majority.

Members of the Executive may sit on the Standards Committee, subject to not being in a majority.

The Chairperson will be appointed from, and by, members of the Standards Committee and will hold office for one year.

Independent Persons appointed under the Localism Act 2011 shall be entitled to attend and speak at all meetings of the Standards Committee.

Role and Function

The Standards Committee will have the following roles and functions:

- (a) Promoting and maintaining high standards of conduct by Councillors, co-opted members and Church and Parent Governor representatives.
- (b) Assisting the Councillors, co-opted members and Church and Parent Governor representatives to observe the requirements on declaring pecuniary interests within the Members Code of Conduct and associated local protocols.
- (c) Advising the Council on the adoption or revision of the Members' Code of Conduct and associated local protocols.
- (d) Monitoring and reviewing the operation of the Members Code of Conduct and associated local protocols.
- (e) Developing for recommendation to the Council, local protocols to supplement the Members' Code of Conduct.
- (f) Enforcing local protocols and applying sanctions in respect of breaches of the Members' Code of Conduct as appropriate.
- (g) Advising, training or arranging to train Councillors, co-opted members and Church and Parent Governor representatives on matters relating to the declaration of pecuniary interests, Members' Code of Conduct and associated local protocols.
- (h) Hearing cases against Councillors, in accordance with section 28 of the Localism Act 2011 in consultation with the Independent Person.
- (i) To keep under review, amend and make additional provisions to the Protocol on Member/Officer relations.
- (j) To monitor the Officers' Code of Conduct to ensure consistent application and enforcement Council-wide.
- (k) General overview of probity matters arising from Ombudsman reports, Monitoring Officer reports, Audit and Risk Management Committee reports and ethical indicators.
- (l) To consider any applications for dispensations from councillors and co-opted members to allow them to participate in decisions.

Standing Advisory Council on Religious Education (SACRE)

(Seven Members)

An independent Statutory body charged to advise the Council upon matters connected with religious worship in schools and the religious education to be given in accordance with an Agreed Syllabus.

Health & Wellbeing Board

(11 Elected Members, including one representative from each of the two Opposition Parties; the two statutory Chief Officers (without voting rights); two representatives from the Clinical Commissioning Group (with voting rights); a Health Watch representative (with voting rights) and a representative from the Voluntary Sector (with voting rights).

The Chairperson of the Board will be an Elected Member appointed by the Leader. The quorum is one-third of Members of the Board providing that elected Members represent at least one half of those present. Substitution is permitted. Other members without voting rights can be co-opted as necessary.)

1. Providing borough-wide strategic leadership to public health, health commissioning and adults and children's social care commissioning, acting as a focal point for determining and agreeing health and wellbeing outcomes and resolving any related conflicts.
2. Commissioning and publishing the Joint Strategic Needs Assessment (JSNA) under the Health and Social Care Act 2012.
3. Commissioning and publishing a Joint Local Health & Wellbeing Strategy (JLHWS) – a high level strategic plan that identifies, from the JSNA and the national outcomes frameworks, needs and priority outcomes across the local population, which it will expect to see reflected in local commissioning plans.
4. Receiving the annual CCG commissioning plan for comment, with the reserved powers to refer the CCG commissioning plan to the NHS Commissioning Board should it not address sufficiently the priorities given by the JSNA.
5. Holding to account all areas of the Council, and other stakeholders as appropriate, to ensure their annual plans reflect the priorities identified within the JSNA.
6. Supporting joint commissioning and pooled budget arrangements where it is agreed by the Board that this is appropriate.
7. Promoting integration and joint working in health and social care across the borough.
8. Involving users and the public, including to communicate and explain the JLHWS to local organisations and residents.
9. Monitor the outcomes and goals set out in the JLHWS and use its authority to ensure that the public health, health commissioning and adults and children's commissioning and delivery plans of member organisations accurately reflect the Strategy and are integrated across the Borough.
10. Undertaking and overseeing mandatory duties on behalf of the Secretary of State for Health and given to Health and Wellbeing Boards as required by Parliament.
11. Other such functions as may be delegated to the Board by the Council or Executive as appropriate.

24. Area Committees and Forums

24.1 Area Committees

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

24.2 Form, composition and function

Area Committees may set up local mechanisms such as Sub-Committees or Panels to deal with locality issues.

24.3 Conflicts of interest – membership of Area Committees and Policy Development and Scrutiny Committees

(a) Conflict of interest

If a Policy Development and Scrutiny Committee is scrutinising specific proposals in relation to the business of the Area Committee of which the Councillor concerned is a Member, then the Councillor may not speak or vote at the Policy Development and Scrutiny Committee meeting unless a dispensation to do so has been given by the Standards Committee.

(b) General policy reviews

Where the Policy Development and Scrutiny Committee is reviewing policy generally the Member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

24.4 Area Committees – access to information

Area Committees will comply with the Access to Information Rules in **Chapter 8** of this Constitution.

24.5 Executive Members on Area Committees

A Member of the Executive may serve on an Area Committee if otherwise eligible to do so as a Councillor.

24.6 Area Committees – Terms of Reference

- (a) to advise the Executive and/or Policy Development and Scrutiny Committee(s) on the local implications of service delivery across all of the functions of the Council;
- (b) to consider those Best Value Reviews which have an area dimension and submit views thereon to the relevant Policy Development and Scrutiny Committee;
- (c) to consider the local impact of the Community Plan and advise the Executive and/or Policy Development and Scrutiny Committee of their views;

- (d) to assist the Council in all its roles particularly as “Community Leader” and Councillors in their “Representational” role.

25. Members of the Committees (all lists removed)

CHAPTER 6 – SCHEME OF DELEGATION TO OFFICERS

26. Scheme of Delegations to Officers

Contents

- 1. Introduction**
- 2. General Principles of Delegation**
- 3. Limitations and Conditions of Delegation**
- 4. Conflicts of Interest**
- 5. Statutory Officers**
- 6. Proper Officers**
- 7. General Delegation to Chief Officers**

Financial, Contractual and Grants

Staffing and Employee Relations

Legal proceedings and Property Matters

Information Asset Owner

Recording, Implementing and Accounting for Decisions

Delegation to Particular Chief Officers -

- 8. The Chief Executive**
- 9. The Director of Corporate Services and Governance**
- 10. The Director of Finance**
- 11. The Director of Human Resources, Customer Services and Public Affairs**
- 12. Director of Children, Education and Families**
- 13. Director of Adult Services**
- 14. Director of Public Health**
- 15. Director of Environment and Public Protection**
- 16. Director of Housing, Planning and Regeneration**

1. Introduction

1.1 The Scheme of Delegation to Officers sets out the responsibilities of officers of the Council, as delegated by the Leader of the Council (executive delegations) and by the Council and its Committees (non-executive delegations). The Scheme designates statutory officer roles and defines the limits of the powers exercised by officers.

2. General Principles of Delegation

2.1 All delegated powers are exercised in accordance with Council policies, within any financial limits imposed and within any guidelines prescribed in this Constitution or by the Council, or Executive or appropriate committee.

2.2 Each officer shall exercise all powers subject to the Council's Constitution, Executive Arrangements and Scheme of Delegations, Financial Regulations, Standing Orders, and Contract Procedure Rules, as appropriate.

2.3 The executive powers, duties and functions of the Portfolio Holders, Committees, or officers shall be exercised on behalf of the Leader.

2.4 Portfolio Holders may delegate, in writing, functions in their portfolios to officers.

2.5 Where an officer has delegated authority it may still be appropriate for the officer to consult with the relevant Portfolio Holder prior to taking the decision.

2.6 All Chief Officers are authorised to make arrangements for the proper administration of the functions falling within their responsibility. A Chief Officer may authorise officers within their department to exercise any of their delegated powers.

2.7 Portfolio Holders or Committees may reserve to themselves decisions that have been delegated to officers by giving notice to the Chief Executive, the Monitoring Officer and the relevant Chief Officer.

2.8 Where any new power or duty is given to the Council, the exercise of that power or duty will be undertaken by the relevant Chief Officer until such time as the allocation of responsibility has been determined by the Leader or the Council or the relevant Committee.

2.9 In all cases where the exercise of executive functions is not specifically reserved to the Executive, those functions are deemed to be delegated to the Chief Executive and the Chief Officer with responsibility for the relevant function.

2.10 For the avoidance of doubt, the responsibility for the exercise of any function which is not covered by this scheme, including the appointment of a Proper Officer for the purpose of any statutory function, will be determined by the Chief Executive, and reported to the Monitoring Officer to update this Scheme and the Constitution as appropriate.

3. Limitations and Conditions of Delegation

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

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

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

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

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

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

- (a) The officer exercising such powers shall take into account the principles set out in **Chapter 1 of the Constitution (Decision Making)**, the Budget and Policy Framework and any other relevant policies, procedures or previous decisions.
- (b) All decisions shall be taken in the name of, but not necessarily personally by, the officer(s) to whom the power is delegated. The officer with the delegated power may authorise another officer to act on their behalf, any such authority must be in writing. The officer with the delegated power shall remain accountable for the exercise of that power.
- (c) In any case where the officer exercising the power considers that the decision is likely to be a matter of public controversy or sensitivity, a departure from existing policy or a significant change in financial practice is likely to be involved or, in the case of an executive decision, is contrary to or not wholly in accordance with the Budget and Policy Framework, they shall consult the relevant Chief Officer and the Chief Executive or Portfolio

Holders, as appropriate, who shall refer the matter to the appropriate decision maker(s).

(d) Where officers consider that a decision which they have taken under delegated authority is particularly significant to the Council, they shall report the decision to the relevant Portfolio Holder or the Executive for information. The decision must also be recorded as specified in Regulation 7 of The Openness of Local Government Bodies Regulations 2014.

(e) Officers taking delegated decisions shall consider whether it is appropriate to consult with other Chief Officers, or with members with specific responsibilities or ward councillors and shall do so if he/she concludes it is necessary and take due account of any comments received.

(f) The Chief Executive as Head of the Council's paid service shall monitor the exercise of delegated powers, other than statutory functions, for which Chief Officers have responsibility. The Chief Executive may exercise powers delegated to any other officers and may require any officer to cease the exercise of such powers pending a report to the next meeting of the Executive or relevant Committee.

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

(a) In relation to the day-to-day conduct of decision making by the Council, the ruling of the Monitoring Officer on questions relating to this Scheme shall be final.

(b) The exercise of functions by Portfolio Holders, Committees and officers shall be subject to the provisions of the Local Government Act 1972, the Local Government Act 2000, the Local Government and Public Involvement in Health Act 2007, the Localism Act 2011 and any subsequent amendments, supporting or new legislation.

3.7 The Council, a Committee or Sub-Committee as appropriate, which has delegated a function, may, by majority decision at a properly convened meeting, retain the right to amend or withdraw any non-executive delegation.

3.8 The Leader, the Executive or a Portfolio Holder retain the right to amend or withdraw any executive delegation.

3.9 The Leader, a Portfolio Holder, a Committee or Sub-Committee of the Council may call for a report on any decision made under this Scheme, or require any matter under consideration to be referred to the appropriate member or member body for determination.

3.10 Any five members of the Council may, by written request to the Director of Corporate Services and Governance, request the submission of a report to General Purposes and Licensing Committee on the exercise of a particular non-executive delegation.

3.11 Subject to the above constraints and limitations, officers may exercise all powers within their respective areas of responsibility, and the absence of a specific delegation to an officer, or delay in updating the Scheme in accordance with changes to legislation, officer structures or operational practice shall not be taken as implying an absence of authorisation to act. The Council and the Leader hereby declare that the lawful exercise of any such powers shall be deemed to be authorised by this scheme notwithstanding such express provision may not have been made in it.

4. Conflicts of Interest

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

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

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

4.4 Where a Chief Officer is unable to act on a matter because of a conflict of interest, or they are otherwise incapacitated, the Chief Executive shall discharge the matter themselves or allocate the matter to another officer.

4.5 Where the Monitoring Officer is unable to act on a matter in their statutory capacity under section 5 of the Local Government and Housing Act 1989, the matter shall be discharged by the officer designated by the Monitoring Officer as Deputy Monitoring Officer.

4.6 Where the Monitoring Officer is unable to act on a matter in relation to Member conduct, the matter shall be discharged by the person appointed by the Monitoring Officer for this purpose.

4.7 Where any other officer is unable to act on a matter, that officer's line manager or the Chief Executive may arrange for another officer to discharge the matter.

5. Statutory Officers

Function	Post	Legislation
Head of Paid Service	Chief Executive	<u>Local Government and Housing Act 1989</u> , Section 4
Monitoring Officer	Director of Corporate Services and Governance	<u>Local Government and Housing Act 1989</u> , Section 5
Section 151 Officer	Director of Finance	<u>Local Government Act 1972</u> , Section 151
Electoral Registration Officer	Chief Executive	<u>Representation of the People Act 1983</u> , Section 8
Returning Officer	Chief Executive	<u>Representation of the People Act 1983</u> Section 35
Director of Adult Social Services	Director of Adult Services	<u>Local Authority Social Services Act 1970</u> (legislation.gov.uk), Section 6(A1)
Director of Children's Services	Director of Children, Education & Families	<u>Children Act 2004</u> , Section 18
Director of Public Health	Director of Public Health	<u>National Health Service Act 2006</u> Section 73A
Chief Inspector of Weights and Measures	Head of Service – Trading Standards and Commercial Regulation	<u>Weights and Measures Act 1985</u> Section 72 (1) (aA)
Data Protection Officer	Director of Corporate Services and Governance	Article 38 General Data Protection Regulation; <u>Data Protection Act 2018</u> , Section 69
Scrutiny Officer	Democratic Services Manager	<u>Local Government Act 2000 (as amended)</u> Section 319FB <u>Local Democracy and Economic Development Act 2009</u> , section 31

6. Proper Officers

The Council employs the following 'Proper Officers' with responsibility for particular functions:

Legislation	Function	Post
<u>Local Government Act 1972</u>		
Section 83(1) to (4)	Witness and receipt of Declaration of Acceptance of Office	Chief Executive
Section 84(1)	Receipt of notice of resignation of elected Member	Chief Executive
Section 88(2)	Convening a meeting of Council to fill a casual vacancy in the office of Chairperson	Chief Executive
Section 89(1)	Notice of casual vacancy	Chief Executive
Section 100A(6)	Admission of public (including press) to meetings	Chief Executive
Section 100B(2)	Exclude from committees, sub-committees, council or executive meeting agendas any information to be dealt with in a meeting from which the public are likely to be excluded	Chief Executive
Section 100B(7)(c)	To supply to any newspaper, copies of documents supplied to members of committees, sub-committees, council or executive meetings in connection with an item for consideration, if the proper officer thinks fit	Chief Executive
Section 100C(2)	Prepare a written summary of proceedings of committees, sub-committees, Council or the executive from which the public were excluded	Democratic Services Manager
Section 100(D)	Compile a list of background papers for reports and make copies available for public inspection	Democratic Services Manager

Section 100F(2)	To exclude from open inspection, documents containing exempt information	Chief Executive
Section 115(2)	Receipt of money due from officers	Director Of Finance
Section 146(1)(a) and (b)	Declarations and certificates with regard to transfer of securities	Director of Finance
Section 191	Officer to whom an application under S.1 of the Ordnance Survey Act 1841 will be sent	Director of Planning and Place
Section 225	Deposit of documents	Chief Executive
Section 228(3)	Accounts for inspection by any member of the Council	Director of Finance
Section 229(5)	Certification of photographic copies of documents	Assistant Director, Legal Services
Section 234	Authentication of documents	Assistant Director, Legal Services
Section 238	Certification of byelaws	Director of Corporate Services and Governance
Section 248	Officer who will keep the Roll of Freemen	Democratic Services Manager
Schedule 12		
Para 4(1A)(b)	Signing of summons to Council meeting	Chief Executive
Schedule 14		
Para 25	Certification of resolution concerning the Public Health Acts 1875 to 1925	Director of Environment and Public Protection

<u>Local Government Act 1974</u>		
Section 30(5)	To give notice that copies of an Ombudsman's report are available	Chief Executive
<u>Local Government (Miscellaneous Provisions) Act 1976</u>		
Section 30	The officer to write off overpayment of salary, allowances or pensions which occur as a result of the death of an employee or pensioner	Director of Finance
Section 41(1)	The officer who will certify copies of evidence of resolutions and minutes of proceedings	Chief Executive
<u>The Local Authorities' Cemeteries Order 1977</u>		
Regulation 10	To sign exclusive rights of burial	Director of Environment and Public Protection
<u>Representation of the People Act 1983</u>		
Section 35	Appointment as Returning officer for local elections.	Chief Executive
Sections 82 and 89	Receipt of election expense declarations and returns and the holding of those documents for public inspection	Chief Executive
Section 67	To give public notice of election agents' appointments and receive declarations.	Chief Executive
Section 131(1)	To provide accommodation for holding election court	Chief Executive
<u>The Local Elections (Principal Areas) (England and Wales) Rules 2006</u>		
Rule 50	Receipt of notice of elected candidates	Chief Executive

<u>The Local Elections (Parishes and Communities) (England and Wales) Rules 2006</u>		
Rule 5	Filling of casual vacancy	Chief Executive
<u>Local Government and Housing Act 1989</u>		
Section 2(4)	Recipient of the list of politically restricted posts	Director of Human Resources, Customer Services and Public Affairs
<u>The Local Government (Committees and Political Groups) Regulations 1990</u>		
Regulation 8	For the purposes of the composition of committees and nominations to political Groups	Democratic Services Manager
Regulation 9	Membership of political groups	Democratic Services Manager
Regulation 10	Cessation of membership	Democratic Services Manager
Regulation 13	Wishes of political groups	Democratic Services Manager
Regulation 14	Notification to political groups regarding allocations or vacancies of seats	Democratic Services Manager
<u>Localism Act 2011</u>		
Section 33	Receipt of applications for dispensations for members with disclosable pecuniary interests	Monitoring Officer
<u>The Local Authorities (Standing Orders) (England) Regulations 2001</u>		
Schedule 1 Part 2	Notification of appointment or dismissal of officers	Director of Human Resources, Customer Services and Public Affairs

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Regulations 3 and 4	Meetings of local authority Executives to be held in public	Democratic Services Manager
Regulation 5	Advance notice of private meetings	Democratic Services Manager
Regulation 6	Advance notice of meetings held in public	Democratic Services Manager
Regulation 7	Access to agenda and reports	Democratic Services Manager
Regulations 8, 9 and 10	Key decisions, urgency and special urgency	Democratic Services Manager
Regulation 12	Written records of Executive etc. decisions	Democratic Services Manager
Regulation 13	Recording of executive decisions made by individual Portfolio Holders or by officers	Democratic Services Manager
Regulation 14	Inspection of documents following executive decisions	Democratic Services Manager
Regulation 15	Inspection of background papers	Democratic Services Manager
Regulation 16	Additional rights of Council and Scrutiny Committee Members	Democratic Services Manager
Regulation 17	Additional rights of access to documents for Members of Policy Development and Scrutiny Committees	Democratic Services Manager
Regulation 18	Reports to the local authority where the key decision procedure is not followed	Democratic Services Manager

Regulation 19	The Leader to report to the Council on urgent decisions	Democratic Services Manager
Regulation 20	Confidential information, exempt information and advice of a political adviser or assistant	Democratic Services Manager
Regulation 21	Inspection and supply of documents	Democratic Services Manager
<u>Building Act 1984</u>		
Section 93	Authentication of documents	Director of Housing, Planning and Regeneration
<u>Food Safety Act 1990</u>		
Section 49(3)(a)	Authentication of documents	Director of Environment and Public Protection
<u>Public Health Act 1936</u>		
Section 85(2)	To serve notice requiring remedial action where there are verminous persons or articles	Director of Environment and Public Protection
<u>Public Health Act 1961</u>		
Section 37	Control of any verminous article.	Director of Environment and Public Protection
<u>Public Health (Control of Disease) Act 1984</u> (as amended)		
Section 48	Certifying that the retention of a body in any place would endanger the health of any person.	Director of Public Health
Section 59	Authentication of documents relating to matters within his/her responsibility	Director of Public Health
Section 61	Power of authorised officers of the relevant health protection authority to enter premises and obtain warrants including proper officer. Authorised	Director of Public Health

	officers may also take other persons with them (section 62).	
<u>The Public Health (Infectious Diseases) Regulations 1988</u> and subsequent Health Protection regulations		
Section 6	Informing on cases of disease subject to the International Health Regulations and serious outbreak of disease including food poisoning. Send any certificate received for certain diseases to the Chief Medical Officer for England.	Director of Public Health
Section 8	Submitting returns to the Registrar General and the Medical Officer of the District Health Authority.	Director of Public Health
Section 9 & Schedules 3 & 4	Reporting cases of Typhus or Relapsing Fever and food poisoning. Serving notices under Schedules 3 and 4, in urgent situations.	Director of Public Health
<u>The Health Protection (Notification) Regulations 2010</u>		
Regulation 2	To receive notification of suspected disease, infection or contamination in patients, by a registered medical practitioner.	Director of Public Health
<u>Highways Act 1980</u>		
Section 37	To keep copies of and make available for inspection certificates whereby highway created by dedication has become maintainable at public expense.	Director of Environment and Public Protection
Section 116	To receive orders of magistrates' court to authorise stopping up or diversion of highway.	Director of Environment and Public Protection
Section 59(1)	Certify that extraordinary expenses have been incurred in maintaining the highway by reason of damage caused by excessive weight.	Director of Environment and Public Protection
Section 205(3) – (5)	To undertake duties as specified in the schedule in relation to private street works.	Director of Environment and Public Protection

Section 210(2)	Certify amendments to estimated costs and provisional apportionment of costs under the private street works code.	Director of Environment and Public Protection
Section 211(1) Section 212(4) Section 216(3)	To make a final apportionment of expenses of street works executed under the private street works code as detailed in the Schedule.	Director of Environment and Public Protection
Section 295(1)	To issue a notice to owners of premises in nonmaintainable streets to remove materials prior to the execution of works.	Director of Environment and Public Protection
Section 321(1)	Authentication of notices, consents, approvals, orders, demands, licenses, certificates or other documents.	Director of Environment and Public Protection
Schedule 9 Paragraph 4	To sign plans showing proposed prescribed improvement or building lines.	Director of Environment and Public Protection
<u>Registration Service Act 1953</u>		
Section 9	Registration matters.	Director of Human Resources, Customer Services and Public Affairs
<u>Local Government Finance Act 1988</u>		
Section 114	Responsible for the proper administration of the authority's financial affairs and statutory reporting where expenditure decisions are unlawful or exceed the resources available.	Director of Finance
Section 116	Notification to the council's auditor of any meeting to be held under Section 115 of the 1988 Act.	Director of Finance
Section 139A	Provision of information to the Secretary of State in relation to the exercise of his powers under this Act as and when required.	Director of Finance
<u>The Regulatory Reform (Fire Safety) Order 2005</u>		
Article 18	Article 18 competent person.	Director of Environment and Public Protection

7. General Delegation to Chief Officers

7.1 To manage and promote the services for which they are responsible. This includes taking and implementing decisions which help to maintain the operational effectiveness of the services within their remit and which fall within a policy decision made by the Executive or the Council. These above powers are to be exercised:

(a) having regard to any legal advice from the Director of Corporate Services and Governance or the Assistant Director, Legal Services or her/his staff

(b) in accordance with any instructions or advice given by the Chief Executive or s151 Officer or the Monitoring Officer, statutory codes of conduct or statutory guidance, and codes and protocols as may be approved by the Executive or the Council

(c) in accordance with Financial Regulations, Contract Procedure Rules and the Standing Orders set out in the Constitution; and

(d) within any budgets, current and full year or policies approved by the Council, and not committing the Council's budget to growth for future financial years.

7.2 Where in the functions delegated to Directors specific powers are listed (e.g. paragraphs 11.2 (a), (b) and (c)) those are merely examples of the preceding functions delegated.

7.3 To respond to consultation documents where the response would not amount to a Key Decision.

7.4 To enter and inspect premises, and to make applications for warrants. This applies only to the relevant Chief Officers who undertake this duty.

7.5 To give factual information to the press.

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

7.7 To promote services (not policy), ensuring always that publications are compliant with the Council's Publications Guidelines and Code.

7.8 To take action in respect of any London Residuary Body matter transferred to Bromley by virtue of the London Residuary Body (transfer of Property etc) Order 1990 in the same way and to the same extent that they have delegated powers in respect of any equivalent Bromley matter.

Financial, Contractual and Grants

7.9 To be responsible for the overall financial management within their services or department and for ensuring that all staff under their responsibility are aware of the existence and content of the Council's Financial Regulations, Contract Procedure Rules and set out in the Constitution and that they comply with them.

7.10 To incur expenditure from approved revenue estimates and capital programmes, including making virements, within the limits and controls set down in the Financial Regulations.

7.11 To submit bids for funding to Government departments and other external bodies, for projects and initiatives consistent with Council policies, following consultation with the Portfolio Holder and enter into arrangements and agreements necessary to secure such funding. To report any such funding in the capital monitoring reports or other budget report as appropriate.

7.12 To set, vary and waive the level of fees and charges for services or facilities as appropriate and receive income from fees, charges, sponsorship or any other sources subject to consultation with the Portfolio Holder.

7.13 Under section 92 of the Local Government Act 2000, to make payments in settlement of claims where the Council considers that action taken by it (or on its behalf) amounts, or may amount, to maladministration, up to a limit of £10,000 per settlement.

7.14 To exercise the powers conferred on all Chief Officers by Standing Orders, Financial Regulations, Human Resources Policies and the Contract Procedure Rules in relation to debt write offs, seeking tenders for approved projects and schemes, opening tenders, the approval of variations in contracts and the agreement of bids to undertake cross boundary tendering.

7.15 To approve funding for voluntary and community organisations up to £50,000 per annum.

Staffing and Employee Relations

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

7.17 In accordance with the Council's Human Resources Policies, consulting where appropriate with the Director of Human Resources, Customer Services and Public Affairs, to remunerate, reward or pay honoraria to staff within approved budgets or withhold rewards / increments.

7.18 To take disciplinary or other action and exercise the discretionary powers in relation to all staffing matters detailed in the Human Resources Policies.

7.19 To consider employees' final appeals in relation to capability, disciplinary and grievance matters, provided the Chief Officer has not taken the decision in question.

7.20 To attend or nominate members of their staff to attend conferences and seminars convened by institutional or professional associations and like bodies, and to authorise the payment of proper expenses incurred in respect of such attendance.

7.21 To authorise officers of the Council to give evidence on behalf of the Council in Courts or at Inquiries or before Tribunals or Committees.

7.22 To undertake, in consultation with the Director of Human Resources, Customer Services and Public Affairs, minor re-organisations of staff structure provided no post subject to Member appointment procedures is affected, there is no increase in cost and the relevant Portfolio Holder is advised in advance about forthcoming minor re-organisations.

7.23 In consultation with the Director of Human Resources, Customer Services and Public Affairs on the application of paragraphs 7.22(c), 7.23, 7.24 and 7.25 below, all Chief Officers are authorised:

- (a) To authorise acting up arrangements;
- (b) To authorise action under the personal injury allowance scheme;
- (c) To authorise the waiver of repayment of maternity leave;
- (d) In line with corporate policies and procedures, to take decisions including contractual matters on the recruitment, appointment, organisation, grading, designation, remuneration, pay, terms and conditions of all staff and employees within the relevant department.

7.23 To suspend and/or dismiss any staff, other than those appointed by the Council or Appointments Panel, and subject to the Council's disciplinary procedures; this delegation may be exercised by Assistant Directors and Heads of Service.

7.24 To conduct negotiations under the Council's collective bargaining arrangements, taking into account joint agreements and the Council's personnel procedures, with matters in dispute being referred as appropriate through the Council's joint negotiating machinery.

7.25 To respond to industrial action, or threatened industrial action, subject to advice where appropriate from the Director of Human Resources, Customer Services and Public Affairs and Director of Corporate Services and Governance.

7.26 To approve applications for season tickets loans and car loans for Council employees in accordance with Council policies.

Legal Proceedings and Property Matters

7.27 To prepare and serve any statutory notices or authorise the Director of Corporate Services and Governance to prepare and serve statutory notices in respect of functions delegated to them.

- (a) To authorise the commencement of legal proceedings in respect of functions delegated to them.
- (b) To issue formal cautions where criminal offences are admitted, following consultation with the Assistant Director, Legal Services or his or her nominated lawyer.
- (c) To use and occupy the premises and estate efficiently.
- (d) To take enforcement action including the issuing of fixed penalty notices. This applies only to the relevant Chief Officers who undertake this duty.
- (e) To provide instructions to the Director of Corporate Services and Governance to enable him/her to authorise the institution of legal proceedings for an offence against or failure to comply with any statutory provision, byelaw or notice, permission, order, authorisation, request or consent, within the Chief Officer's area of responsibility.
- (f) To sign any notice, order or other document which the local authority is authorised or required to give or make or issue under any enactment that is either specifically delegated by Council or of a kind falling within the department's area of responsibility (e.g. under Part I and Part II Regulation of Investigatory Powers Act 2000).
- (g) To authorise the carrying out of work in default or non-compliance with any statutory provision, byelaws, notice, permission, order, authorisation, or consent, which is of a kind falling with the Chief Officer's area of responsibility and to exercise the Council's statutory power to recover expenses incurred.
- (h) To authorise entering into legal agreements in respect of functions delegated to them or take action which is ancillary or incidental to the performance of their delegated function.

Information Asset Owner

7.28 Each Chief Officer is the Directorate Information Asset Owner. The Information Asset Owner is responsible for:

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

Recording, Implementing and Accounting for Decisions

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

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

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

8. Functions delegated to the Chief Executive

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

- (a) Corporate Services and Governance
- (b) Finance
- (c) Human Resources, Customer Services and Public Affairs
- (d) Children, Education and Families
- (e) Adult Services
- (f) Public Health
- (g) Environment and Public Protection
- (h) Housing, Planning, Property and Regeneration

8.2 The Chief Executive shall:

(a) be the Head of the Paid Service in accordance with the Local Government and Housing Act 1989.

(b) have authority over all other officers so far as is necessary for the efficient management and execution of the Council's affairs, functions or services except:

- (i) where officers are exercising specific responsibilities imposed on them under statute
- (ii) that where the professional judgment or expertise of a Chief Officer is involved the officer shall have full opportunity to explain their views.

(c) Exercise overall corporate management and operational responsibility, including overall management responsibility for all officers.

(d) Provide professional advice to all parties in the decision-making process.

(e) Have responsibility, together with the Monitoring Officer, for a system of record keeping for all the Council's decisions.

(f) Represent the Council on partnership and external bodies (as required by statute or the Council).

(g) Manage the Chief Executive's Office.

(h) Discharge the functions of Electoral Registration Officer and be responsible for elections.

(i) Discharge those functions under Section 138 (1) of the Local Government Act 1972, (powers of principal Councils with respect to emergencies or disasters) as Head of Paid Service (Gold Command) appointed by the London Borough Councils from time to time to respond to an incident requiring a "Level 2" response (single site or wide-area disruptive challenge requiring a co-ordinated response by relevant agencies on behalf of the Councils).

(j) Be responsible for the Council's responsibilities as an employer under Health and Safety legislation.

(k) Appoint or replace officers of suitable seniority to be board representatives/members of any joint ventures or wholly-owned companies the Council has entered into.

9. Functions delegated to the Director Corporate Services & Governance

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

- (a) Procurement and Governance;
- (b) IT and Digital Services;
- (c) Elections;
- (d) Democratic Services;
- (e) Legal Services;
- (f) Mayoral Services.

9.2 The Director of Corporate Services and Governance shall -

(a) act as the authority's Monitoring Officer under the Local Government and Housing Act 1989.

(b) settle or compromise legal proceedings (including threatened proceedings, arbitrations, adjudications, public inquiries and potential Employment Tribunal matters) brought by or against the Council, including entering pleas of guilty in criminal proceedings on such terms as s/he considers appropriate.

(c) take any action to implement any decision taken by or on behalf of the authority, including the signature or service of statutory and other notices and any document.

(d) institute, defend, or participate in any legal proceedings, mediation, arbitration, adjudication, inquest or enquiry, in any case where such action is necessary, to give effect to decisions of the authority, comply with statutory duty or where s/he considers such action is necessary to protect the authority's interests.

(e) instruct counsel, solicitors or other experts for legal proceedings, public inquiries, or other matters involving the authority.

(f) enter objections to any proposal affecting the authority, the authority's area or the inhabitants of the authority's area.

(g) lodge appeals against any adverse finding against the Council in any tribunal or court.

- (h) sign any document necessary to give effect to any resolution of the Council, the Executive, a Portfolio Holder or any Committee or Sub-Committee or Officer acting within delegated power.
- (i) authorise employed or locum staff to represent the Council under Section 223 of the Local Government Act 1972 in proceedings before the magistrates' Court and under section 60 (2) of the County Courts Act 1984 to represent the council in the county Court.
- (j) be the proper officer in respect of matters relating to the Council's Constitution where not otherwise stated.
- (k) make routine updates to the Constitution (including the Scheme of Delegation to Officers), for example, where officer titles and responsibilities change.
- (l) be the proper officer for any notices, decisions, or authorisations under the Freedom of Information Act 2000 and related legislation.
- (m) affix the Common Seal of the Council when required – the electronic sealing and execution of documents will be acceptable. The affixing of the seal may be attested by the Director or some other person authorised by him or her.

10. Functions delegated to the Director of Finance

10.1 The services and the areas of responsibility of the Director of Finance shall include:

- (a) Corporate Finance and Accounting;
- (b) Financial Management;
- (c) Treasury Management;
- (d) Exchequer and Revenues Services;
- (e) Counter Fraud, Audit and Risk Management;
- (f) Insurance;
- (g) Pensions;
- (h) Financial systems.

10.2 The Director of Finance shall:

(a) act as the statutory Chief Financial Officer, under section 151 of the Local Government Act 1972.

(b) be responsible for the provisions of The Accounts and Audit Regulations 2015 in respect of the need to undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance.

(c) be responsible for all arrangements concerning financial planning, financial control, banking, accounts, income, insurances, investments, bonds, loans, borrowing (including methods of borrowing), trust and pension funds (within the scope of the Council's pension fund investment policies that are approved by the Committee), the payment of creditors and the payment of salaries, wages, pension scheme benefits and gratuities.

(d) be responsible for the provisions of The Accounts and Audit Regulations 2015 in respect of the need to undertake an effective internal audit to evaluate the effectiveness of risk management, control and governance processes, taking into account public sector auditing standards or guidance.

(e) to be responsible for the calculation of Council tax levels as part of Budget setting.

11. Functions delegated to the Director of Human Resources, Customer Service and Public Affairs

11.1 The services and areas of responsibility of the Director of Human Resources, Customer Services and Public Affairs shall include –

- (a) Human Resources
- (b) Customer Services
- (c) Public Affairs

11.2 The Director of Human Resources, Customer Services and Public Affairs shall –

- (a) Be responsible for all Human Resources functions including pay, pension provision, terms and conditions, policies and procedures, grading and designation of posts, appointment to posts (except at chief officer level), performance related bonuses, honoraria and acting-up allowances, car allowances, leased cars, removal expenses and other benefits for new staff, travel and subsistence allowances, season ticket or car purchase loans, redundancy and pension payments, departmental restructurings and reorganisations, early retirement, ill-health retirement, long service awards, leave and special leave.
- (b) be proper officer responsible for the Council's functions relating to Registrars services.
- (c) be responsible for the Council's public affairs and communications.

12. Functions delegated to the Director of Children, Education and Families

12.1 The services and the areas of responsibility of the Director of Children, Education and Families shall include:

- (a) Family Services;
- (b) Schools, Schools' Funding and Capital Programme;
- (c) Safeguarding Children and the Local Safeguarding Children's Board;
- (d) Children Looked After and Care Leavers;
- (e) Youth Services;
- (f) Youth Justice Services;
- (g) Adult Education;
- (h) Transition services for disabled children.

12.2 The Director of Children, Education and Families shall:

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

13. Functions delegated to the Director of Adult Services

13.1 The services and the areas of responsibility of the Director of Adult Services shall include:

- (a) Adult Social Care Operations;
- (b) Commissioning for adults;
- (c) Provider Services;
- (d) Mental Health Partnership.

13.2 The Director of Adult Services shall -

- (a) exercise the functions of the Council and act as the statutory officer for adult social services as set out in section 6(A1) of the Local Authority Social Services Act 1970, ~~as amended by section 1_8(1) of the Children Act 2004~~.
- (b) exercise the functions of the Council with regard to the powers and duties of an Adult Services Authority under all relevant legislation including, but not limited to social services, safeguarding adults, Mental Health services including the deprivation of liberty and Health functions in particular building and leading the arrangements for inter-agency co-operation.
- (c) arrange for the effective operation of the Council's responsibilities for the assessment, purchase and provision of social care services for adults including people with disabilities, older people, people with mental health needs, people with substance misuse problems, adults with learning disabilities (including people with autistic spectrum disorder and a dual diagnosis incorporating mental health needs and learning disability) and people with HIV/AIDS.
- (d) Be the lead commissioner responsible for relationships with health and social care across the Council with the aim of transforming the current model.
- (f) Produce Joint Strategic Needs Assessments in conjunction with the Director of Children, Education and Families and the Director of Public Health.
- (g) Promote health improvement in the borough and participate as a member of the Health and Wellbeing Board for the Borough.

14. Functions delegated to the Director of Public Health

- 14.1 The services and areas of responsibility of the Director of Public Health shall include -
- (a) Programme delivery, including the vascular illness prevention programme;
 - (b) Health Protection;
 - (c) Health intelligence.
- 14.2 The Director of Public Health shall be responsible for the Council's functions relating to Public Health Services, as follows:
- (a) To be authorised to agree expenditure on relevant public health budgets subject to the Council's constitution; such authority can be delegated in writing to others.
 - (b) To exercise the statutory functions of the Director of Public Health;
 - (c) To ensure that the Council has up-to-date plans, meeting statutory requirements and the demands of good practice.
 - (d) To be the officer responsible for leadership, expertise and formal advice on all aspects of the Public Health Service.
 - (e) To provide advice to the public in any period where local health protection advice is likely to be necessary or appropriate, in conjunction with the Council's communications team.
 - (f) To promote action across the life course, working together with Council colleagues and the NHS.
 - (g) To work through local resilience fora to ensure effective and tested plans are in place for the wider health sector to protect the local population from risks to public health.
 - (h) To work with local criminal justice partners and Police and Crime Commissioners to promote safer communities.
 - (i) To work with the wider civil society to engage local partners in fostering improved health and wellbeing.
 - (j) To be an active member of the Health and Wellbeing Board, advising on and contributing to the development of joint strategic needs assessments and

joint health and wellbeing strategies, and commissioning appropriate services accordingly.

(k) To take responsibility for the management of the Council's public health services, with professional responsibility and accountability for their effectiveness, availability and value for money.

(l) To play a full part in the Council's action to meet the needs of vulnerable children, for example by linking effectively with the Local Safeguarding Children Board.

(m) To contribute to and influence the work of NHS Commissioners, ensuring a whole system approach across the public sector.

15. Functions delegated to the Director of Environment & Public Protection

15.1 The services and the areas of responsibility of the Director of Environment and Public Protection shall include:

- (a) Community Safety, Counter Terrorism and Counter Extremism, Enforcement and Emergency Planning;
- (b) Commercial Management and Operations;
- (c) Waste management and street cleansing;
- (d) Carbon management and reduction;
- (e) Environmental Health (including but not limited to food safety and standards, health & safety, health protection and infectious disease, animal health and public health);
- (f) Road Safety, Transportation, Parking and Highways;
- (g) Licensing;
- (h) Trading Standards;
- (i) Parks and Open Spaces and Arboriculture.

15.2 The Director of Environment & Public Protection shall:

- (a) arrange for the effective operation of the Council's responsibilities for the regulation of waste management and cleansing of streets.
- (b) be responsible for the borough's open spaces, parks and cemeteries.
- (c) Lead on the Council's carbon reduction programme.
- (d) Exercise the functions of the Council relating to crime and disorder, community safety, counter terrorism and counter extremism, including under the Counter-Terrorism and Security Act 2015 and the Crime and Disorder Act 1998, save for the secondment of officers to the Youth Offending Team as required by section 39(5).
- (e) Be responsible for emergency planning and business continuity and undertake executive powers where necessary in the event of a civil emergency.

(f) Take action and operate all legislative and administrative procedures in relation to road safety, highways, transportation and road traffic. This includes exercising the functions of the Council as highways, transportation and road traffic authority and the taking of all enforcement action in relation to transportation and highways.

(g) Operate the Council's on street and off-street parking including parking enforcement services.

(h) Exercise all licensing functions and other matters an officer is empowered to discharge, including under the Licensing Act 2003, the Gambling Act 2005 or any Regulations issued in relation to those Acts and any regulations amending, consolidating or replacing them.

(i) Exercise the functions of the Council relating to environmental health. This includes powers relating to: food safety, health and safety, noise and other nuisances, air quality, contaminated land and private water supplies, and housing and private land where enforcement is the responsibility of the Council.

(j) Exercise the functions of the Council relating to trading standards and consumer protection, including prohibiting the sale of dangerous goods, promoting fair trading and investigating or prosecuting offences suspected to have arisen in the borough, including working with other authorities.

(k) Take action and operate all legislative and administrative procedures in relation to the regulation of street trading.

16. Functions delegated to the Director of Housing, Planning and Regeneration

16.1 The services and areas of responsibility of the Director of Housing, Planning and Regeneration shall include –

- (a) Housing,
- (b) Property and Strategic Asset Management,
- (c) Regeneration services,
- (d) Planning and Building Control.

16.2 The Director of Housing, Planning and Regeneration shall be responsible for Housing Services as follows -

(a) Resident involvement, Tenancy Management and Housing Options, (includes policy development in relation to housing allocations), Homelessness Assessment, finance, planning and strategy in relation to the establishment of a Housing Revenue Account (including income collection, reserves and debt management), new housing and commercial development and Council housing companies and other delivery vehicles.

(b) Deliver the Council's vision and strategic objectives and have overall responsibility for all matters relating to the delivery of housing in the borough.

(c) Arrange for the effective operation of the Council's responsibilities for housing, including the recommending of strategies for all aspects of housing related activity, relationships with other public sector organisations, social landlords and with the private sector.

(d) Approve applications for housing and allocate properties in accordance with the Council's established allocations policy, including allocation and management of temporary accommodation.

(e) Be responsible for commissioning services relating to the management and maintenance of the Council's housing stock and administer the Right to Buy Scheme as defined under Housing Act 1985 (as amended).

(f) Be responsible for the delivery of compliance under health and safety legislation in relation to the Council's housing stock, where the Council is the landlord.

(g) Make arrangements to provide housing advice and support to prevent homelessness and process statutory homelessness applications.

(h) Approve the allocation of funds to individual projects to be supported through regeneration programmes.

(i) Be responsible for new affordable housing, through direct delivery, in partnership and through the creation and management of Council housing companies and other delivery vehicles.

16.3 The Director of Housing, Planning and Regeneration shall be responsible for Property and Strategic Asset Management as follows -

(a) Purchase of properties in pursuance of confirmed Compulsory Purchase Order Schemes approved by the Executive and authorise any required compensation in accordance with the limits set out in the relevant Compulsory Purchase Order Scheme approved by the Executive.

(b) To approve the acquisition of new properties and disposal terms of any non-operational property transaction subject to a capital value less than £1m or a rental value less than £250,000 per annum in consultation with the relevant Portfolio Holder (noting that these limits do not relate to lease disposals contained in (k) below.)

(c) To sell land or exchange land not required for operational purposes (including Highways Land no longer required for Highways purposes) with an area less than 500 sqm and value less than £50,000, subject to said land being declared surplus to Council requirements by the relevant Director in consultation with the relevant Portfolio Holder.

(d) To dispose of property or purchase it when such disposal or purchase has been previously agreed by the Executive.

(e) Carry out all functions relating to the leasing and management of property - including the appointment of specialist professional services/advisors - where the Council is a tenant, including landlords' consent, unless they fall outside the financial limits detailed in (ii) above, or the matter is particularly referred by Members to the Executive or Portfolio Holder

(f) Grant leases/licences to public utility undertakings or telecom operators including entering into telecom agreements and code agreements, for land required for the erection of sub-stations or other utility purposes.

(g) Grant of leases and renewal of such for properties where the purposes for which they were originally acquired or are currently held, has presented an opportunity to generate additional income or provision of service provided such leases are -

- (i) For a term not exceeding 7 years; or
- (ii) Where the annual rent is within the financial limits set out in (ii).

(h) Consent to the assignment of leases and tenancies of Council properties.

(i) Negotiate and agree terms in respect of easements, wayleaves, rights of way, consents, tenancies at will, occupational licences and other licences affecting land and property.

(j) Approve applications for the consent of the Council, as landlord or owner, for minor alterations or improvements to buildings.

(k) Determine rent reviews, lease renewals, lease re-gearings, changes in use and re-letting of commercial properties in Council ownership where the Council is acting as landlord.

(l) On terms determined in accordance with provisions of the Act, approve sales or the extension of leases under the Leasehold Reform Act 1967, as amended by the Housing Act 1980, where appropriate claims have been accepted as being legally valid and without grounds for counter-claim.

(m) Be responsible for compliance under the Health and Safety at Work etc. Act 1974 in relation to premises.

16.4 The Director of Housing, **Planning** and Regeneration shall be responsible for Regeneration as follows -

(a) Delivering the Council's vision and strategic objectives and responsibility for Council services, initiatives and contracts relating to economic development, support for businesses, town centres and shopping parades, Business Improvement Districts, improvements to the public realm and parks, digital infrastructure, libraries and community resource centres, leisure, arts and culture.

16.5 The Director of Housing, Planning and Regeneration shall be responsible for Planning and Building Control functions as follows -

(a) Exercise Planning and conservation powers in accordance with the relevant legislation - delegation includes powers to determine applications for planning permission, requests for approval under The Town and Country Planning (General Permitted Development) (England) Order 2015, reserved matters, details pursuant to conditions, non-material and minor material amendments, advertisement consent, Conservation Area Consent, Listed Building Consent, Certificates of Lawfulness and Prior Approval, application for the Council's own development, Hazardous Substances consent, consultations to the Planning authority from other bodies including Council departments, adjoining authority consultations, Environmental Impact Assessment screening or scoping, requests for

extensions of time to determine applications, Crown development applications, removal or variation of conditions, repeat, overlapping or retrospective applications, and determinations including whether planning applications are departures from the Local Plan or as to whether development would affect the character or appearance of a conservation area or the setting of a listed building to enable such applications to be advertised.

(b) The powers set out in (a) above shall not apply to the following provided the matter is within the remit of the Development Control Committee or Plans Sub-Committees -

(i) Applications submitted by or on behalf of the Council, or on land owned by the Council or where the Council has a financial interest (except in the case of details pursuant, reserved matters or amended proposals);

(ii) Applications for the provision of twenty one or more new dwellings;

(iii) Applications for new major commercial development;

(iv) Applications submitted by members of staff in the Planning and Building Control Division, Directors or Assistant Directors, Bromley Councillors, Members of the London Assembly or Members of Parliament;

(v) Applications where the property is subject to an enforcement notice or breach of condition notice;

(vi) Applications for residential development or extensions within a Conservation Area or Area of Special Residential Character where there is not a minimum one metre side –space in the case of detached dwellings;

(vii) Any application where a ward councillor formally requests in writing, using the online call-in request form and giving a planning reason (“calls in”), that the application is referred to Members for decision.

(viii) Where less than twenty-one days (or seven days in the case of non-material amendments and details pursuant to conditions) has passed since the application has appeared on a “weekly list” of applications circulated to Members other than where all ward Members have agreed in writing.

(c) Take planning enforcement action under the Town and Country Planning Act 1990, including (i) the issue of Enforcement Notices (section 172), (ii) Stop Notices (section 183), (iii) Completion Notices (section 94), (iv) unopposed revocations (section 97), (v) orders requiring discontinuance of use, or alteration, or removal of buildings and works (section 102), (vi) the power to require information as to interest in land (section 330), (vii) Planning Contravention Notices (section 171C), (viii) Breach of Condition Notices (section 187A), and (ix) Untidy Site Notices (section 215).

(d) Take planning enforcement action under the Planning (Listed Buildings and Conservation Areas) Act 1990, including (i) unopposed revocations of Listed Buildings consent (sections 23 and 239), (ii) the issue of notices concerning urgent works and recovery of expenses (sections 54 and 55), (iii) the making and recovery of grants (sections 57 and 58), and (iv) Listed Building Enforcement Notices (section 38).

(e) Authorise rights of entry to premises and any land for all the purposes of the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990 and the Building Act 1984 (all as amended) and any Orders or Regulations made there under.

(f) To approach Historic England to spot list properties on the list of buildings of special architectural interest if they are threatened.

(g) To take action under section 10-12 of the London Local Authorities Act 1995 relating to the control of unauthorised advertisements.

(h) Tree, High Hedges and Wildlife matters, including granting or refusing consent for the pruning, cutting down, lopping or destruction of trees that are subject to Tree Preservation Orders or in Conservation Areas, the making, confirming and revocation of Tree Preservation Orders (opposed or unopposed), the issue of tree planting notices, entering in to management agreements under section 39 of the Wildlife and Countryside Act 1981, and authorising legal proceedings to be taken in respect of breaches of Tree Preservation Orders and the legislation regarding trees in Conservation Areas, subject to the Director of Corporate Services and Governance being satisfied as to the evidence.

(i) Planning appeals, including decisions on whether to contest all types of appeals, except where the original decision was made by Members.

(j) Matters relating to Community Infrastructure Levy (CIL), Section 106 Agreements and undertakings and Agreements under section 16 of the Greater London Council (General Powers) Act 1974, including authorising expenditure of money received through Section 106 Agreements, subject to any restrictions in the Council's Financial Regulations, entering in to or varying Section 106 Agreements, reviewing the Bromley CIL and charging schedule, and issuing all types of CIL notice, authorising action to recover funds including responding to CIL appeals and decisions as to whether to proceed with court action. .

(k) Preparation and review of Planning Policy documents, meeting our Duty to Cooperate and Neighbourhood Planning responsibilities, responding to National and Regional planning policy, and maintaining statutory registers.

(l) All matters relating to common land and town and village greens.

(m) Building Control functions including control of demolition and dangerous structures. This will include determining applications, and applications for relaxation, authorising and serving notices including under section 36 of the Building Act 1984, deciding what means of escape in the case of fire are necessary at premises to which the Housing Act 1985 and Housing Act 2004 apply and serving notices where

these are not provided, being designated as “Appointing Officer” under section 10 (8) of the Party Wall etc. Act 1996, taking action in respect of dangerous structures under the London Building Acts (Amendment) Act 1939, including removal of danger where immediate action is required, making charges regulations for dangerous structures under the London Building Acts (Amendment) Act 1939 Part VII, the London County Council (General Powers) Act 1955 Part II and 1958 Part III and the London Local Authorities Act 1994, operating the new scale of fees for dangerous structure activities including waiving fees in cases of extreme hardship and authorising and serving notices under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 to obtain particulars of persons interest inland.

(n) Agree all fees and charges relating to Planning and Building Control services.

CHAPTER 7 - ETHICAL GOVERNANCE

27. Members' Code of Conduct

LONDON BOROUGH OF BROMLEY

CODE OF CONDUCT FOR COUNCILLORS AND CO-OPTED MEMBERS

- 1.1 You are a member or co-opted member of the London Borough of Bromley and, hence, you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 1.2 Accordingly, when acting in your capacity as a member or co-opted member -
 - (i) You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.
 - (ii) You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- 1.3 When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.
- 1.4 You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.
- 1.5 You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.
- 1.6 You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in Appendix 1.
- 1.7 You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 1.8 You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

- 1.9 You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
- (i) you have the written consent of a person authorised to give it; or
 - (ii) you are required by law to do so; or
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is:
 - reasonable and in the public interest; and
 - made in good faith and in compliance with the reasonable requirements of the Authority;
- 1.10 You acknowledge there may be times when you will be required to treat discussions, documents or other information relating to or held by the Council in a confidential manner, in which case you must observe such requirements for confidentiality.
- 1.11 You will often receive information of a private nature which is not yet public or which is not be intended to be public. You must respect and comply with the requirement to keep such information private, including information deemed to be confidential by statute. You acknowledge
- (i) that legislation gives you certain rights to obtain information not otherwise available to the public and you are entitled to exercise these rights where the information is necessary to carry out Council duties,
 - (ii) that such information is, for your use as a councillor and must not be disclosed or in any way used for personal or party political advantage or in such a way as to discredit the Council. This will also apply in instances where you hold the personal view that such information should be publicly available.
- 1.12 You must take adequate steps to familiarise yourself with your duties around GDPR complaint storage and disposal of sensitive data.
- 1.13 You must not prevent another person from gaining access to information to which that person is entitled by law.
- 1.14 You must treat all individuals with courtesy and respect when carrying out your duties as a councillor. Bullying or harassment is completely unacceptable and will be considered to be a breach of this Code (see Appendix 2).
- 1.15 You must respect your fellow Councilors and treat them with courtesy at all times when acting as a councillor. You must not make trivial or malicious complaints about other Councillors or make a complaint to secure a political advantage.
- 1.16 You will cooperate fully with any Standards Investigation.

1.17 Registering and declaring pecuniary and non-pecuniary interests

1.17.1 You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners. A copy of the current Regulations which sets out details of disclosable pecuniary interests is attached to this Code and will be up-dated as necessary if the Regulations change.

1.17.2 In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

1.17.3 In addition you must:

(i) Register any gift or hospitality with a value of over £25.00 with the Monitoring Officer within 28 days of receipt. Notification should include details of the gift/hospitality and the identity of the donor;

(ii) In addition to registering your disclosable pecuniary interests, you should also register the following non-pecuniary interests, namely:

(a) membership of outside bodies (as appointed by the Council);

(b) membership of other public organisations;

(c) membership of charities;

(d) membership of campaigning groups, political parties and trade unions.

(iii) You must notify the Monitoring Officer of any change to your disclosable pecuniary or other interests within 28 days of the change occurring so that your Register of Interests may be kept up-to-date.

1.17.3 If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.¹

1.17.4 Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

1.17.5 Unless dispensation has been granted, you may not participate in any discussion of, or vote on, or discharge any function related to any matter in which you have a

¹ A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

pecuniary interest as defined by regulations made by the Secretary of State. You may attend a meeting where you have a disclosable pecuniary interest where that right would be available to any member of the public, provided that you do not address the meeting on the matter in which you have an interest. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non-pecuniary interest as defined by your authority.

 STATUTORY INSTRUMENTS

2012 No. 1464

LOCAL GOVERNMENT, ENGLAND
 The Relevant Authorities (Disclosable Pecuniary Interests)
 Regulations 2012

<i>Made</i> - - - -	<i>6th June 2012</i>
<i>Laid before Parliament</i>	<i>8th June 2012</i>
<i>Coming into force</i> - -	<i>1st July 2012</i>

The Secretary of State, in exercise of the powers conferred by sections 30(3) and 235(2) of the Localism Act 2011^(a), makes the following Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and shall come into force on 1st July 2012.

(2) In these regulations—

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000^(b) and other securities of any description, other than money deposited with a building society.

(a) 2011 c.20.
 (b) 2000 c. 8.

Specified pecuniary interests

2. The pecuniary interests which are specified for the purposes of Chapter 7 of Part 1 of the Act are the interests specified in the second column of the Schedule to these Regulations.

Signed by authority of the Secretary of State for Communities and Local Government

Grant Shapps
Minister of State

6th June 2012

Department for Communities and Local Government

SCHEDULE

Regulation 2

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of

(a) 1992 c. 52.

business or land in the area of the relevant authority; and

(b) either—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 30 of the Localism Act 2011 provides that a member or co-opted member of a relevant authority as defined in section 27(6) of the Localism Act 2011, on taking office and in the circumstances set out in section 31, must notify the authority's monitoring officer of any disclosable pecuniary interest which that person has at the time of notification. These Regulations specify what is a pecuniary interest. Section 30(3) of the Act sets out the circumstances in which such an interest is a disclosable interest.

A full impact assessment has not been produced for these Regulations as no impact on the private or voluntary sectors is foreseen.

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2. Bullying and Harassment

2.1. Introduction

2.1.1 Everybody has the right to be treated with dignity and respect and to work in an environment which is free from harassment, bullying, discrimination and victimisation. This is now reinforced by paragraph 1.14 of the Councillors' Code of Conduct 2020, which states:

'Bullying or harassment is completely unacceptable and will be considered to be a breach of this Code.'

2.1.2 Harassment, bullying, discrimination and victimisation (either directly or indirectly) are unacceptable and will not be tolerated. It is important to recognise the impact such behaviour can have on any individual experiencing it, as well as on the wider organisation in terms of morale and operational effectiveness. In considering complaints of bullying and harassment an important consideration will be the impact of conduct on others and how the subject of the alleged bullying and harassment perceived the behaviour.

2.1.3 You are responsible for your own behaviour and must ensure that you are aware of, and comply with, the provision concerning bullying and harassment in the Councillors' Code of Conduct and also any policy your Council has on ensuring dignity in the workplace.

2.2. Harassment

2.2.1 Harassment is any unwelcome behaviour or conduct which has no legitimate workplace purpose and which makes someone feel offended, humiliated, intimidated, frightened and / or uncomfortable at work. Harassment can be experienced directly or indirectly (such as being in the room while unacceptable conduct is being displayed and being affected by it), and can occur as an isolated incident or as a course of persistent behaviour.

2.2.2 It is also important to note that even if behaviour is unintentional, it can still be classed as a form of harassment. Harassment is essentially about what the recipient deems to be offensive, not about what was intended. You should be aware, therefore, of the impact of your conduct on others and that what may seem harmless to you can be offensive to someone else.

2.2.3 Harassment can occur through verbal or written comments (including ones made online and on social media). The following list provides some examples but it is, by no means, exhaustive:

- Unwelcome physical contact such as touching or invading 'personal space';
- Inappropriate remarks or questioning such as comments about someone's appearance, lewd comments, and offensive jokes (such as ones of a racial, sexual or sectarian nature);

- Intrusive questioning, including the persistent discussion of a person's sexual practices, misogynistic behaviour, sexual orientation or religious beliefs (either directly or with others); and
- Sending unwelcome emails, messages or notes; circulating or displaying explicit or inappropriate images.

2.3. Bullying

2.3.1 Bullying is inappropriate and unwelcome behaviour which is offensive and intimidating, and which makes an individual or group feel undermined, humiliated or insulted. Again, it is the impact of any behaviour rather than the intent which is the key.

2.3.2 Bullying usually arises as a result of an individual misusing their power (usually derived from status or some other position of strength) and, again, can occur through all means of communication. Bullying tends to be a pattern of behaviour or can be a one-off serious incident that becomes objectionable or intimidating. The examples in the following list are, by no means, exhaustive:

- Unwelcome physical, verbal or non-verbal conduct;
- Intimidatory behaviour including verbal abuse or the making of threats;
- Making someone's working life difficult;
- Disparaging, ridiculing or mocking comments and remarks;
- Physical violence; and
- Deliberately excluding an individual from conversations, work or social activities, in which they have a right or legitimate expectation to participate.

27. Arrangements for Complaints against Members

Procedure for the consideration of Code of Conduct (Standards) complaints against elected Councillors

Bromley has adopted a Code of Conduct for Councillors. If anyone - which can include an employee, a member of the public or even another councillor - feels that behaviour by a Councillor or co-opted member of the Council may have fallen short of the standards required by the Code of Conduct they need to tell us about this so that we can consider their complaint.

The Council has adopted procedures for considering Complaints against Councillors which were reviewed following the publication in January 2019 of the Committee for Standards in Public Life report on ethical standards in local government.

1. How to make a complaint

- 1.1 Anyone wishing to make a complaint against a councillor is asked to consider the **Councillors Code of Conduct** .
- 1.2 You will need to provide details about the nature of the complaint, which part of the code you think the councillor has breached and how, and evidence to substantiate your complaint.
- 1.3 Complaints can be submitted by completing our **complaints form** or alternatively please write to the Monitoring Officer, Civic Centre, Stockwell Close, Bromley BR1 3UH.

2. What happens once a complaint has been submitted

- 2.1 Complaints under the Code are addressed to the Monitoring Officer who will take a view on whether a complaint should be dealt with under the Council's Code of Conduct or another process. This stage of the process is routinely conducted by the Monitoring Officer's nominated representative.
- 2.2 Upon receipt of the complaint, the Subject Member will be notified of the complaint in writing and asked to provide comment.
- 2.3 Complaints which contain a request for the Complainant's identity to be withheld may be considered to be 'valid complaints', although the Complainant's identity will only be withheld in exceptional circumstances. If the Monitoring Officer does not consider it appropriate to withhold the Complainant's identity, the Complainant will be given the opportunity to withdraw their complaint before it proceeds to the next stage.

2.4 If the complaint identifies criminal conduct (including a failure to register disclosable pecuniary interests) or breach of other regulations by any person, the Monitoring Officer will refer the complaint to the police or other regulatory agencies. No further action will be taken in relation to such complaints until any related criminal/regulatory investigation, proceedings or processes have been concluded.

3. The Initial Assessment Process

3.1 Under the Council's procedures an initial assessment known as filtering is undertaken, in consultation with the Independent Person, with complaints which do not amount to a breach of the Code of Conduct for councillors or those considered unlikely to do so following investigation being filtered out at this stage.

3.2 The first issue to consider is whether the Code of Conduct is engaged or not. The Standards committee has adopted criteria for considering complaints alleging Breaches of the Code of Conduct.

3.3 The following types of complaint will usually not be considered as 'valid complaints': -

- a) Complaints which are submitted anonymously (though the Monitoring Officer reserves the right to investigate if he/she thinks appropriate).
- b) Complaints which do not identify a Subject Member.
- c) Complaints which relate to a Member's personal or private life including personal use of social media.
- d) Complaints concerning a failure to respond to a request from a Constituent or other individual.
- e) Complaints which relate to the alleged actions of employees of the Council or non-voting Co-opted Members.
- f) Complaints which relate to dissatisfaction with a Council, Executive or Committee decision or delivery of a Council service.
- g) Complaints which relate to a person who is no longer a Member of the Council or which refer to alleged incidents before the person became a Member of the Council, or after they have resigned or otherwise ceased to be a Member.
- h) Complaints which refer to alleged incidents which happened so long ago that there would be little benefit in taking action now.
- i) Complaints regarding substantially similar alleged behaviour which has already been the subject of an investigation or enquiry or some form of action. However, a series of complaints demonstrating a pattern of behaviour will be given due consideration.
- j) Complaints which relate to conduct which is alleged to have taken place more than 3 months prior to the submission of the complaint, unless there are exceptional circumstances to justify the later submission of the complaint.
- k) Complaints which are considered malicious, vexatious, politically motivated, tit-for-tat or not sufficiently serious to warrant further action.
- l) Complaints which arise from general political activity or campaigning when the Councillor is not acting as a Councillor.

3.4 If the Code of Conduct is engaged the Monitoring Officer will consider whether the complaint is likely to amount to a breach of the Code of Conduct having regard to the public interest test adopted by the Committee and the criteria in paragraph 3.3.

Before reaching a decision, the Monitoring Officer may request further information from the Complainant and the Subject Councillor and consider information which is readily available e.g. minutes of Council meetings

- 3.5 The Monitoring Officer will, after consultation with the Independent Person, either set out the outcome of the initial assessment process in writing or seek informal resolution or instigate an investigation. If the initial assessment indicates that the Code is not engaged or no breach of the Code, or indicates no further action is required, the Monitoring Officer, after consultation with the Independent Person will advise all parties accordingly. There is no Appeal Process for decisions taken by the Monitoring Officer at this stage.

4. The Role of the Independent Person(s)

- 4.1 Throughout the process, the Council's Independent Person is consulted.
- 4.2 The Independent Persons are people who have been appointed under the Localism Act 2011, by the Council. The Independent Person must be consulted and have their views taken into account before the Council makes a finding as to whether a Member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that Member. The views of the Independent Person may also be sought at any other stages of the complaints process.
- 4.3 The Member complained about can seek the views of a duly appointed Independent Person.
- 4.4 The Independent Persons do not represent and are not advisors to the Councillor who is the subject of the complaint, but they can assist in providing factual information on the complaints process. The Independent Person must remain completely impartial and objective and cannot take sides. Their role is to assess complaints and form a view on them. There is no right for the complainant to seek the views of the Independent Person and no such contact will be permitted.

5. Informal Resolution

- 5.1 If following the initial Assessment Process, it is considered that a breach of the Code of Conduct may have occurred, prior to referring a matter for formal investigation, The Monitoring Officer after consulting with the Independent Person can decide whether a matter is suitable for informal resolution.
- 5.2 The Subject Member will be asked to consider whether he/she is prepared to agree to or propose an informal resolution of the complaint which will be communicated to the Complainant.
- 5.3 Whilst not an exhaustive list, types of informal resolution might include -
- a) an apology from the Subject Member
 - b) an agreement from the Subject Member to attend relevant training or to take part in a mentoring process

- c) an agreement from the Subject Member to engage in a process of mediation or conciliation between the Subject Member and the Complainant.
- d) Referral of the matter to the Councillor`s Group Leader or
- e) Any other action capable of resolving the complaint.

5.4 The Monitoring Officer will determine if a matter has been informally resolved.

6 Referral for Investigation

6.1 When it is considered after the initial assessment that a complaint may amount to a breach of the Code of Conduct which has not been informally resolved and where further action may be necessary if a breach is proven, the Monitoring Officer will either undertake or commission a formal investigation.

6.2 The Investigator will consider all relevant material and interview all persons they consider necessary including but not limited to the Complainant and Subject Member.

6.3 The Subject Member as required by the Code of Conduct must co-operate fully with the Investigation and is entitled to have a friend or representative present during any interview.

6.4 Where an investigation report recommends that there is no evidence of failure to comply with the Members' Code of Conduct, or that no further action is appropriate the Monitoring Officer shall prepare a report to the Standards Committee who may:

- a) accept the recommendation resolve that no further action is required and dismiss the allegation, or
- b) remit the matter back to the Monitoring Officer for further consideration/investigation

6.5 If after further consideration/investigation, the Investigator concludes that there is no breach of the Code of Conduct or that further action is not required, the Committee shall dismiss the complaint.

6.6 Where the investigation finds evidence of a failure to comply with the Code of conduct, the Monitoring Officer in consultation with the Independent Person(s), may seek a further attempt at local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to Standards Advisory Committee. Where such local resolution is not appropriate or not possible the Monitoring Officer shall report the investigation findings to a Hearings Panel of the Standards Advisory Committee for hearing and recommendation.

7 Standards Hearings

7.1 Where the investigation report concludes that a breach of the Code of Conduct has occurred and that further action may be appropriate the Monitoring Officer shall prepare a report to the Standards Committee who shall appoint a Hearing sub-committee of at least 3 Members to consider the complaint.

- 7.2 The Monitoring Officer will agree a date for the Hearing Sub-Committee with the Investigator and the Subject Member to be held within 28 days of the appointment of the Hearing Sub-committee. In advance of the Hearing the Monitoring Officer will:
- a. 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
 - b. establish whether the Member will be represented or accompanied at the hearing
 - c. 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
 - d. provide information about the procedure to be used at the hearing
 - e. establish whether the Member disagrees with any of the findings of fact in the investigation report
 - f. establish whether the investigating officer intends to call any witnesses
- 7.3 The Independent Person will be invited to attend the meeting of the Hearings Sub-Committee and his or her views must be sought and taken into consideration before the Hearings Panel takes any decision on whether the Respondent's conduct constitutes a failure to comply with the Code of Conduct, and as to any action to be taken following a finding of failure to comply with the Code of Conduct
- 7.4 The Subject Councillor may at their own cost arrange for legal or other representation at the Hearing Sub-Committee meeting or may be accompanied by a friend.
- 7.5 The Hearing will be conducted in accordance with the procedure set out in Appendix A - Member Disciplinary Hearing Procedure.
- 7.6 The Hearing Sub Committee must decide:
- a) whether the subject Member has failed to comply with the Members' Code of Conduct
 - b) whether further action is warranted; and
 - c) what form of action might be appropriate
- 7.7 If the Hearing Sub-Committee Considers that there has been a breach of the Code of conduct after consulting with the Independent Person(s) it may -
- a) decide no further action is required.
 - b) censure the Respondent.
 - c) request the Respondent to submit a written apology in a form specified by the Panel
 - d) request the Respondent to undertake such training as the Panel may specify
 - e) request that the Respondent participates in such conciliation as the Panel may specify
 - f) report to the relevant Council on the outcome of the hearing with an appropriate recommendation
 - g) require a report be submitted to Council requesting Council Issue a formal Censure notice
 - h) advise the Leader of the Political Group to which the person belongs, of the outcome of the hearing in order that they can consider what appropriate disciplinary or other action should be taken, taking into account any relevant

case law, which could include securing the removal of a member from any Council committee.

- i) advise the Leader of the Council, and where the Member complained of is also a Member of the Executive, request the suspension from or removal from the Executive.
- j) where permitted by law to recommend withdrawal of facilities or equipment.
- k) any other sanction permitted by law.

7.8 A Member cannot be disqualified or suspended from sitting as a Member of the Council.

7.9 The recommendations of the Hearing Panel shall be published.

7.10 There is no right of appeal available against a decision on a Code of Conduct complaint, except through the courts by way of judicial challenge.

8 Appeals

8.1. The complainant has no right of appeal against the decision of the Standards Committee. If the complainant feels that the Council has failed to deal with the complaint properly and that this failure has caused injustice, they may make a complaint to the Local Government Ombudsman.

8.2. However, if it is resolved that the Member has breached the Code, the Member will have an opportunity to appeal against the decision by advising the Monitoring Officer in writing within 14 days of the outcome of the Standards Hearing. The Member will be required to detail the grounds upon which an appeal is sought.

8.3. Upon receipt of notification of appeal the Monitoring Officer will consult an Independent Person for their views. The Monitoring Officer will forward a report detailing the allegations, views of the Independent Person and the findings of the investigation to a second (Appeal) Hearing Sub-Committee who will determine the appeal case. This Sub-Committee will comprise three different Members to that of the first Sub-Committee. The decision of the Appeal Hearing Sub-Committee will be final.



Conduct of Standards Hearings

Where a Standards Hearing is called under Section 7 the following procedure shall apply.

- i. The Investigating Officer will present their case in the presence of the Subject Member and will call any witnesses.
- ii. The Subject Member (or his/her representative) may ask questions of the Investigating Officer and witnesses (if any).
- iii. The Subject Member (or his/her representative) will put his/her case in the presence of the Investigating Officer and will call any witnesses.
- iv. The Investigating Officer may then ask questions of the Subject Member, and witnesses (if any).
- v. The Members of the Standards Hearing Sub-committee may ask questions of the Investigating Officer, the Subject Member and their witnesses at any time.
- vi. The Investigating Officer and the Subject Member (or his/her representative) can sum up their cases if they wish.
- vii. The Investigating Officer and the Subject Member, their representatives and witnesses will then withdraw.
- viii. The Sub-Committee, with the clerk and Monitoring Officer in attendance, will consider the evidence in private. They may recall either party to clear points of uncertainty on the evidence already given. If recall is necessary, both parties are to return even if only one is concerned with the point-giving rise to doubt.
- ix. The Sub-Committee will consult with the Independent Member before deciding on any course of action.
- x. When the Sub-Committee has reached a decision, it will recall the parties and the Chairman of the Sub-Committee will announce the decision which will be confirmed in writing with full reasons within 10 working days.

28. Employee Code of Conduct

(To be inserted)

29. Member/Officer Protocol

Councillors and Officers recognise that effective working for the benefit of people who live, work and visit Bromley is based on mutual trust and courtesy.

Within this, the following key principles are recognised:

- The different roles of Members and officers;
- The necessary political independence and impartiality of Chief Officers and officers as a whole;
- The legitimate political aspirations of Members and the need for officers to support and implement democratically made decisions of the Council, Executive and decision making Committees;
- The need for officers to provide professional advice and support to Member bodies and the right for Chief Officers to attend such meetings;
- The need for Councillors and officers to follow the respective Codes of Conduct and any standards set by the Council;
- The need for specific briefings to be provided to the Leader, Portfolio Holders and Committee Chairpersons whilst also recognising that officers are there to serve the Council as a whole;
- The need for officers to engage with Ward Councillors and to provide responses to enquiries and information to enable Ward councillors to contribute to decision making and undertake their representative role;
- To provide access to information to Members unless prohibited by law;
- That officers may on invitation attend party group meetings to provide factual and non-partisan advice, but that where this occurs the same facilities are offered equally to all parties.

30. Local Planning Protocol and Code of Conduct



London Borough of Bromley Local Planning Protocol and Code of Conduct

Contents:

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3. Agenda and Reports
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7. Order of Proceedings
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9. Councillor and Officer Roles

1 Introduction

1.1 Planning has a positive and proactive role to play at the heart of local government. It helps councils to stimulate growth whilst looking after important environmental areas. It can help to translate goals into action. It balances social, economic and environmental needs to achieve sustainable development.

1.2 The planning system works best when officers and councillors involved in planning understand their roles and responsibilities, and the context and constraints in which they operate. Planning decisions are based on balancing competing interests and making an informed judgement against a local, regional and national

policy framework.

1.3 The seven principles of public life apply to anyone who works as a public office-holder. This includes people who are elected or appointed to public office, both nationally and locally, and as such applies to councillors and officers. The overarching principles were first set out by Lord Nolan in 1995 in the Government's First Report on Standards in Public Life. They were reasserted and refined in subsequent reports of the Committee on Standards in Public Life, most recently the Local Government Ethical Standards Report published in 2019. These principles are:

- **Selflessness:** holders of public office should act solely in terms of the public interest.
- **Integrity:** holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
- **Objectivity:** holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
- **Accountability:** holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- **Openness:** holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
- **Honesty:** holders of public office should be truthful.
- **Leadership:** holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support

the principles and be willing to challenge poor behaviour wherever it occurs.

1.4 This protocol and code of conduct applies to all planning committee meetings, currently known as Development Control Committee and Plans Sub Committees, and to all Officers and Councillors attending committee meetings. Reference to planning committee is to either of these meetings. Planning committee is a formal meeting of elected Members who make statutory decisions as the Local Planning Authority.

1.5 The purpose of this document is to help all those involved with planning committees, and in particular those making decisions, be consistent in their behaviour and approach and to ensure that the meetings are conducted fairly, transparently and in accordance with the relevant legislation. It has been produced in accordance with the Planning Advisory Service publication 'Probity in Planning' – December 2019.

1.6 Where permission is refused, applicants can appeal against planning decisions to the independent Planning Inspectorate, with a possibility of costs being awarded against the Local Planning Authority if unreasonable behaviour by the Authority can be demonstrated. Appeals can also be submitted against the imposition of planning conditions.

1.7 Planning decisions can be the subject of judicial review, and aggrieved parties can go to the Local Government and Social Care Ombudsman with complaints about maladministration. Adherence to this protocol will minimise the risk of appeals being lost, successful costs claims, lost court cases and upheld complaints.

1A Attendance at Planning Committee Meetings

1A.1 Officers and Councillors attending any planning committee meetings to address or advise the committee are required to have read, understood and abide by this Protocol prior to attending a meeting.

1A.2 Substitute Members at planning committee meetings should be impartial and no more than two Members sitting on a committee should be representing any particular ward at any time. This does not include visiting Members who cannot vote.

- 1A.3 All Members who sit on a planning committee are required to have basic training before they sit on that committee, which is provided annually on the following topics and will be monitored: Introduction to Planning
- The Development Plan and Decision Making
- Predetermination and Predisposition
- Probity and Disclosure of Interests
- How Committees Work
- The Local Planning Protocol

1A.4 When more than 50% of the Members of a specific Plans Sub Committee declare at the start of the meeting (or beforehand) that they know a planning applicant, the matter would automatically be referred to the Development Control Committee. The Chairman of each committee is responsible for identifying such cases.

2. Referral of Applications to Committee

2.1 Applications can be included on a committee agenda for any of the following reasons:

1. They are subject to a written 'call in' by a Councillor
2. They fall outside of the powers delegated to Planning Officers
3. Planning Officers decide to refer the application to committee

2.2 This is a summary and reference should be made to the Scheme of Delegation ([Appendix 11 of the London Borough of Bromley Constitution](#)) which provides the constitutional framework for powers of delegation to Officers and sets out the arrangements for 'call in'.

2.3 Planning applications, tree matters and contravention reports can be considered by either Plans Sub Committee or Development Control Committee. Matters of policy and strategic reports are only considered by Development Control Committee.

2.4 If an application is to be considered at planning committee (see 2.1 above), the following procedures apply to determining which committee to report it to:

- 'Non-major' applications are considered by Plans Sub Committee unless the Assistant Director (Planning) determines that the application is of strategic importance and refers it to Development Control Committee.
- 'Major' applications - Officers recommend a decision route and this is agreed by the Chairman and/or the Vice Chairman of Development Control Committee within 3 working days of receiving the Officer recommended decision route in writing. This will normally be via a recommendation list provided at least monthly.

2.5 Applications are placed onto committee agendas by Officers using a 'cab rank' principle whereby they are reported to the next available committee once the case officer is content that the application is ready to be reported. Members should not request to Officers that applications be considered by a particular committee or on a particular date.

3. Agenda and Reports

3.1 The planning committee agenda will include planning applications in numerical order based on the application reference number.

3.2 Application reports are normally presented in a standard format provided by the Assistant Director (Planning). Reports will identify and analyse the material considerations, of which the committee will need to take account when considering the application on its planning merits. The presentation of reports for matters other than applications may vary according to their content but will present a clear recommendation where appropriate.

3.3 Planning committee agendas must be published on the Council's website a minimum of 5 working days prior to the committee meeting.

3.4 Planning application reports will always include an officer recommendation for either approval or refusal. Non application reports will include a recommendation where appropriate.

4. Site Visits

4.1 Planning Officers will normally visit each application site for cases being considered by committee and these visits are used to inform the committee report and recommendation. Photographs from these visits are often used within reports to illustrate particular important points.

4.2 For formally arranged Councillor site visits, the Chairman of the relevant committee in consultation with the Assistant Director (Planning) or Head of Development Management will decide whether a site visit for committee members is necessary in advance of any particular application being determined at committee. Such visits will not be publicised.

4.3 A site visit for committee members is only likely to be necessary if either:

- I. the impact of the proposed development is particularly difficult to visualise from the plans and any supporting material, including photographs taken by officers; or
- II. the proposal is particularly contentious

4.4 Formally arranged site visits are for observing the site and gaining a better understanding of the issues. They should not be used as a lobbying opportunity by applicants or their agents, local residents, objectors or supporters or for debating any aspect of the proposal or for making any decision. Councillors will usually be accompanied by a Planning Officer.

4.5 It is often useful for committee members to visit a site to familiarise themselves with it prior to consideration of an application at committee. If Members do encounter an applicant or neighbour during any informal visit, they should not express an opinion, either for or against the proposal.

4.6 Doing so could be misinterpreted as lobbying and may create a suspicion of bias. If such contact is made this should be declared in Committee, but this should not prevent that Member from taking part in the consideration of that application provided they have acted in accordance with the advice in this Protocol.

5. Late Representations

5.1 Planning applications involve public consultation which has to comply with a legal statutory minimum requirement. In many cases the Council consults over and above the statutory minimum and our approach to this is set out in Section 4 of our published Statement of Community Involvement

https://www.bromley.gov.uk/info/1004/planning_policy/154/statement_of_community_involvement.

5.2 Public consultation on planning applications includes a formal period for representations to be submitted, and representations are accepted only on a discretionary basis after the expiry of the formal consultation period. Representations received after formal consultation has closed are not guaranteed to be considered in the determination of an application.

5.3 To ensure that all representations can be assessed and presented to planning committee as appropriate, it is necessary to have a cut off time for receiving representations on applications to be considered at committee and this is 12 noon on the day of the meeting. The Assistant Director (Planning) has the final decision on whether to accept late representations.

5.4 As committee reports are prepared and published some time in advance of committee meetings, any representations (including those from consultees) received after publication of the report will be uploaded to our website and may be verbally summarised by the Officer attending the meeting.

5.5 If late representations affect the conclusions of the report or recommendation this will be reported verbally to the committee.

5.6 Documents must not be distributed to committee members at the committee meeting (including by public speakers) to ensure that the material considered in the determination of the application is available to all.

6. Public and Visiting Councillor Speaking Procedure

6.1 Members of the public making written comments on planning applications which are to be considered by a planning committee have the opportunity to verbally address Councillors at committee if they wish. Anyone wishing to speak must have already written in expressing their views on the application. Speakers are not

normally permitted on items other than planning applications.

6.2 Members of the public wishing to speak at planning committee must give notice to the Democratic Services Team of their intention to speak no later than 10:00 am on the working day before the meeting. Requests to speak will only be registered once the relevant agenda has been published.

6.3 Should speakers wish to table any correspondence or photographs to supplement their speech to the committee, all documents must be submitted to the Democratic Services Team by 5.00 p.m. on the working day before the meeting. A permanent copy of any item must be provided and it is not acceptable to refer to online maps, photographs on phones/ipads or similar. The Chairman's agreement must be sought at the meeting for any items to be considered.

6.4 Order of public speakers: if the recommendation is 'permission' then it will normally be the opponent first, supporter second. If the recommendation is 'refusal', the reverse order will apply.

6.5 Normally one person is permitted to speak for an application and one person permitted to speak against it. If there are more than two requests to speak for or against, people with similar views should get together and agree spokespersons. If there is no agreement, the first person to notify Democratic Services of their intention to speak will be called. Among supporters, the applicant (or if the applicant wishes, the agent) takes precedence, and if the applicant or agent do not wish to speak, the first supporters will be called.

6.6 Residents' Associations or other organisations wishing to make use of these arrangements must appoint a single spokesperson to represent their views.

6.7 Speakers are reminded that only material planning considerations are relevant to the determination of planning applications.

6.8 Each speaker will normally be given up to three minutes and this will be indicated by the warning light system in front of the speaker: - an amber light will show the passing of two-and-a-half minutes and a red light will show the completion of the three minute period. At the red light the Chairman will normally ask the speaker to cease their presentation.

6.9 Members of the Committee (but not visiting Ward Members) may ask speakers to clarify points raised. Otherwise, once members of the public have spoken, no further intervention will be permitted.

6.10 Visiting Ward Councillors should notify the Democratic Services Team of their intention to speak at committee prior to 5:00pm the day before the meeting. Visiting Councillors do not have a formal time constraint but should aim to keep their presentation to within 3 minutes. Any representations must be limited to material planning considerations. Visiting Members must not sit with members of the committee or sub-committee after they have finished addressing the committee so it is clear that they are not part of the formal committee membership.

7. Order of Proceedings

7.1 Whilst the order of consideration of items at planning committee is ultimately a matter for the Chairman, planning applications will normally be heard first, followed by other items.

7.2 The Chairman will normally vary the order of the agenda taking items with visiting Councillors and public speakers first. Speakers and visiting Councillors should leave the table once they have spoken, prior to the debate on the item commencing.

7.3 Matters will proceed for each item as follows, skipping items where there is nothing to report or no speaker present:

1. Update from Planning Officer and presentation for applications
2. Public speaker(s) (see 6.7 above)
3. Visiting Ward Councillor (see 6.13 above)
4. Committee debate
5. Chairman summarises motions put and seconded
6. Chairman to clarify reasons for refusal or permission if different to that recommended or if additional reasons / conditions are to be added
7. Planning Officer opportunity to advise committee prior to motion being considered
8. Vote taken
9. Chairman to summarise and confirm the decision

Planning, legal and other professional officers have a right to be heard and to give advice within their area of professional expertise at any point in the consideration of an application.

7.4 The Chairman should be careful to ensure that additional conditions or reasons for refusal are clearly identified prior to going to the vote and not afterwards to ensure that the committee is clear what it is voting on. The Chairman can take advice from legal, planning or other professional officers present.

7.5 Should there be differing views about the content of reasons for refusal or conditions, the Chairman may take a separate vote following the main vote to clarify the outcome.

7.6 Committee members are given the opportunity to record their vote

against whatever motion is put if they wish.

7.7 It is important for the quality of decision making that the Planning Officer is provided with an opportunity to update Members and make any final comment immediately prior to the vote being taken to help ensure that the committee is fully aware of any further advice pursuant to the debate / motion.

7.8 Meetings will normally finish by 10:00pm.

8. Decision Making and Voting

8.1 Councillors who have called in an application to committee should not move or second a motion on that application. The Chairman should take the motion that is proposed and seconded first and only if that motion fails move to the next motion that is proposed and seconded.

8.2 Should votes for or against a recommendation both fail it is still open to the committee to consider whether they might defer the application for possible changes to make it acceptable to the majority of the committee. The Chairman can use her or his casting vote to decide if voting is equal for and against a motion.

8.3 Councillors should state motions they put clearly and include any specific changes they propose to the officer recommendation so that the committee understand the extent of the motion being proposed (see also 7.5 above).

8.4 When voting, committee members should raise their hands clearly to ensure an accurate count for the vote.

Motions and Votes Against Officer Recommendation:

8.5 Where a motion goes against Officer recommendation the procedure should be:

1. Chairman summarises motions put and seconded
2. Chairman clarifies reasons for refusal or permission if different to that recommended or if additional reasons / conditions are to be added
3. Chairman gives the Planning Officer the opportunity to advise committee prior to the motion being considered.

The advice from the Planning Officer will be based upon the material considerations that have been discussed by the Committee and whether there are grounds that could be defended in the event of an appeal or legal challenge. The solicitor advising the Committee will be called upon as necessary to give advice on legal matters.

8.6 If the Planning Officer considers that he/she is unable to give that advice immediately, or if the Planning Officer considers that a final decision to refuse could make the Council vulnerable at appeal and awards of costs, Officers should be able to seek a deferral of the item for one cycle of the committee so that a confidential report which sets out the risks can be prepared and avoids Officers having to advise on these issues in public (the final decision on the application should however always be in public), or defer the application to the next Development Control Committee.

9. Councillor and Officer Roles

9.1 The PAS publication 'Probity in Planning' 2019 states: *"Councillors and officers have different but complementary roles within this system, and effective communication and a positive working relationship between officers and councillors is essential to delivering a good planning service.."*

9.2 The 7 Standards of Public Life identified in the Localism Act 2011 are:

- Selflessness – public interest

- Integrity – not open to inappropriate influence/private gain
- Honesty – truthful; declaration of interests and gifts
- Objectivity – use best evidence; impartial; non-discriminatory
- Accountability – open to scrutiny
- Openness – open and transparent decisions in public
- Leadership – uphold and exhibit standards and behaviours

9.3 The Planning Advisory Service Report for Bromley (May 2019) states:

“The role of Councillors on the Committees presents a challenge to the individual. It is often considered to be a quasi-judicial role, but has been described as

“A formal administrative process involving the application of national and local policies, reference to legislation and case law as well as rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly.”

(Local Government Association/Planning Advisory Service: Probity in Planning for Councillors and Officers 2013.)

In this role Councillors are expressly being asked to place to one side any party political interests, and their role as the representatives of a particular ward, and assess, debate, and then determine often controversial planning proposals in the wider public interest of the whole Council area, and in line with national and local planning policy. They must do so in a way which demonstrates they have understood their role and have approached the decision point open to considering and weighing the merits of all the material issues.”

Members must never be involved in decision making for applications submitted by themselves. a family member or a close personal associate, and must comply with

the Members Code of Conduct at all times when such applications are submitted.

If on consideration of a planning application a fair minded and informed observer, having considered the facts, would conclude that there was a real possibility that a Member was biased the Member must recuse themselves from consideration of that application.

9.4 The role of the committee Chairman is to lead and manage the committee and in particular:

- determine the order in which questions may be addressed from the committee members following the officers presentation;
- ensuring that the public speaking procedure is followed;
- managing the committee debate about applications including the order in which Councillors who wish to address the committee may speak;
- determining when the debate has come to a close and votes should be cast in the order in which the motions were first completed (i.e. where the motion has been moved and seconded by Members of the Committee).
- ensuring that debate and decisions made are suitably focused on relevant planning considerations.

9.5 Councillors sitting on the planning committee should:

- make planning decisions on applications presented to the Committee openly, impartially, with sound judgement and for sound planning reasons.
- consider only material planning considerations in determining applications
- exercise their responsibilities with regard to the interests of the London Borough of Bromley as a whole rather than with regard to their particular Ward's interest and issues;
- Come to meetings with an open mind.

- Not allow anyone (except officers, other committee Members and public speakers when they are addressing the committee) to communicate with them during the meeting (orally or in writing) as this may give the appearance of bias. For the same reason, it is best to avoid such contact immediately before the meeting starts.
- Consider the advice that planning, legal or other officers give the committee in respect of the recommendation or any proposed amendment to it.
- Comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires the Local Planning Authority to make decisions in accordance with the development plan unless there are good planning reasons to come to a different decision.
- Come to their decision only after due consideration of all of the information available to them, including the local information that Members are uniquely placed to access, but always remembering to take decisions on planning grounds alone. If Members feel there is insufficient time to digest new information or that there is insufficient information before them, then they should seek an adjournment to address these concerns.
- Not vote on a proposal unless they have been present to hear the entire debate, including the officer update and any public speaking.
- Make sure that if they are proposing, seconding or supporting a decision contrary to the officer's recommendation or the development plan, that they clearly identify and understand the planning reasons leading to this conclusion and that they take into account any advice planning, legal or other officers give them. Their reasons must be given prior to the vote and be recorded. Be aware that they may have to justify the resulting decision by giving evidence in the event of challenge.
- Members should avoid requests for officers to speed up or delay the

determination or assessment of particular applications or for items to be reported to particular meetings for their own personal or political convenience or following lobbying by applicants, agents/advisers, local residents or other interested parties.

- seek to attend relevant training and briefing sessions organised from time to time for them.

9.6 The role of Planning Officers at committee is:

- to use professional judgement when recommending decisions on applications and other planning matters.
- to provide professional advice to the committee on planning applications and other matters at any point in the meeting.

31. Code of Governance

(To be added)

32. Guidance to Councillors: Membership of Outside Bodies

An important part of the role for many Councillors is the oversight or management of outside bodies. In the majority of cases things work well and there are benefits to the Council, the outside body and the individual Councillor. However, there are pit falls and this guidance note has been produced to help avoid risks which may arise, particularly when things do not work out.

What to do when nominated to an outside body

- Satisfy yourself as to the type of body it is. For example is it a joint committee, an informal association or a legally constituted company or trust?
- Clarify the role you have been appointed to. Are you a Trustee, Company Director, Member of a Committee or just an observer?
- Be aware of the risks and pit falls. Check what indemnities are available from the Council and the body if things go wrong. Check your duties and be clear on anything that you may be personally liable for.

What types of bodies are there?

Incorporated Associations

- A club, group or society may be an incorporated association. This can be an informal organisation existing where several people join together to carry out a mutual purpose other than for profit. If appointed as a member, a Councillor will have responsibilities to other members of the organisation which should be set out in the association's Constitution. This is simply an agreement between members of the association as to how the organisation will operate.
- If you are appointed to the management committee of such an association, you must act within its Constitution and use reasonable care. If the association holds any property or has any accommodation that needs to be held by one or more individuals as the organisation does not have a legal existence of its own.
- As a member of the management committee, you will be personally liable for acts of that organisation but are entitled to an indemnity from the funds of the organisation as long as you act properly. If the organisation does not have enough funds, then Committee members are personally liable for the shortfall.
- Care is needed where one person is appointed by the Constitution of an association to act as agent of the organisation for certain purposes. That person acts as agent for all members of the organisation who all have joint responsibility for the agent's actions.
- Members of a Committee of Management will have personal liability if they act outside the authority given to them or if they do not act within the law, for example if there is non-payment of tax and National Insurance for any employees of the association.
- Members of Management Committees are entitled to an indemnity if they act in accordance with the Constitution and are not at fault. It is possible to obtain insurance but if the organisation is to pay the premium it must be permitted by the Constitution.

The Council cannot pay the cost of an insurance policy or give an indemnity for circumstances where the Councillor is acting in the capacity as a member of the Management Committee and not in their capacity as a Councillor.

Observers

- If appointed as an observer to an outside body, you will just be watching what happens. The position of an observer has no legal status and you have no special duty to the outside body. You are simply there to represent the Council's interests and will be covered by the Council's indemnities and insurances.
- It is important that you do not become involved unofficially in running the body as that could take you outside of these indemnities. For similar reasons you should avoid appearing to take part ~~inf~~ decision making or accepting work or tasks on behalf of the body.

Consultative or Advisory Bodies

- You could be appointed to an external Committee which advises the Council on various issues. Your ~~prim~~~~ary~~ role will be as a representative of the Council. Difficulties can arise if you champion a position taken by the external Committee ~~but~~ that is likely to cause difficulties in taking part in council business rather than giving rise to financial liabilities.

Steering Groups, Joint Committees and Partnerships

- You may be appointed as a member or observer to a steering group or partnership body. You need to establish at the outset whether you are acting as a delegate/representative of the Council to promote the Council's interests, ~~or~~ whether you have an independent role to fulfil on behalf of the group or partnership.
- You should avoid committing yourself on behalf of the Council or holding yourself out to be able to do so where you do not have any authority.

Company Directors

- Companies are legally constituted bodies and there is a range of legislation which regulates the conduct and responsibilities of ~~Companies and~~ Company Directors. If you are appointed as a Company Director, you will have the following duties.
 - When acting as a Director you own a fiduciary duty to act honestly and in good faith and in a way you consider most likely to promote the success of the company for the benefit of its members as a whole.
 - You are under a duty as a Director to exercise independent judgement, although it is permissible to take account of third party interests ~~s~~ you may represent. You cannot simply vote in accordance with the Council's mandate as to do so would be a breach of your duty to the company.
 - You have a general duty of care and skill to the company. As a Director you will not be deemed to be an expert but you should be diligent and obtain expert advice when necessary.

- You will have to have a duty not to create conflict – where there is conflict between the interests of the Council and the interests of the company, you should not take part in discussions upon such topics both as a Councillor and as a Director. If the conflict is serious or one which repeatedly presents itself, the most appropriate course of action would be for you to resign as a Director of the company.
- You have a duty not to make a private profit from the position. Any interest you or your family may have in relation to the company's contracts must be declared. Whether or not you can vote following declaration will depend upon the Articles of Association of the Company.
- As a Director you must ensure compliance with relevant company legislation in relation to keeping of accounts and making relevant returns to the Registrar of Companies. Failure to do so incurs fines for which you are personally liable and persistent default can lead to disqualification as a Director.
- You have a duty to ensure the company complies with other legislation, for example health and safety legislation if the company employs staff or contractors to undertake work.

Liabilities attached to being a Company Director

- The Council cannot provide indemnities or insurance for liabilities a Councillor incurs whilst acting as a Director. It is lawful and common practice for companies to purchase insurance to protect Directors against claims of negligence, breach of duty, trust or default. You are advised to satisfy yourself that such a policy of insurance is maintained at all times whilst you are a Director.
- When you are acting as a Director, you cannot be indemnified by either the Council or the company against liability which arises out of negligence, default or breach of duty or trust. However, you should check the Articles of Association of the company as this will often allow Directors to be indemnified by the company for the cost of defending any proceedings where you are granted relief by the Court or acquitted.
- When a company becomes insolvent, unless Directors have given personal guarantees they will usually not be liable for losses generally or to creditors of the Company. This will not apply where wrongful trading can be proved, e.g.i.e.: if there is no possibility of avoiding liquidation, Directors should ensure that the company does not continue to trade otherwise you could be personally liable for losses due to creditors. Also, if a company trades fraudulently and carries on trading with an intent to default creditors, you may also be personally liable whether you were aware of the fraud or not.
- Directors can be personally liable if the company acts outside its permitted powers.
- Although company liability ceases on the dissolution of the company, the liability of Directors may still be enforced after that dissolution.

The position of Charitable Trustees

- The Council often has a right to appoint Councillors to charities or charitable trusts it may have set up or gives funding to or which operate generally in the area.

- Charities and charitable trusts are regulated by the Charity Commission which provides a range of useful information.
- As a trustee you will have the following duties:
 - The duty to act in accordance with the Trust Deed and to protect the charity's assets;
 - A duty to comply with the Charities Act 2011 and other legislation affecting the charity;
 - A duty not to make a private profit from the position;
 - A duty to act with a standard of care which an ordinary prudent business person would show. Higher standards are required of professionals and in relation to investment matters.
- Trustees must ensure that information relating to the trust and trustees are registered with the Charity Commission and that annual accounts and returns are sent;
- If the charitable income exceeds £5,000, there is a duty to ensure that letters, adverts, cheques, etc., bear a statement that the organisation is a registered charity.
- Trustees are under a duty to ensure compliance with all relevant legislation, for example in relation to tax and health and safety at work.

Trustees' Liabilities

- Many trusts do not have corporate status and have no separate identity from the trustees. If appointed as a trustee you should check whether this is the case. If -as-if- it is the case then you, together with the other trustees, are personally liable for losses on contracts or claims by third parties, although trustees are entitled to an indemnity from the trust's assets provided they have acted properly in incurring the liability.
- As a trustee you will also have the following liabilities:
 - A liability to make good any deficiencies where trust property is used for a trustee's own benefit or for purposes not in accordance with the purposes of the trust;
 - Personal liability for losses or claims where a trustee has acted outside the scope of the Trust Deed;
 - Personal liability where a trustee has not shown the required standard of care;
 - Personal liability for fines if the trust does not comply with duties to make returns, etc.
- It is important to remember that often trustees remain personally liable even after they have retired, for example where they have previously entered into a contract on behalf of a trust. It is important that when you stand down from a trust you seek an indemnity from your successors. You do not need to do this if a charity is a company when the trustees for the time being will be responsible.
- An indemnity can be given from the trust provided the trustee has acted properly and within their powers. Trustees can take out insurance to protect themselves against personal liability but not for criminal acts and fraud. If the charity pays the premium you will need to check the Trust Deed as the consent of the Charity Commission will be needed unless the Trust Deed expressly does not require it.

The Council Code of Conduct

- If you are appointed to an outside body and take an active part in it, this may limit the extent to which you can take part in some debates or votes in your role as a Councillor. You will have to have regard both to the Council's Code of Conduct and any rules governing your role on the outside body. If there are regular conflicts of interest you should resign from the outside body.

Council Indemnities

- Since November 2004 it has been possible for an indemnity to be provided in relation to any action or failure to act as a Councillor which is authorised by the Council, or where the Councillor is carrying on any functions at the request of, or with the approval of, or for the purposes of the Council. However, it does not extend to situations where a Councillor is acting other than as a Councillor, e.g. where the Councillor is fulfilling personal obligations as a company director or trustee. Then you must ensure that the outside body provides the necessary indemnities.

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CHAPTER 8 – ACCESS TO INFORMATION PROCEDURE RULES

1. EXECUTIVE ARRANGEMENTS

These rules apply to all meetings of the Council, Policy Development and Scrutiny Committees, Area Committees (if any), the Standards Committee and regulatory committees and public meetings of the Executive (together called meetings).

2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

3. RIGHTS TO ATTEND MEETINGS

Members of the public may attend all meetings subject only to the exceptions in these rules.

4. NOTICES OF MEETING

The Council will publish each year its proposed schedule of meetings of both the full Council and of the Executive. At least 5 clear days' notice of any meeting will be given in addition by posting details of the meeting at the Civic Centre, Stockwell Close, Bromley, the designated office.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda and reports which are open to the public available for inspection at the designated office at least 5 clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to ~~Councillor~~Members) will be open to inspection from the time the item was added to the agenda.

6. SUPPLY OF COPIES

The Council will supply copies of:

- (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 in the agenda; and
- (c) if the proper officer thinks fit, copies of any other documents supplied to ~~Councillor~~Members in connection with an item to any person on payment of a charge for postage and any other costs.

7. **ACCESS TO MINUTES ETC AFTER THE MEETING**

The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the executive, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

8. **BACKGROUND PAPERS**

8.1 **List of background papers**

The ~~report author proper officer~~ will set out in every report a list of those documents (called 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 does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of Executive reports, the advice of a political advisor.

8.2 **Public inspection of background papers**

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

9. **SUMMARY OF PUBLIC'S RIGHTS**

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Council's main offices.

10. **EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

10.1 **Confidential information – requirement to exclude public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

10.2 Exempt information – discretion to exclude the public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.3 Meaning of confidential information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

10.4 Meaning of exempt information

Exempt information means information falling within the following 7 categories (subject to any condition):

Category	Condition
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).	Information within paragraph 3 is not exempt if it must be registered under various statutes, such as the Companies Act or Charities Act as set out in paragraph 8 of Schedule 12A of the Local Government Act 1972 (as amended). Financial or business affairs includes contemplated as well as past or current activities.
4. Information relating to any consultations or negotiations or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office-holders under the authority.	Information within paragraph 4 is only exempt if and for so long as its disclosure to the public would prejudice the authority in those or any other consultations or negotiations in connection with a labour relations matter. "Labour relations matters" are as specified in paragraphs (a) to (g) of Section 218 of the Trade Unions and Labour Relations Act 1992, i.e. matters which may be the subject of a trade dispute.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	

Category	Condition
<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; or</p> <p>(b) to make an order or direction under any enactment.</p>	<p>Information within paragraph 6 is exempt only while disclosure might give an opportunity to a person affected by the notice, order or direction to defeat the purpose for which the notice, order or direction is to be given or made.</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	

Information falling within any of paragraphs 1-7 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of The Town and Country Planning General Regulations 1992.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the proper officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

12. APPLICATION OF RULES TO THE EXECUTIVE

Rules 13 – 24 apply to the Executive and its Committees. If the Executive or its Committees meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in **Chapter 1** of this Constitution.

If the Executive or its Committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. This requirement does not include meetings, whose sole purpose is for officers to brief Members.

13. PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

- (a) a notice (called here a forward plan) has been published in connection with the matter in question;
- (b) at least 5 clear days have elapsed since the publication of the forward plan; and

- (c) where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

14. THE FORWARD PLAN

14.1 Period of ~~F~~forward ~~P~~plan

The Forward Plan shall be updated and published on a regular basis covering key decisions up to a year in advance.

~~Forward plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.~~

14.2 Contents of Forward Plan

The Forward Plan will contain matters which the Leader has reason to believe will be subject of a key or private decision to be taken by the Executive, a committee of the Executive, individual Members of the Executive, officers, Area Committees or under joint arrangements in the course of the discharge of an Executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The forward plan must be published at least 28 days before the start of the period covered. ~~The proper officer will publish once a year a notice in at least one newspaper circulating in the area, stating:~~

~~(a) that key decisions are to be taken on behalf of the Council;~~

~~(b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;~~

- ~~(c) — that the plan will contain details of the key decisions to be made for the four month period following its publication;~~
 - ~~(d) — that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;~~
 - ~~(e) — that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;~~
 - ~~(f) — the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;~~
 - ~~(g) — that other documents may be submitted to decision takers;~~
 - ~~(h) — the procedure for requesting details of documents (if any) as they become available; and~~
 - ~~(i) — the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.~~
- ~~Exempt information need not be included in a forward plan and confidential information cannot be included.~~

15. **GENERAL EXCEPTION**

If a matter which is likely to be a key ~~or private~~ decision has not been included in the forward plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
- (b) the proper officer has informed the chairperson of a relevant Policy Development and Scrutiny Committee, or if there is no such person, each Member of that Committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the proper officer has made copies of that notice available to the public at the offices of the Council; and
- (d) at least 5 clear days have elapsed since the proper officer complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public.

16. **SPECIAL URGENCY**

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairperson of the body making the decision, obtains the agreement of the Chairperson of a relevant Policy Development and Scrutiny

Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairperson of a relevant Policy Development and Scrutiny Committee, or if the Chairperson of each relevant Policy Development and Scrutiny Committee is unable to act, then the agreement of the Mayor will suffice.

As soon as reasonably practicable after the decision maker has obtained agreement, in accordance with the above procedure, that the decision is urgent and cannot reasonably be deferred, the Proper Officer must:

- i) make available a notice at the Council offices setting out the reasons that the decision is urgent and cannot reasonably be deferred and
- ii) publish the notice on the Council's website.

17. REPORT TO COUNCIL

17.1 When a Policy Development and Scrutiny Committee can require a report

If a Policy Development and Scrutiny Committee thinks that a key decision has been taken which was not:

- (a) included in the forward plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant Policy Development and Scrutiny Chairperson, or the Mayor under Rule 16;

the Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the proper officer, who shall require such a report on behalf of the Committee when so requested by (the Chairperson or any 5 Members). Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Policy Development and Scrutiny Committee.

17.2 Executive's report to Council

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

17.3 Quarterly reports on special urgency decisions

In any event the Leader will submit quarterly reports to the Council on the Executive decisions taken in the circumstances set out in Rule 16 (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.

18. RECORD OF DECISIONS

After any meeting of the Executive or any of its Committees, whether held in public or private, the proper officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

~~19. EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS~~

~~The Executive will decide whether meetings relating to matters which are not key decisions will be held in public or private.~~

1920. NOTICE OF MEETING OF THE EXECUTIVE

Members of the Executive or its Committees will be entitled to receive five clear working days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

204. ATTENDANCE AT MEETING OF THE EXECUTIVE

All formal meetings of the Executive will be held in public unless a decision to exclude the public has been taken in accordance with Rule 10.

Any recognised Group on the Council not represented on the Executive may appoint a spokesperson who shall be entitled to attend all meetings of the Executive and speak on any item on the agenda.

All other Members of the Council are entitled to attend meetings of the Executive and speak subject to the discretion of the Chairperson.

The Head of Paid Service, Chief Finance Officer and the Monitoring Officer and their nominees are entitled to attend any meeting of the Executive.

212. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE

212.1 Reports intended to be taken into account

Where an individual Member of the Executive receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least 5 clear days after receipt of that report.

212.2 Provision of copies of reports to Policy Development and Scrutiny Committees

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the chairperson of every relevant Policy Development and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

212.3 Record of individual decision

As soon as reasonably practicable after an Executive decision has been taken by an individual Member of the Executive or a key decision has been taken by an officer, he/she will prepare, or instruct the proper officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual Members of the Executive. This does not require the disclosure of exempt or confidential information or advice from a political or Mayor's assistant.

223. POLICY DEVELOPMENT AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS

223.1 Rights to copies

Subject to Rule 23.2 below, a Policy Development 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 or its Committees and which contains material relating to

- (a) any business transacted at a public or private meeting of the Executive; or
- (b) any decision taken by an individual Member of the Executive.

223.2 Limit on rights

A Policy Development and Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (c) the advice of a political adviser.

234. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

234.1 Material relating to previous business

All Members will be entitled to inspect any document which is in the possession or under the control of the Executive or its Committees and contains material relating to any business previously transacted at a private meeting unless either (a) or (b) below applies.

- (a) it contains exempt information falling within paragraphs 3 and 6 of the categories of exempt information; or
- (b) it contains the advice of a political adviser.

234.2 Material relating to key decisions

All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive or

its Committees which relates to any key decision unless paragraph (a) or (b) above applies.

243.3 Nature of rights

These rights of a Member are additional to any other right he/she may have.

234.4 Member's Need to Know access

Under common law principles, Members have the right to access information held by the Council where it is reasonably necessary to enable the Member to properly perform their duties as a Member. This is known as the "Need to Know". The common law "Need to Know" is the prima facie right of Members to inspect documents of the authority which exist, as Members are under a duty to keep themselves informed of Council business which relate to their role as elected representatives.

This right applies to Members who do not have statutory rights to exempt or confidential information and to other documents held by the Council under local government legislation, the Freedom of Information Act 2000 or data protection legislation. For example, a Member is likely to have a prima facie "Need to Know" where they have a legitimate Ward problem and access is needed to the documents that are relevant to that specific problem. A further example would be an **Overview and -Scrutiny & Overview** Committee requiring access to information to inform a scrutiny review. Any request from scrutiny for access to confidential information should be made by the Chair **person** of the respective Scrutiny Committee/Sub-Committee via the Council's Statutory Scrutiny Officer and will need to confirm why it is required.

Access to information on the basis of a 'Need to Know' does not exist where the Member is considered to be "fishing" for information or seeks access for an ulterior/improper purpose (e.g. for a private purpose). Case law has established that mere idle curiosity as to what is in the documentation will not be sufficient. Some material (for example, financial or commercial interests) may be redacted from any information that is disclosed, if this does not affect the ability of a Member to exercise their role as an elected representative.

There will also be a range of documents which, because of their nature, are either not accessible by Members (such as the personal records of an individual) or are accessible only by the political group forming the administration and not by the Members of other political groups. An example of this latter category could be draft documents compiled in the context of emerging Council policies and draft Committee reports, the premature disclosure of which might be against both the Council's and the public interest.

Whilst the term "Council document" is very broad and includes, for example, any document produced with Council resources, it is accepted by convention that a Member of one political group will not have a "Need to Know" and therefore, a right to inspect, a document which forms part of the internal workings of another political group, for instance relating to the process of policy development.

CHAPTER 10 – OFFICER EMPLOYMENT PROCEDURE RULES

36. Officer Employment Procedure Rules

1. Appointment and Dismissal of Staff

(i) Subject to sub-paragraphs (ii), (iii) and (iv) below the function of appointment and dismissal of, and taking disciplinary action against a member of staff must be discharged by the Head of the Paid Service or by an officer nominated by him.

(ii) The provisions of sub-paragraph (i) do not apply to the appointment or dismissal of, or disciplinary against –

(a) the officer designated as the Head of the Authority's Paid Service;

(b) a statutory Chief Officer within the meaning of Section 2(6) of the Local Government and Housing Act 1989

(c) a non-statutory Chief Officer within the meaning of Section 2(7) of the 1989 Act

(d) a Deputy Chief Officer within the meaning of Section 2(8) of the 1989 Act; or

(e) a person appointed in pursuance of Section 9 of the 1989 Act (Assistant ~~see~~ for Political Groups).

(iii) The appointment or dismissal of the Head of the Paid Service must be approved by the Authority before the appointment is made or Notice of ~~d~~Dismissal is given.

(iv) Where a Committee or Sub-Committee is discharging the function of the appointment or dismissal of any officer referred to in (ii) above, at least one Member of the Executive must be a Member of the Committee or Sub-Committee concerned.

(v) Any offer of appointment as an officer referred to in sub-paragraph (ii)(a) - (e) shall not be made until -

(i) the proper officer has been notified of the name of the person to whom the offer has been made and any other particulars considered relevant to the appointment;

(ii) the proper officer has notified every Member of the Executive of the name of the person to whom the offer of appointment has been made;

any other particulars relevant to the appointment which have been notified to the proper officer;

the period within which any objection to the making of the offer is to be made by the Executive Leader on behalf of the Executive to the proper officer; and either:-

the Executive Leader has within the period specified in the Notice given, given notice to the appointing Committee, Sub-Committee or officer that neither he nor any other Member of the Executive has any objection to the making of the offer,

the proper officer has notified the Committee or Sub-Committee or officer that no objection was received within that period from the Executive Leader or

the Committee or Sub-Committee or officer is satisfied that any objection received from the Executive Leader within that period is not material or is not well founded.

(vi) Notice of the dismissal of an officer referred to in subparagraph (ii)(a) - (e) shall not be given until -

(i) the proper officer has been notified of the name of the person to be dismissed and any other particulars which are relevant to the dismissal

(ii) the proper officer has notified every Member of the Executive of the name of the person to be dismissed any other particulars relevant to the dismissal which have been notified to the proper officer; and the period with which any objection to the dismissal is to be made by the Executive Leader on behalf of the Executive to the proper officer; and

(iii) either

the Executive Leader has within the period specified in the Notice under subparagraph (vi) (ii) given notice that neither he nor any other Member of the Executive has any objection to the dismissal; or

the proper officer has given notice that no objection was received within that period from the Executive Leader or the Committee, Sub-Committee or officer wishing to give notice of the dismissal is satisfied that any objection received from the Executive Leader within that period is not material or is not well founded.

(vii) For the purposes of this Standing Order the proper officer shall be the Director of Human Resources, **Customer Services and Public Affairs**.

2. Appointment of Chief Officers

(a) Where the Council propose to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among the existing officers, it shall:-

(i) draw up a statement specifying - the duties of the officer concerned, and any qualifications or qualities to be sought in the person to be appointed

(ii) make arrangements for the post to be advertised

(iii) make arrangements for a copy of the statement mentioned in Paragraph (i) to be sent to any person on request.

(b) Where a post has been advertised the Council shall –

(i) interview all qualified applicants for the post, or

(ii) select a short list of such qualified applicants and interview those included on the short list

(iii) where no qualified person has applied, the Council shall arrange for further advertisement of the post.

(c) Every appointment of a Chief Officer shall be made by the Council or delegated to a Committee or Sub-Committee.

Any steps referred to in 63(a) or (b) above may be taken by a Committee or Sub-Committee or Chief Officer of the Council.

Any Chief Officer may be appointed by a Committee or Sub-Committee of the Council or a relevant joint Committee.

3. Canvassing of and Recommendation by Members

(a) Attempting to secure the support of a Member of the Council directly or indirectly for any appointment by the Council shall disqualify the candidate concerned for that appointment.

(b) A Member of the Council shall not secure by unfair means an appointment with the Council for any person, but this shall not preclude a Member from giving a written reference of a candidate's ability, experience or character.

4. Disciplinary Action

Head of Paid Service, Monitoring Officer and Chief Finance Officer

The Head of Paid Service, Monitoring Officer and Chief Financial Officer must not be dismissed by the Council unless the procedure set out in Schedule 3 to The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 is complied with.

5. Relatives of Members or Officers

(a) A candidate for any appointment by the Council who is aware that they are related to any Member or Senior Officer of the Council shall disclose that relationship to the Chief Executive.

(b) A candidate who knowingly fails to disclose such a relationship shall be disqualified from the appointment and, if appointed, shall be liable to dismissal without notice.

(c) Every Member and Senior Officer of the Council shall disclose to the Chief Executive any known relationship that they may have with any person who is a candidate for an appointment by the Council. The Chief Executive shall report to the Council or to the appropriate Committee any such disclosure made to him.

(d) The content of this Standing Order shall be included in any form of application.

(e) For the purpose of this Standing Order "Senior Officer" means any Chief, Deputy or Assistant Chief Officer or Manager of any DSO or any other officer designated by the General Purposes **and Licensing** Committee and a person shall be considered related if they are parent, partner, child, step-child, adopted child, grandchild, brother, sister, aunt, uncle, nephew or niece.

6. Officer Employment Procedure Rules

1. Recruitment and Appointment

(a) Declarations

- 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.
- 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.

(b) Seeking support for appointment.

- 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.
- ii) No Councillor will seek support for any person for any appointment with the Council.

2. Recruitment of Head of Paid Service and Chief Officers

Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

(a) draw up a statement specifying:

- i) the duties of the officer concerned; and
- ii) any qualifications or qualities to be sought in the person to be appointed;

(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

(c) make arrangements for a copy of the statement aforementioned ~~in paragraph (1)~~ to be sent to any person on request.

3. Appointment of Head of Paid Service

- (a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a Committee or Sub-Committee of the Council. That Committee or Sub-Committee must include at least one member of the Executive.

4. **Appointment of Chief Officers and Deputy Chief Officers**

- (a) The Council or a Committee or Sub-Committee of the Council will appoint Chief Officers. That Committee or Sub-Committee must include at least one member of the Executive.
- (b) Appointment of Deputy Chief Officers will be by appropriate officers.
- (c) An offer of employment as a Chief Officer or Deputy Chief Officer shall only be made where no well-founded objection from any member of the Executive has been received.

5. **Other Appointments**

- (a) **Officers below Deputy Chief Officer.** Appointment of officers below Deputy Chief Officer (other than assistants to political groups and an assistant to the Mayor) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by councillors.
- (b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

6. **Disciplinary Action**

- (a) **Suspension.** The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- (b) **Independent person.** No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.
- (c) Councillors will not be involved in the disciplinary action (including dismissal) against any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of disciplinary action.

~~7. **Dismissal**~~

~~Councillors will not be involved in the dismissal of any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of dismissals.~~

7. Politically Restricted Posts

(To be added)

Report No.
CSD23111

London Borough of Bromley

PART ONE - PUBLIC

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

Date: **Wednesday 8 November 2023**

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

Title: **SUB-COMMITTEE MEMBERSHIPS**

Contact Officer: Graham Walton, Democratic Services Manager
Tel: 0208 461 7743 E-mail: graham.walton@bromley.gov.uk

Chief Officer: Tasnim Shawkat, Director of Corporate Services and Governance

Ward: All

1. Reason for decision/report and options

- 1.1 This report provides an opportunity for the Committee to make changes to the membership of its Sub-Committees following the review of proportionality by full Council on 17th July 2023.
-

2. **RECOMMENDATION**

That Councillor Jonathan Laidlaw be appointed to the Rights of Way Sub-Committee and the Industrial Relations Sub-Committee.

Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
-

Transformation Policy

1. Policy Status: Existing Policy
 2. Making Bromley Even Better Priority:
(5) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.
-

Financial

1. Cost of proposal: No Cost
 2. Ongoing costs: Not Applicable
 3. Budget head/performance centre: Democratic Representation – Members Allowances
 4. Total current budget for this head: £1,183k
 5. Source of funding: Revenue Budget
-

Personnel

1. Number of staff (*current and additional*): None
 2. If from existing staff resources, number of staff hours: None
-

Legal

1. Legal Requirement: None
 2. Call-in: Not Applicable: This report does not involve an executive decision
-

Procurement

1. Summary of Procurement Implications: Not Applicable
-

Property

1. Summary of Property Implications: Not Applicable
-

Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: Not Applicable
-

Impact on the Local Economy

1. Summary of Local Economy Implications: Not Applicable
-

Impact on Health and Wellbeing

1. Summary of Health and Wellbeing Implications: Not Applicable
-

Customer Impact

1. Estimated number of users or customers (*current and projected*): Not Applicable
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

- 3.1 At the Council meeting on 17th July 2023, Members reviewed the proportionality of committee memberships and approved changes to various committees in the light of Cllr Jonathan Laidlaw no longer being a member of the Conservative Group.
- 3.2 As part of this review, it was proposed that Cllr Laidlaw would no longer be a member of various committees, but would instead be added to the membership of several sub-committees. These included the Rights of Way Sub-Committee and the Industrial Relations Sub-Committee, which are sub-committees of this Committee.

Non-Applicable Headings:	Impact on vulnerable children and adults/Policy/Finance/Personnel/Legal/Procurement/Property/Carbon Reduction/Local Economy/Health and Wellbeing/Customers/Ward Councillors
Background Documents: (Access via Contact Officer)	Council meeting 17 July 2023 – Agenda and Minutes

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Report No.
CSD23137

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: GENERAL PURPOSES AND LICENSING COMMITTEE

Date: 8th November 2023

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

Title: OUTSIDE BODY APPOINTMENTS 2023/24

Contact Officer: Graham Walton, Democratic Services Manager
Tel: 0208 461 7743 E-mail: graham.walton@bromley.gov.uk

Chief Officer: Tasnim Shawkat, Director of Corporate Services and Governance

Ward: All

1. Reason for decision/report and options

- 1.1 This Committee is responsible for making the Council's appointments to outside bodies. Most of these appointments are annual and are made by the Committee in May each year, but some have different timescales, and, occasionally, it is necessary to make new appointments when people stand down or fixed terms of office end.

2. **RECOMMENDATION**

The Committee is asked to note that Cllr Michael Tickner has decided to step down from the Beckenham Parochial Charities, so there is a vacancy for the four year term of office up to January 2027 which can be filled if a suitable candidate is found.

Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
-

Transformation Policy

1. Policy Status: Existing Policy
 2. Making Bromley Even Better Priority:
(5) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.
-

Financial

1. Cost of proposal: Estimated Cost No Cost
 2. Ongoing costs: Not Applicable
 3. Budget head/performance centre: Democratic Services
 4. Total current budget for this head: £402k
 5. Source of funding: Revenue budget
-

Personnel

1. Number of staff (*current and additional*): 6
 2. If from existing staff resources, number of staff hours: Not Applicable
-

Legal

1. Legal Requirement: None
 2. Call-in: Not Applicable: This is not an executive decision
-

Procurement

1. Summary of Procurement Implications: Not Applicable
-

Property

1. Summary of Property Implications: Not Applicable
-

Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: Not Applicable
-

Impact on the Local Economy

1. Summary of Local Economy Implications: Not Applicable
-

Impact on Health and Wellbeing

1. Summary of Health and Wellbeing Implications: Not Applicable
-

Customer Impact

1. Estimated number of users or customers (*current and projected*): Not Applicable
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

- 3.1 The Committee is asked to make various appointments to partnerships and outside bodies on behalf of the Council. Most appointments are annual and follow the Council year, but there also a small number of longer appointments that run for three or four years and some vacancies arise when appointees step down.
- 3.2 The Council appoints six local people to the Beckenham Parochial Charities. The charity aims to provide and maintain good housing for needy people in Beckenham and Penge by providing small grants and also provides educational grants to young people in the area. In 2021, the Committee appointed Honorary Alderman Stephen Wells, Mr Gillian Scales and Mrs Kathryn Strachan for four-year terms expiring in 2025. In 2023, Honorary Alderman Russell Mellor, Mr Robin Mitchell and Councillor Michael Tickner were appointed for the four-year term ending in January 2027.
- 3.3 Councillor Michael Tickner has now stood down, so a vacancy has arisen. Although there has been little time to consult the Trustees on a potential replacement, if a suitable candidate emerges in time the Committee can appoint them if it wishes. Alternatively, the appointment can be deferred to the Committee's next meeting.

Non-Applicable Headings:	Impact on Vulnerable Adults and Children/Policy/ Financial/Legal/Personnel/Procurement/Property/Health and Wellbeing/Carbon Reduction/Customers/ward Members
Background Documents: (Access via Contact Officer)	2023 Outside Bodies Report (GP&L Committee, 23 May 2023)

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Report No.
CSD23112

London Borough of Bromley

PART ONE - PUBLIC

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

Date: **8 November 2023**

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

Title: **WORK PROGRAMME AND MATTERS OUTSTANDING**

Contact Officer: Graham Walton, Democratic Services Manager
Tel: 0208 461 7743 E-mail: graham.walton@bromley.gov.uk

Chief Officer: Tasnim Shawkat, Director of Corporate Services and Governance

Ward: All

1. Reason for decision/report and options

- 1.1 This report summarises the Committee's work programme for the 2023/24 Council year and also covers matters outstanding from previous meetings.
-

2. **RECOMMENDATION**

Members are requested to consider and note their work programme for 2023/24 (Appendix B) and matters outstanding.

Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
-

Transformation Policy

1. Policy Status: Existing Policy:
 2. Making Bromley Even Better Priority:
(5) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.
-

Financial

1. Cost of proposal: No Cost:
 2. Ongoing costs: Not Applicable
 3. Budget head/performance centre: Democratic Services
 4. Total current budget for this head: £366k
 5. Source of funding: Revenue Budget
-

Personnel

1. Number of staff (*current and additional*): 6
 2. If from existing staff resources, number of staff hours: Not Applicable
-

Legal

1. Legal Requirement: None
 2. Call-in: Not Applicable: No executive decision is required.
-

Procurement

1. Summary of Procurement Implications: Not Applicable
-

Property

1. Summary of Property Implications: Not Applicable
-

Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: Not Applicable
-

Impact on the Local Economy

1. Summary of Local Economy Implications: Not Applicable
-

Impact on Health and Wellbeing

1. Summary of Health and Wellbeing Implications: Not Applicable
-

Customer Impact

1. Estimated number of users or customers (*current and projected*): Not Applicable
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

- 3.1 Bromley Council operates under a “Leader and Executive” constitutional model, with most decision-making functions resting with the Leader, the Executive and Portfolio Holders. However, there are a number of functions which the executive side is prohibited from dealing with, for which Committees need to be appointed. In Bromley, the majority of these “non-executive” functions are the responsibility of Development Control Committee for town planning and related functions, Pensions Committee, Audit and Risk Management Committee, Standards Committee and this Committee for any other non-executive functions.
- 3.2 General Purposes and Licensing Committee fulfils the role of Licensing Committee under the 2003 Licensing Act (which requires a membership of between ten and fifteen councillors), but also deals with a range of other non-executive functions that cannot be dealt with by the Executive or do not fall within the terms of reference of other non-executive Committees. It therefore has a range of varied and sometimes unrelated responsibilities, including human resources, complaints, elections and appointments. The Committee’s Terms of Reference as set out in the Constitution are set out at [Appendix A](#).
- 3.3 The Committee’s role is very different to that of a PDS Committee, in that it has decision-making powers, many of which are delegated to a number of sub-committees -
- Appeals Sub-Committee
 - Industrial Relations Sub-Committee
 - Licensing Sub-Committee
 - Rights of Way Sub-Committee

These sub-committees have decision-making powers within their own terms of reference, and only meet when issues arise that require a decision from Members.

- 3.4 The Committee has six scheduled meetings each year, plus a special meeting after the Council’s annual meeting to appoint its Sub-Committees. The meetings for the 2023/24 Council year are set out in [Appendix B](#), along with the reports anticipated for each meeting.

Matters Outstanding

- 3.5 At meeting on 23rd May 2023 Members also requested a report or update on the implementation of new legislation relating to Elections, which will apply for the 2024 London Mayoral election and the next General Election (minute 64). The Committee has already received a high-level overview of changes introduced through the Elections Act 2022 at its meeting on [3rd November 2022](#). A report is included in the current agenda.
- 3.6 At the last meeting on 17th July 2023, arising from a recent hearing, Cllr Simon Jeal suggested a review of licensing conditions (minute 72). The Licensing Manager advises that every Premises Licence has a standard set of nine conditions which cannot be changed as they are set out in law. All other conditions come from the applicant as part of their application. Guidance is clear that additional standard conditions should not be applied to any license, as each license should be viewed on its individual merits. However, the Licensing Authority can change conditions to ensure that they are relevant and enforceable. Where the conditions need substantial amendment it may be appropriate to issue a decision without finalising the conditions, which can then be worked up by the Licensing Officers after the meeting. It is anticipated that this issue will be addressed in future training for Licensing Panel members.
- 3.8 There are no other matters outstanding to report.

Non-Applicable Headings:	Impact on Vulnerable Adults and Children/Policy/Finance/ Personnel/Legal/Procurement/Property/Carbon Reduction/ Local economy/Health & Wellbeing/Customers/Ward Councillors
Background Documents: (Access via Contact Officer)	Previous Work Programme Report – to meeting on 17/7/23

**General Purposes and Licensing Committee
Terms of Reference**

- 2.01 **General Purposes and Licensing Committee** (Membership proportional – may include one Member of the Executive from each recognised party group, subject to Executive Members not being in a majority.)
- (a) Electoral issues
 - (b) Making byelaws
 - (c) Staffing matters
 - (d) Open Government
 - (e) Complaint Procedures
 - (f) Member appointments
 - (g) Health and Safety
 - (h) Licensing of births, deaths and marriages
 - (i) Licensing matters, including, where appropriate, determining cases relating to individual licenses
 - (j) Non-executive highway functions as set out in Schedule 1 to the Functions Regulations (excluding functions under the Town & Country Planning Act 1990)
 - (k) Any non-executive function not delegated elsewhere or reserved to Council.

General Purposes and Licensing Committee
Work Programme 2023/24

10th May 2023 *(following the annual Council meeting)*

Appointment of Sub-Committees

23rd May 2023

Appointments to Outside Bodies

Work Programme & Matters Outstanding

11th July 2023

Constitution Update

Request for Waiver

Work Programme & Matters Outstanding

21st September 2023 – MEETING CANCELLED

8th November 2023

Teachers Pay Policy 2023/24 - Centrally Based Staff

Business and Planning Act 2022: Delegation of Powers and Pavement Licensing Policy Extension

Elections Act 2022

Review of the Constitution

Sub-Committee Memberships

Appointments to Outside Bodies

Work Programme & Matters Outstanding

6th February 2024

Pay Award 2024

Pay Policy Statement 2024/25

Members Allowances Scheme 2024/25

Programme of Meetings 2024/25

Annual Complaints Report and Annual Ombudsman's Letter 2022/23

Live Streaming of Meetings

Industrial Relations Sub-Committee - Potential Changes to Terms of Reference

Work Programme & Matters Outstanding

10th April 2024

Work Programme & Matters Outstanding

Draft Minutes from Sub-Committee meetings are received for information at each meeting.

LICENSING SUB-COMMITTEE

Minutes of the meeting held at 10am on 8 June 2023

Present:

Councillor Nicholas Bennett J.P. (Chairman)
Councillors Tony Owen and Harry Stranger

4 APPOINTMENT OF CHAIRMAN FOR THE MEETING

Councillor Nicholas Bennett was appointed Chairman for the meeting.

5 DECLARATIONS OF INTEREST

There were no declarations of interest.

6 PREMISES LICENCE APPLICATION FOR TALLI KITCHEN, 40B THE WALNUTS, ORPINGTON, BR6 0TW

The Applicant(s) attended the hearing with their representative; Charles Denny, a Licensing Consultant, at Innpacked Ltd. The Licensing Officer mentioned that there were 4 objections (one was representing 5 households at the High Street) and 3 in support of the application. The Metropolitan Police had initially objected, but later withdrew their objections once the Applicant(s) agreed to the proposed conditions. The Public Health Nuisance Team remained dissatisfied with the application. Some objectors withdrew their objections prior to the hearing.

The Applicants' Case:

The Applicants' agent explained that the Applicant(s) planned to have 120 covers internally and 40 outside the premises. The Applicant(s) mentioned that they wanted to be able to host special events evenings for a dance class, food tasting, particular milestone celebrations or other special events. The capacity for special events was for approximately 120 people. These events would be arranged by the premises, and would require advance booking. The Applicants' representative provided some background to the application when it was originally submitted and as amended, having taken into consideration the agreed Metropolitan Police conditions.

The Applicant(s) highlighted the considerable experience gained in running licensable premises and for a number of international reputable restaurants in India. The premises' windows (and doors) were sufficiently glazed and had good sound proofing to ensure that noise was contained in the interior of the premises. They stated that the music would be played at a moderate level, so

that customers could easily converse. Therefore, noise nuisance should not affect the neighbouring residents.

The Applicant(s) also said that they would like to have a last entry time to the restaurant at 22:30 hours (but would be guided by the Council's Licensing Team), and that last food orders ought to be placed earlier (at 22:15 hours), to ensure that the kitchen staff could manage to prepare the orders, and that patrons were properly served. The Applicant(s) mentioned that they would like to have the kitchen cleaned at the end of the evenings and thoroughly once a week.

The Objectors' Case:

The objectors concern(s) which were received by the Council in writing, could be summarised as follows: The possible noise nuisance which may cause disturbance to the neighbouring residents. The licensable operating hours being too long.

The Metropolitan Police had initially objected to the application, they then offered conditions which were agreed by the applicant(s). The Metropolitan Police accordingly withdrew their objections. The Public Health Nuisance Team, however, had not agreed to those conditions and suggested the following hours:

Suggested Terminal Hour of Premises:

Sunday to Thursday –	23:00 hours
Friday and Saturday –	00:00 hours
Thursdays and Sunday prior to Bank Holidays-	00:00 hours
New Year's Eve -	01:00 hours

All sales of alcohol for consumption on the premises shall be by table service only and ancillary to a substantial table meal and there will be no vertical drinking. The premises will provide food in the form of substantial table meals that are prepared on the premises with the exception of an event. Events which are booked in advance will be limited to 20 events per year.

Reasons for the Decision:

The Licensing Sub-Committee considered the application as a whole, the written and oral representations, the Council's Statement of Licensing Policy and statutory guidance and as amended at the above Hearing. The Applicant indicated a willingness to uphold the licensing objectives, to work with the licensable authorities, the residents and to listen to suggestions.

The discussion was conducted in a semi-informal manner. The Licensing Sub-Committee asked a variety of questions relating to the licensing objectives in order to seek clarity and confirmation to all parties. Both the Applicant(s) and the objector were likewise given time to do the same. The Licensing Sub-Committee amongst other things, inquired regarding the

licensable hours, the activities, the anticipated number of staff and their role etc .

The Licensing Sub-Committee considered the special events, and the fact that they were booked in advance. That, once the records are properly kept (as part of a condition), the records can be produced as and when required. Also, the fact that the premises could if they so wish; apply for Temporary Events Notices when required.

During the Licensing Sub-Committee Hearing, the Council's Licensing Team interjected at various times to provide necessary information, to provide clarity and to ask relevant questions. Part of the discussion centred on the licensable hours, noise nuisance, conditions, staff, and delivery hours. It was noted that the applicants were agreeable to the Metropolitan Police Conditions. Also, that the Applicants were willing to work in collaboration with the Licensable Authorities and the residential community as a whole.

Decision:

The Licensing Sub-Committee having considered all relevant legislation, policies, relating to the application and the relevant licensing objectives, and all representations, decided **to grant** a premises licence to Talli Kitchen 40B The Walnuts Orpington BR6 0TW--with conditions. The Licence will be subject to the amendments proposed at the Licensing Sub-Committee Hearing to include the following conditions:

The Agreed Metropolitan Police Conditions:

- 'The Premises will operate licensable activities until 00:00 and close at 00:30. The above hearing amended terminal licensable hours for Sundays to Thursdays at 23:30 hours (inclusive of 30 Minutes drinking up time) see Paragraph 3(b)(v) below.
- All Sales of alcohol for consumption on the premises shall be by table service only and there will be no vertical drinking. The premises will provide food in the form of substantial table meals that are prepared on the premises with the exception of an event.
- When the premises is being used for a pre booked event , function, celebration or entertainment then a risk assessment will be carried out by the DPS/Management prior to the date fixed. If deemed necessary, the management will put in place measures to negate any risk. Considerations to include but not limited to: appropriate number of staff, the use of polycarbonate glasses for the drinks, entry/dispersal policy and the deployment of SIA door staff. The risk assessments will be filed at the premises and made available to the Police and Council officers on request'.

The Premises License was granted subject to the following conditions added at the Licensing Sub-Committee Hearing:

- (i) To adhere to the above amended Metropolitan Police Conditions as noted above 3(a)
- (ii) To adhere to the steps and conditions which have been offered by the applicant (Page 26 – 30 of the licensing application bundle)
- (iii) A limit of 30 Special Events per year at the premises
- (iv) A record shall be kept for each of the Special Events taking place at the premises and, to ensure the record is accessible to the Metropolitan Police and the Licensing Authority at request. This is to ensure compliance.
- (v) Terminal Licensable Hours at the premises are as follows:
Except prior to a Bank Holiday
 - Sundays to Thursdays at 23:30 hours (inclusive of 30 Minutes drinking up time)
 - Fridays and Saturdays at 00:30 hours (inclusive of 30 minutes drinking up time)
- (vi) The premises shall ensure that no noise is audible from the outside sitting area
- (vii) No customers shall be seated in the outside sitting area after 22:30 hours
- (viii) No Alcohol shall be taken outside the premises after 22:30 hours
- (ix) All Licensable activities shall be confined to the interior of the premises.
- (x) All external loudspeakers shall be turned off after 22:30 hours

Chairman

LICENSING SUB-COMMITTEE

Minutes of the meeting held at 10am on 22 June 2023

Present:

Councillor Kira Gabbert (Chairman)
Councillors Mike Jack and Simon Jeal

1 APPOINTMENT OF CHAIRMAN FOR THE MEETING

Council Kira Gabbert was appointed Chairman for the meeting.

2 DECLARATIONS OF INTEREST

Both Councillors Gabbert and Jack said they had several years ago visited Bridge Bar.

3 APPLICATION FOR A REVIEW OF THE PREMISES LICENCE AT THE BRIDGE BAR ,2/4 HIGH STREET, BECKENHAM, BR3 1AZ

The Case for the Applicant:

The review concerned events arising on 13th November 2022, 18th December 2022, 26th February 2023 and 18th March 2023 and subsequent visits to the business. The Committee was addressed by Counsel appointed by the police, Ms Bruce-Smith. She introduced her presentation by presenting CCTV evidence.

The grounds for the review related to incidents of crime and disorder in the High Street and also visits to the premises showing a failure by the business to comply with licensing conditions. The Police felt there was a particular concern in terms of public safety in having an entrance onto the High Street. They also felt there was a particular problem in terms of the door staff engaged at the premises, who were part of the difficulties. The written submissions made on behalf of the business before the review downplayed the seriousness of the incident that had occurred on 13th November 2022. A video seen on social media clearly showed the door supervisor using a knuckle-duster and not a vape, as claimed in the submissions.

The police were also concerned about a deliberate failure by the club to comply with conditions. The independent consultant, Mr Studd, advised that he had been informed that individuals who were regular customers and already had their details in the scanner, were not rescanned on entry. Not all of the CCTV cameras were working on 13th November 2022 or 18th March

2023 and no description of the fault was provided. By their own admission, three customers under the age of 21 were admitted in breach of conditions.

The police believed that revocation was the appropriate course for the Sub-Committee to take. If this was not agreed, then the Police asked for last entry time to be midnight and closing at 2am. In response to a question, the police said if that these hours were secured, a third party SIA accredited firm engaged to provide door staff and a change in management was effected, then they may reluctantly accept the imposition of conditions. However, they doubted that all of this would be possible with the current management and therefore asked for a revocation of the licence.

Submissions by the Responsible Authorities:

Mr Slaney, on behalf of the Licensing Authority, advised that the police from February 2023 had used condition 11 to restrict the entry time until midnight. The Licensing Authority had good relations with the business.

Mr White on behalf of the Public Health Nuisance Team confirmed that on 16th November 2022, he attended the premises with the police and advice was given that an external SIA accredited company should be employed.

Both Mr Slaney and Mr White supported the review application by the police.

The Case for the Premises Licence Holder:

The premises licence holder was represented by Mr Philip Kolvin KC, who in advance of the hearing, had submitted additional documents comprising the witness statement of Philip Trump, a witness statement of Jason Orris, a witness statement of Grant Brown, a witness statement of Joanne Simpson and a Crime and Disorder expert report prepared by Adrian Studd.

Mr Kolvin advised that the business accepted there had been errors and laxity and remedial measures were required. However, conditions were an adequate intervention and revocation would be disproportionate.

Mr Kolvin referred to the statutory Government guidance. At paragraph 11.20 the guidance states that in deciding which of the powers to invoke on a review, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

Mr Kolvin advised that although the premises had not initially agreed to appoint a third-party SIA accredited company to provide its door staff, they had appointed an independent licensing consultant to advise. The business was now prepared to appoint a third party SIA accredited company. The business, on the previous day, was shown the CCTV evidence. It was now prepared to accept that the most creditable explanation for the incident on

13th November 2022 was that the door staff member had held a knuckle-duster. On a subsequent inspection, it was agreed that a vape had not been found. In spite of its written representations as to what the door staff member had held, the business took the matter very seriously and subsequently dismissed three members of staff whose behaviour had not been found to be acceptable.

Mr Kolvin emphasised the longstanding nature of the business. The DPS had some thirty years' experience including 15 years as the DPS. There were some 70 cameras at the premises and the business was always willing to assist the police, including providing the footage for incidents that happened elsewhere.

As a response to the events cited by the police, the business had converted the upper floor to a cocktail bar. This was to attract a more mature and hopefully calmer demographic. A smoking area would be provided upstairs immediately adjacent to the upper floor entrance. Condition 11 was regarded as an unusual condition and it was felt the last entry should be moved to 1.30am.

Mr Kolvin introduced Mr Adrian Studd, an independent expert witness, Mr Studd in his report, made recommendations concerning last entry times and the times for the sale of alcohol/closing times. He recommended last admission times on Monday to Thursday until 1am, on Friday to Saturday until 1.30am and on Sunday until 10pm. He also recommended the use of a third party SIA approved contractor for door staff.

Mr Studd felt it would be difficult to run a nightclub closing at 2am. He advised an external SIA accredited firm should be provided to provide door staff. He felt with a good door team, the proximity of the entrance to the upper floor to the High Street and its carriageway should not be a disproportionate risk.

Reasons for the Decision

Members considered the application, the written and oral representations, the Council's Statement of Licensing Policy and statutory guidance. Members were satisfied that in pursuance of the Licensing Objectives, further conditions should be imposed on the premises licence.

The police gave evidence that on 13th November 2022 a member of the club's door staff had used a weapon, namely a knuckle-duster. The Committee also noted the evidence from the Police, that on 18th March 2023, certain patrons were allowed to enter the venue, some of whom participated in disorder and either were not searched by the door staff or by passed the club scan. We also noted that an external CCTV camera was not working on 13th November 2022 (as confirmed by visit on 16th November 2022). On 18th March 2023, five minutes of crucial footage from a different camera was inexplicably not recorded and one must therefore assume that camera was not working correctly on that occasion either.

Police evidence indicated that this part of the High Street, during the early morning, suffered from serious incidents of crime and disorder. The seriousness of the incidents impacted on public safety. The police provided statements that failings in the management of the premises had been identified which had hampered the collection of evidence which would assist in bringing the perpetrators of the crime and disorder to justice. We found the incident involving the use of a weapon by a door supervisor and the inappropriate response by two other supervisors, was a clear indication that those existing arrangements were not adequate. The police also noted that on occasion the door supervisors were over familiar with some of the patrons, again giving cause for concern.

Had the business not changed their position and indicated they would engage an independent third-party SIA Approved Contractor Scheme (ACS) company for its door staff, the Committee would have considered there was little option but to suspend or revoke the licence to enable the business to reconsider its position.

The business, however, indicated it will now appoint a third party ACS accredited contractor for its door staff and will accept the imposition of a condition to that effect. The Committee therefore considered whether the introduction of this condition and other amendments to the conditions would suffice in furthering the licensing objectives.

In three of the four dates mentioned by the police, namely 13th November 2022, 18th December 2022 and 18th March 2023 the incidents occurred around 00.23 hours, 00.25 hours and 01.30 hours, respectively. It was only on the fourth occasion on 26th February 2023, namely 02.23 hours that the incident was nearer to the usual closing times. The Committee considered the evidence of Mr Studd that a closing time of 2pm might impact on the viability of the business making it difficult to run. The Committee noted the longstanding nature of the business and also felt that the club should be allowed to demonstrate that the business could continue to operate to the hours originally envisaged by the licence. The Committee felt that the closure of the entrance to the High Street in the early hours of the morning would be a proportionate and necessary step to provide a solution. The entrance would not be an incentive for trouble makers to remain in that part of the High Street.

The police had suggested that no new entry should take place at midnight and the business asked for 1.30am (though in a previous representation from Mr Orris, they requested 1am last entry time). Provided that the door to the High Street was shut at the 'no new entry time' with no possibility of access or egress (save in cases of emergency or ejections by security staff), it was felt it would be possible to move some way towards the position of the business. The Committee were prepared to agree to a no new entry time of 1am following Mondays to Saturday and 10pm on Sundays. However, the Committee was not persuaded that a smoking area on the upper floor would be possible after the no new entry time. To avoid confusion, it was felt it would be better for the smoking area after this time to be in the basement floor only

and that it would need to be adequately supervised to ensure it did not become a weakness in the measures to control access to the club.

The Committee felt it would be necessary to strengthen condition 35 to make clear that all patrons entering the premises are to be searched and on re-entry. We also felt condition 36 should be strengthened to make clear that all patrons should be scanned on entry and re-entry (except for those remaining in the supervised smoking areas).

It was noted that the business had introduced a cocktail bar on the upper floor. The Committee considered this might assist in introducing a more mature demographic in terms of patrons. The Committee agreed to the suggestion that the description of the business in the Licence should be amended to reflect this change (and the that off premises sales be removed from the licence as this is already not occurring and is not requested by the premises). However, the Committee did not consider it would be practical or necessary to impose any condition requiring the basement floor and upper floor to be operated as separate businesses.

The offer of a new condition concerning dress code was felt to be helpful, particularly in ensuring that CCTV evidence would not be obscured by clothing. The Committee felt the condition concerning the maintenance of a dedicated phone line had not turned out to be needed and could be removed. However, we felt the club should resume the quarterly meeting with residents which had been interrupted by COVID.

The business should be under no illusion as to the loss of confidence by the police in the operation of the business, which in the opinion of the Committee was justified through recent events. If problems persisted, then the police would be entitled to call a further review. As a confidence building measure, the Committee have conditioned an audit by an independent licensing consultant as to compliance with licensing conditions to take place every six months for the next two years. The Committee hoped this would be a helpful measure and enable the business to demonstrate the progress being made and provide the Police with renewed confidence that compliance with licence conditions continues to be taken seriously by the business.

The Committee therefore concluded that the grounds for the review application had been made out. In considering what appropriate and proportionate steps should be taken the Committee did not consider it necessary to revoke or suspend the licence. The problems did not seem to be attributable to one individual and it was not considered necessary to remove the designated premises supervisor. We felt that the harms that had been identified could be addressed by the imposition of conditions.

Decision

The description of the operation of the premises in the General section of the premises licence shall be changed from "This premises shall operate as a nightclub with both on and off sales" to "This premises shall operate as a

nightclub in the basement floor and a cocktail bar on the upper floor.” The off-site sale of alcohol shall be removed from the description of activities.

Condition 11 on the Premises Licence shall be replaced with the following condition:

No patron shall be admitted to the premises after 1am following any Monday to Saturday or following any Sunday which precedes a bank holiday until the closing time for that day. No patron shall be admitted to the premises after 10pm on any other Sunday until the closing time for that day. A prominent notice must be displayed at each entrance stating these restrictions on admission.

Condition 35 on the Premises Licence shall be replaced with the following condition:

All customers entering the premises are to be searched whether or not they have previously been admitted. These searches are to include the customer’s person, wallets, purses, bags, and any other item carried by them. All searches to be conducted in sight of a CCTV camera. A handheld metal detector must be available for use by staff as needed. If any person is found in possession of drugs, weapons or items prohibited by the venue, these items must be seized, and the person excluded. Police will be called in all cases where weapons are recovered. Any person not submitting themselves to a search must be refused entry. The requirement to search customers applies to those customers who have left the premises to smoke.

Condition 36 on the Premises Licence shall be replaced with the following condition:

A photographic, ID computer-based entry system (club scan) is to be installed/maintained. The system is to be capable of sharing information with other venues. It will also be able to identify the authenticity of identity documents to a reasonable standard. The system will be in operation at all times that the venue engages in licensable activities. All patrons that enter or re-enter the premises (unless they re-enter from a supervised smoking area) will have their ID documents ‘scanned in’ or may have ‘biometric’ fingerprint membership once their details are recorded on the system. The details shall be stored for a minimum of 31days and be made available on request of a Police Officer for the purposes of detecting or investigating crime.

The following new conditions shall be added to the premises licence:

Only SIA door supervisors provided by a third party accredited under the SIA Approved Contractor Scheme are to be employed at the premises.

Any smoking area shall be cordoned off and supervised so that it is not possible for non-smokers to gain access. No smoking area will be provided on the upper floor after the last entry times.

After 1am following any Monday to Saturday or after 1 am following any Sunday which precedes a bank holiday egress from the premises shall not be permitted from the upper floor and all exits shall only be from the basement floor. The door from the upper floor to the High Street shall thereafter be closed and only used in cases of an emergency or where required by security staff for ejections from the premises.

The premises shall operate a dress code with the minimum requirements that no person will be admitted wearing sports clothing such as a football related shirt, a hoodie, a cap or other hat.

The premises shall engage an independent licensing consultant to conduct an audit as to the operation of the business and prepare a report concerning its compliance with the conditions as amended that are attached to the premises licence. The audit shall be commenced every six months from the review (22nd June 2023) for the next twenty four months and the results of each audit sent to the Police and Licensing Authority in writing no later than three months after each audit.

Condition 28 shall be removed from the Licence.

Informal recommendation:

The Sub-Committee recommends that the licence holder engage with the Safer Neighbourhood Ward Panel and also with the Local Pub Watch.

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LICENSING SUB-COMMITTEE

Minutes of the meeting held at 10.00 am on 3 August 2023

Present:

Councillor Pauline Tunnicliffe (Chairman)
Councillors Robert Evans and Tony Owen

1 APPOINTMENT OF CHAIRMAN FOR THE MEETING

Councillor Pauline Tunnicliffe was appointed chairman for the meeting.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 **New Premises Licence at PLANET 224 PLUS 123/125 Mason Hill Bromley BR2 9HT** Report ES20302

The applicant, Mr Toure attended the hearing and asked for an adjournment to enable him to seek legal advice. Members agreed to this request and advised that they did not feel the application contained enough information concerning the application which they recommended should be addressed before the re-convened meeting of the Sub-Committee.

4 **Variation of the Premises Licence at BULU 1/4 Southend Road Beckenham BR3 1SD** Report ES20301

The application

The application sought the following variation of the premises licence:

To amend the hours that licensable activities can be carried out as follows:

Sale of alcohol Monday – Thursday 08:00 to 00:00 Friday – Saturday 08:00 to 02:00 Sunday 08:00 to 22:00

Recorded Music Monday – Thursday 08:00 to 00:00 Friday – Saturday 08:00 to 02:00 Sunday 08:00 to 22:00

Live Music Monday – Thursday 08:00 to 00:00 Friday – Saturday 08:00 to 02:00 Sunday 08:00 to 22:00

Films Monday – Thursday 08:00 to 00:00 Friday – Saturday 08:00 to 02:00 Sunday 08:00 to 22:00

Late night Refreshment Monday – Thursday 23:00 to 00:00 Friday – Saturday 23:00 to 01:00.

To allow Non-Standard Timings on Christmas Eve, Boxing Day, New Year's Eve and all Sundays on a Bank Holiday Weekend to allow Live Music, Films,

Recorded Music & Late-Night Refreshment to finish at 03:00 and the Sale of Alcohol to finish at 02:40

To remove condition 10 (which requires all of the usable licensed area to be given over to tables and chairs for the use of customers) and

To remove condition 13 (which requires the premises after 19.00 hours to operate as a restaurant and the sale of alcohol to be ancillary to the supply/consumption of food. The condition also provides alcohol will only be sold or supplied by waiter or waitress service under the following circumstances: 1) To those who are seated or waiting to be seated and are waiting for a substantial table meal. 2) To those who are taking or have taken substantial table meal There is to be no vertical drinking anywhere on the premises, save for those waiting to be seated.

The application also suggests amended wording for a number of the remaining conditions as highlighted on the application form.

The London Borough of Bromley Statement of Licensing Policy 2021-2026

The premises fall within the area shown in Appendix C to the Council's Statement of Licensing Policy as being subject to a Special Policy of Cumulative Impact. The Statement of Licensing Policy provides:

In any area declared to be subject to a Special Policy of Cumulative Impact it would be the Licensing Authority's intention to refuse to grant new premises/ club licences or variations, unless the application is such that the grant of the licence would have no further detrimental impact on the area and the promotion of the licensing objectives The Licensing Authority wish to make it clear to all applicants that the presumption of refusal of all new licences and material variations stands except where the applicant satisfies the Licensing Authority that the application can be granted without having a detrimental effect on the promotion of the Licensing Objectives.

Statutory Guidance under section 182 of the Licensing Act 2023

The statutory guidance provides "A CIA should never be absolute. Statements of licensing policy should always allow for the circumstances of each application to be considered properly and for applications that are unlikely to add to the cumulative impact on the licensing objectives to be granted. After receiving relevant representations in relation to a new application for or a variation of a licence or certificate, the licensing authority must consider whether it would be justified in departing from its CIA in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or a theatre may not. If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one

or more of the licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved”.

(i) The case for the applicant

We were addressed by the applicant Mrs Zabrina McLay and her husband Mr William McLay. She advised that she had held a senior position in a financial institution and together with her husband had some 30 years' experience in hospitality. Their proposal was to provide a pan Asian restaurant and cocktail lounge. The premises were being refurbished with a start date in September 2023. A Chief had been hired with experience in a Central London restaurant and food would be served throughout opening hours. Those seated at tables would be served alcohol through waiter service, but a small number of patrons would be served at the bar by qualified staff. On an occasional basis there would be live music and film screenings of independent films. The landlord had invested in sound insulation and with two separate doors and acoustic field at each entrance. Windows would remain closed. Patrons waiting for taxis at the end of their evening would be permitted to wait on the premises with pick up at the rear. Pre-arranged taxi arrangements would be supported. CCTV would be installed to meet the requirements of the conditions agreed with the police. The majority of tables would be booked through a reservation system. If there was a delay in setting up a customers' table on arrival, then the patrons would be directed to the bar. The security team would monitor access and egress to the smoking area. Three SIA door supervisors would be provided.

In response to questions Mrs McLay confirmed there could be eight patrons seated at the bar. The lounge area would have raised tables and patrons there would be required to order for their table area. It was envisaged there would be a 50/50 (or 60/40) split between food and cocktails.

It was not envisaged there would be a significant impact on local residents due to noise breakout due to the sound insulation and double doors on the entry and exit points. Customers behaviour would be closely monitored with a zero tolerance towards unacceptable behaviour. The reservation system would ensure that the venue was not crowded out. The smoking area would be fenced in and monitored by the security team. All orders would go through the waiter system other than the 8 patrons at the bar. All other patrons would sit or stand at a table and order through a waiter. The recorded music would be between background level and a disco level. There would be no dancing. Examples of live music might be a jazz performer, a pianist or saxophonist. A part of the lounge area would be cleared for this.

The objections had been carefully considered by the applicant and conditions agreed with the police. It was confirmed that there would be a last admittance at 12.30 am on Friday and Saturday. The usual maximum attendance would be 150 which would be managed by the reservations system and security. This level would only be normally reached on Fridays and Saturdays. The higher maximum attendance of 300 would only be applicable for special events. The security team would monitor around the perimeter of their

premises but not the wider car park. Music and alcohol would not be provided in the outside smoking area.

(ii) The case for the objectors

In addition to the written representations, we were addressed at the meeting by four local residents. They advised that in the vicinity of the premises there were long standing issues concerning anti-social behaviour. It was pointed out that once a customer leaves a licensed premises their behaviour becomes a problem for the police. If the Police due to other commitments are not able to attend, then no one else can be called. The extent of the anti-social behaviour can become unbearable and disproportionately can impact on residents' lives. Issues include noise, litter, intimidating behaviour and on occasion criminal behaviour of a serious nature. Issues have become worse since late night licenses have been granted. It was felt that it was the licence extensions that brings people to the area in the first place and the extended hours being sought would add to an unacceptable situation.

Reasons for decision

Members considered the amended application, the written and oral representations, the Council's Statement of Licensing Policy and statutory guidance. Members noted that Beckenham Town Centre in the Council's Statement of Licensing Policy is subject to a Special Policy of Cumulative Impact. Members also noted the character of the area which they considered to have a mixture of commercial and residential properties.

The current licence permits the sale of alcohol from 10am to midnight every day and recorded music from 11pm until midnight (the earlier times being permitted by the Live Music Act 2002). The variations sought are to increase the hours that alcohol is being sold from 8am until midnight Monday to Thursday and from 8am to 2.00 am on Fridays and Saturdays. On Sundays the hours are from 8am until 10pm. The variations also seek to add Live Music, Films and Late-Night Refreshments to the proposed increased hours.

In addition, non-standard timings were proposed from Christmas Eve, Boxing Day, New Year's Eve and on Sundays falling within a bank holiday weekend, with the sale of alcohol to finish at 2.40am and the other licensable activities at 3pm.

The application also sought to remove condition 10 (which requires all of the usable licensed area to be given over to tables and chairs for the use of customers) condition 13 (which requires the premises after 19.00 hours to operate as a restaurant).

The designation of Beckenham Town Centre as being subject to a Special Policy on Cumulative Impact is an indication of the concern that the concentration of licensed premises within the area is giving rise to harm to the promotion of the licensing objectives. A number of the representations refer to issues of noise, crime and disorder and public nuisance linked to patrons who

have attended licensed premises within the area (*see footnote). We concluded that there was ample evidence of harm to the licensing objectives caused by the cumulative impact of the number of licensed premises. The harm was in terms of crime and disorder, public nuisance and public safety. We found that the rebuttable presumption that the application should be refused therefore arises.

In considering the particular application, we felt that the proposed extensions to the business hours would contribute to issues of cumulative impact in the area contributing to harm to the Licensing Objectives. We were particularly impressed by the comment made to us, both orally and in the written representations, that once a patron leaves the premises, then any issues of behaviour become a problem for the police. The police, however, cannot be expected to deal with every problem arising from the concentration of licensed premises. We felt given the severity of the issues arising within the area in the early hours of the morning, that the policy presumption against a further premises being open in the area during those hours, should be applied. The only control that we felt we could impose on the licence would be to continue with the current licensed hours and therefore limit by that means any issues arising from saturation. We did not feel that the issues could be dealt with by conditions alone. We therefore did not agree to the extension of hours sought or the non-standard times being sought, other than the request for the sale of alcohol and the proposed new licensable activities to cover between 8am and 10am.

The application also sought a variation to the style of the business from a restaurant to a more mixed offer selling food and alcohol independently. It was also hoped to vary the offer by the occasional provision of independent films and live music. Subject to our comments above, we felt a well-managed pan Asian restaurant and cocktail bar need not be problematic. We noted the combined experience of the applicant and her husband in the hospitality trade. We noted conditions had been agreed with the police. The landlord was investing in sound insulation and double doors to prevent noise breakout. Although some vertical drinking was proposed, there would be waiter service to patrons seated or standing by tables with a limited number only being served directly at the bar. A fence would be installed around the smoking area to help prevent noise breakout.

Provided the current permitted hours were retained, we did not feel that the variations would add to problems of saturation or turn the premises into a late-night drinking venue.

In terms of conditions, we found the proposed conditions agreed with the police to be reasonable. We thought the requirements of condition 7 should be clarified. Training should be provided for all staff. As we were not minded to approve the extended hours sought, we felt it would be sufficient to require two SIA door staff on Fridays and Saturdays and not the three suggested. We felt that to deal with noise breakout no drinks should be consumed in the external smoking area after 9pm. Given that condition, we did not feel that polycarbonate drinking vessels would be needed in that area. The business

had indicated that their proposal was to serve patrons alcohol by waiter service, save for eight patrons who may be seated at any one time at the bar. We felt it was necessary to require this by condition to address concerns that the premises might become a late-night drinking venue.

When balancing all of the considerations, Members concluded that the application could be permitted without harm to the Licensing objectives and without adding to issues of cumulative impact in the area, but only if the hours within which licensing activities could take place was limited to between 8.00am and midnight.

Decision

That the application for the variation of the premises licence at Bulu, 1-4 Station Buildings, Southend Road, Beckenham BR3 1SD be permitted as follows:

General Description

The Premises is licensed to operate as a restaurant and bar. Food and alcohol will be made available during opening hours to the public. The sale of alcohol is permitted even if not required as part of a meal.

Opening times and times of licensable activities

Sale of alcohol Monday – Saturday 08:00 to 00:00, Sunday 08:00 to 22:00

Recorded Music Monday – Saturday 08:00 to 00:00, Sunday 08:00 to 22:00

Live Music Monday – Saturday 08:00 to 00:00, Sunday 08:00 to 22:00

Films Monday – Saturday 08:00 to 00:00, Sunday 08:00 to 22:00

Late night Refreshment Monday – Saturday 23:00 to 00:00

Conditions

(i) Proposed conditions agreed with the Police in Appendix 4 of the agenda

The conditions in numbered 1, 2, 3,4,5, 6 and 9 in Appendix 4 shall be imposed.

The condition numbered 7 shall be amended - Where the premises are being used for a pre-booked event/function/Celebration then a written risk assessment will be carried out by the management prior to the commencement date and kept available for inspection by the police. If deemed necessary, the management will put in place measures to negate any risk. Considerations to include, but not limited to; Security, appropriate number of staff, the use of polycarbonate glasses for all drinks, control of maximum capacity and implementing an entry/dispersal policy.

The condition numbered 8 shall be amended - All staff will be trained in the Licensing Act 2003 and 'Challenge 25' Policy. The training will be refreshed every 6 months and all staff training records should be maintained and kept on site. A designated member of staff should be able to produce these records on the request of police or other authorised person.

The condition numbered 11 shall be amended - The premises shall have no fewer than two SIA Registered Door Supervisors on Friday and Saturday from 1900hrs until 30 mins after closing. All must sign a register when performing duties at the premises. This register is to contain the full names, SIA badge numbers and contact details of that person.

Condition numbered 10 shall not be imposed.

(ii) Conditions to be removed from the premises licence

Conditions 10 and 13 in the premises licence shall be removed.

(iii) Additional Conditions to be imposed

Alcohol sales will be made by waiter or waitress other than to eight customers who may be served by a bartender at the bar.

No drinks shall be consumed in the external smoking area after 9pm on any day.

*Footnote

For example:

Objection 6 advises: *"The noise from late night revellers spilling out into the local area once the above-mentioned establishments (as well as the Pearl restaurant) at the weekends is already a nuisance that local residents have to put up with. The weekly shouting, screaming, fighting and other anti-social behaviour experienced around the proposed site already disrupts the weekend for local residents - another establishment operating within the proposed time frames will inevitably add to this already disruptive and unpleasant atmosphere that already exists"*.

Objection 8 advises. *"We are already currently disturbed by the noise, public nuisance, crime and disorder from 'Below 10' and other nearby bars and clubs at the weekend. This including fights and shouting, reckless driving, public urination, destruction of private property we saw the destruction of a wooden fence in front of the nursery. and loud noise from the music and people leaving the premises at 4am. We have also heard and seen police presence many times at the weekend. This is on Southend Road and is directly under our bedroom and living room. For this reason, we already have to keep our windows closed on weekend evenings, to reduce the noise, but the noise is such that we are still disturbed"*.

Objection 14 advises *“Currently the car park becomes full of people in their cars listening to loud music during unsocial hours, there are groups of people outside smoking and this will only increase and is likely to spill across the road from the bar which would be outside my window!, people are regularly seen arguing and fights taking place, people urinate against our wall that backs onto the main road and around the corner onto The Avenue and also Copers Cope Road, people throw their rubbish over the wall into our communal space, (kebab/takeaway wrappers), people honking their horns during unsocial hours, last Sunday there was 3 piles of sick on the road outside my home, people have been seen having sex in our close, people smoke cannabis in the carpark of Waitrose outside the proposed above bar and on the main road, there has been an increase in litter, people have been seen dealing drugs and no steps have been taken to manage any of these concerns.”*

Chairman

LICENSING SUB-COMMITTEE

Minutes of the meeting held at 10am on 19 September 2023

Present:

Councillor Kira Gabbert (Chairman)
Councillors Robert Evans and Sam Webber

5 APPOINTMENT OF CHAIRMAN FOR THE MEETING

Councillor Kira Gabbert was appointed Chairman for the meeting.

6 DECLARATIONS OF INTEREST

There were no declarations of interest.

7 NEW PREMISES LICENCE APPLICATION FOR SEL'S KEBABS, STATION APPROACH, ORPINGTON, BR6 0ST

The Application:

The application as submitted sought a premises licence for Late Night Refreshment only, Monday to Thursday until 00.00 hours and Friday and Saturday until 01.00 hours. The Sub-Committee was advised by the Licensing Officer that the Responsible Authorities had been notified concerning the application, but no objections from them had been received. A local ward member, Councillor Owen who attended the hearing, nevertheless, provided a copy of a planning permission for the premises issued under reference DC/19/01807/FULL2 for a change of use to Mixed Use A3 (Restaurants and Cafes) and A5(hot food takeaway).

Condition 4 of that permission provided for "The use shall not operate on any Sunday or Bank Holiday, Christmas Day, or Good Friday nor before 07.00 or after 22.30 on any other day. Paragraph 22.1 of the Council's Statement of Licensing Policy 2021--2026 stated that the Licensing Authority would not grant an application for a new Premises Licence or Club Premises Certificate unless it was satisfied that all relevant planning permissions were in place where necessary. The Sub-Committee was advised that the applicant was unaware of the condition attached to the planning permission until the hearing and his intention was to apply to the Council for a variation of the planning condition.

Reasons for Decision:

Members noted that, notwithstanding the lack of a representation from the planning authority, the proposed use for the premises for the provision of late-night refreshments was apparently in breach of a planning condition restricting the hours of operation at the premises. They did not feel that a sufficient justification had been presented for them to depart from the Council's Statement of Licensing Policy requiring that all relevant planning permissions be in place. The applicant had indicated that he was intending to contact the planning division. In the circumstances Members concluded that the correct course would be to adjourn the Licensing application so that the planning situation could be clarified.

Decision:

That the application for the grant of a new premises licence at Sel's Kebabs, Station Approach, Orpington, BR6 0ST be adjourned and that the application be considered at a re-convened meeting of the Licensing Sub-Committee to be heard no later than 31st March 2024.

Chairman