

CONSTITUTION OF THE LONDON BOROUGH OF BROMLEY

APPENDICES

	Page
1. Local Conventions - Officers	3
2. Standing Orders	5
3. Members' Code of Conduct:	9
4. Member Allowance Scheme (The Scheme is updated annually)	15
5. Council Structure	19
6. Member/Officer Protocol	21
7. Guidance Note: Executive Assistants	23
8. Guidance to Councillors: Membership of Outside Bodies	25
9. Guidance to Co-opted Members	31
.....	
10. Scheme of Executive and Non-Executive Delegation to Officers	1

(May 2018)

1. LOCAL CONVENTIONS - OFFICERS

- 1 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. Under the new legal arrangements, the Chief Executive will have overall responsibility for all staff, which responsibility will be shared with all Chief Officers.
- 2 Local authorities are required by law to designate one officer as the “Head of Paid Service”. The Chief Executive is the Head of Paid Service in Bromley. The statutory responsibility of the Head of Paid Service is for the staffing of the authority; ensuring that the work of officers is effectively co-ordinated and making sure the organisation runs efficiently. In most local authorities, including Bromley, the Chief Executive will also have a range of non-statutory responsibilities.
- 3 There must also be a “Monitoring Officer” who is responsible for warning Councillors about anything the Council does which is likely to lead to legal action or to a finding of maladministration by the Ombudsman. In Bromley the Director of Corporate Services is the Monitoring Officer and has other non-statutory responsibilities.
- 4 Additionally, the Council must have a “Section 151 Officer”, which is an officer responsible for financial administration. The rôle of this officer is to monitor all the expenditure and financial dealings of the Council. In Bromley the Director of Finance is the Section 151 Officer and also, in addition, has other non-statutory responsibilities.
- 5 All three of these posts have statutory protection; which means the post holders cannot be dismissed by the Council without an inquiry involving an independent person.
- 6 All officers of the Council will be subject to the officer employment procedure rules and the officers Code of Conduct which are set out in the Constitution.
- 7 All Chief Officers 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 rôles. The relationship between all officers and Councillors should be friendly and courteous but maintaining the degree of distance which is essential for the differing rôles 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 National Code of Conduct which is part of the Constitution.
- 8 The Chief Executive and all Chief Officers will, in addition to their overall statutory and professional responsibilities, each have a lead rôle in respect of

one of the Council's portfolios. In exercising that lead rôle, Chief Officers will work closely with the member of the Executive holding the particular portfolio.

- 9 Chief Officers will also have a rôle in supporting the Chairmen of the Policy Development & Scrutiny Committees and the Chairmen of other Council Committees and Area Committees.
- 10 The Chief Executive and Director of Corporate Services will also have a special relationship with the Mayor and will be responsible for ensuring that the Mayor has comprehensive and independent advice on exercising the functions of Mayor.
- 11 The Chief Executive, the Director of Corporate Services and the Director of Finance all have specific statutory functions which will require them to develop good liaison and working relationships with the Standards Committee, the District Auditor and the Ombudsman, including the giving and receiving of relevant information, whether confidential or otherwise.
- 12 The Director of Corporate Services and the Director of Finance will be Chief Officers and Members of the Chief Officers' Executive and, therefore, will have access to all relevant meetings, agendas and reports (with the right to attend and speak) to enable them to carry out their statutory responsibilities in respect of probity and financial administration.
- 13 The Chief Executive, the Director of Corporate Services 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.
- 14 The Council will provide the Chief Executive, the Director of Corporate Services and the Director of Finance with the resources (staff, accommodation and finance) they require to discharge their statutory functions.

2. Standing Orders

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 (Assistance 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 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;

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.

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 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. Audio or Visual Recording

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 chairman to stop recording and may be removed from the meeting.

3. Members' Code of Conduct

LONDON BOROUGH OF BROMLEY CODE OF CONDUCT FOR COUNCILLORS AND CO-OPTED MEMBERS

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.

Accordingly, when acting in your capacity as a member or co-opted member -

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.

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.

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.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

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.

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 the box below.

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.

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.

Registering and declaring pecuniary and non-pecuniary interests

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.

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.

In addition you must:

1. 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 identify of the donor;
2. 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.
3. 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.

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 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.

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.

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 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.

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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4. Members' Allowances Scheme

From 1st April 2018, in exercise of the powers conferred by the Local Authorities (Members Allowances) (England) Regulations 2003 (2003 No. 1021) [as amended by SI 2003 No. 1692], the London Borough of Bromley will operate the following Members' Allowances Scheme.

1. This Scheme is known as the London Borough of Bromley Members' Allowances Scheme and will operate from 1st April 2018 until amended.
2. In this Scheme:
 - “Councillor” means a member of the London Borough of Bromley who is an elected Member;
 - “Member” for the purposes of this Scheme shall mean elected Councillors;
 - “year” means the 12 months ending 31st March.
3. The Council in agreeing this Scheme has considered the recommendations of the Independent Panel commissioned by London Councils on the remuneration of Councillors in London entitled “The Remuneration of Councillors in London 2018” published January 2018.

Basic Allowance

4. A basic annual allowance of £10,870 shall be paid to each Councillor.

Special Responsibility Allowances

5. (1) An annual Special Responsibility Allowance will be paid to those Members who hold special responsibilities. The special responsibilities are specified in Schedule 1 (attached).
- (2) During periods after an election when any position of special responsibility is unfilled, the relevant Special Responsibility Allowance shall be payable to the new holder of the position from the day after the previous holder ceases to be responsible.
- (3) The amount of each Special Responsibility Allowance is specified against that special responsibility in Schedule 1. The conditions set out in paragraphs 5(2), 5(4) and 14 apply.
- (4) Where a Member holds more than one position of special responsibility then only one Special Responsibility Allowance will be paid. Subject to sub-paragraph (5), Members may be paid quasi-judicial allowances in addition to a Special Responsibility Allowance.
- (5) All Members of the Licensing Sub-Committee, Plans Sub-Committees and the Fostering and Adoption Panel shall be paid a quasi-judicial allowance at the rates set out in Schedule 1.

Childcare and Dependent Carers Allowance

6. The Council has agreed that no allowance will be paid for childcare or dependent carers.

Co-optees Allowance

7. The Council has agreed that no allowance will be paid for co-optees.

Travel and Subsistence Allowance

8. The Basic Allowance covers all intra-Borough travel costs and subsistence. All other necessarily incurred travel and subsistence expenses for approved duties as set out in the Regulations (Regulation 8(a) to (h)) will be reimbursed under the same rules and entitlement as applies to staff. Travel by bicycle will also be paid at the same rates as applies to staff. Claims for reimbursement are to be made within one month of when the costs were incurred.

Ability to Decline an Allowance

9. A Member may, by writing to the Director of Corporate Services, decide not to accept any part of his entitlement to an allowance under this Scheme.

Withholding of Allowances

10. The Standards Committee may withhold all or part of any allowances due to a Member who has been suspended or partially suspended from his/her responsibilities or duties as a Member of the Authority. Any travelling or subsistence allowance payable to him/her for responsibilities or duties from which they are suspended or partially suspended may also be withheld.
11. Where the payment of an allowance has already been made in respect of a period in which a Member has been suspended or partially suspended, the Council may require the allowance that relates to that period of suspension to be repaid.

Members of more than one Authority

12. Where a Member is also a member of another authority, that Member may not receive allowances from more than one authority for the same duties.

Part-year Entitlements

13. If during the course of a year:
 - (a) there are any changes in the Basic and/or Special Responsibility Allowances,
 - (b) a new Member is elected,
 - (c) any Member ceases to be a Member,

- (d) any Member accepts or relinquishes a post in respect of which a Special Responsibility Allowance is payable, or
- (e) the Standards Committee resolves to withhold any allowances during the suspension of a Member,

the allowance payable in respect of the relevant periods shall be adjusted pro rata to the number of days.

Payments

- 14. Payments shall so far as is reasonably practicable normally be made for Basic, Special Responsibility and Quasi-Judicial Allowances in instalments of one-twelfth of the amount specified in this Scheme, unless specified otherwise in Schedule 1.

Inflation Increase

- 15. The allowances set out in this Scheme may be increased annually by the same percentage increase as the market movement change for management grade officers under the Council's scheme, such increase to take effect from the start of the financial year. This inflation index will apply until further notice unless the Scheme is revised after consideration of any new Independent Panel report. Where the only change to the Scheme in any year is that affected by such an annual adjustment in accordance with this index, the new updated allowance rates will apply without further consideration by an Independent Panel.

Notification Fee to Information Commissioner

- 16. The Council shall reimburse, or pay on their behalf, the annual fee payable by all Councillors to the Information Commissioner.

Schedule 1

Allowances for the year ending 31st March 2019

	£
Basic Allowance	10,870.00
Special Responsibility Allowances	
Leader of the Council	30,600.00
Portfolio Holders (x6)	20,400.00
Executive Members without Portfolio	3,575.00
Executive Assistants (x5)	3,575.00
Chairman of Health and Wellbeing Board	8,670.00
Chairman of main PDS Committee	8,670.00
Chairman of Portfolio PDS Committees (x5)	7,140.00
Chairman of Development Control Committee	8,670.00
Vice-Chairman of Development Control Committee	1,970.00
Chairman of Plans Sub-Committees (x4)	2,770.00
Chairman of General Purposes and Licensing Committee	8,670.00
Vice-Chairman of General Purposes and Licensing Committee	1,970.00
Chairman of Audit Sub-Committee	1,970.00
Chairman of Pensions Investment Sub-Committee	1,970.00
Leader of largest Opposition Party	7,140.00
Leader of second largest Opposition Party	3,570.00
Quasi-Judicial Allowances	
Members of one Plans Sub-Committee	335.00
Members of two Plans Sub-Committees	670.00
Members of Licensing Sub-Committee	50.00 (Per meeting*)
Members of Fostering and Adoption Panel	200.00 (Per meeting**)

* Payable monthly

** Payable monthly, up to an annual limit of £3,575

5. Council Structure

FULL COUNCIL
 (60 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
- pension scheme
- staffing matters
- probity strategy
(including Standing Orders, Financial Regulations, Complaints Procedures and Audit)

**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 every month)
(Up to 10 Members)*

Leader and 6 portfolio holders for –

- **Adult Care & Health**
- **Children, Education & Families**
- **Environment & Community**
- **Public Protection & Enforcement**
- **Renewal, Recreation & Housing**
- **Resources, Commissioning & Contracts**

**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**

Responsible for standards and probity.

**URGENCY
COMMITTEE**

**HEALTH AND
WELLBEING
BOARD**

PARTNERS

Departmental Structure of the Council

Chief Executive's Department

Human Resources
Internal Audit
Financial Services
Business Solutions & ICT
Commissioning & Procurement
Legal & Support Services
Customer Services

Education, Care & Health Services

Education
Adult Social Care Safeguarding
Children's Social Care and Safeguarding
Housing Operations
Public Health
Joint working with the NHS

Environment & Community Services

Transportation
Street Services
Parks
Environmental Health & Trading Standards
Libraries
Leisure and Culture
Planning & Building Control
Town Centres
Corporate Property

6. 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 Chairmen 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.

7. Guidance Note – 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 Chairmen or Vice-Chairmen of Policy Development and Scrutiny Committees, or as members of Executive and Resources 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.

8. 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 joint 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 in 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 prime 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 interest 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 you are a Director.
- You cannot be indemnified by either the Council or the company against liability when you are acting as a Director 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 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, 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 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 as if it is you together with the other trustees are personally liable for losses on contacts or claims by third parties, although trustees are entitled to an indemnity from the trusts 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 trustees 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.

9. GUIDANCE TO CO-OPTED MEMBERS

1. The majority of people who sit on Council Committees are elected by local residents. However, some people can be directly appointed by the Council. These are known as co-opted members.
2. Some times an appointment is made because it is required by law. For example, between 2 – 5 parent governor representatives must be appointed to the Council's Policy Development and Scrutiny Committee which deals with education matters. Where an appointment is required by law, there will usually be a prescribed and formal election or appointment process.
3. However, most co-opted members are appointed because they can bring expertise or an additional perspective to the work of the Council. There is local choice on how most co-opted members are selected and appointed.
4. The majority of co-opted members can take part in discussions at meetings but can not be allowed to propose or second a motion or to cast a vote. However some co-opted members will have voting rights. If you are appointed as a co-opted member, you should check whether or not you have voting rights.
5. Co-opted members who have a right to vote must comply with the Members' Code of Conduct. This means that you must complete a Register of Interest form which will give information on your employment, properties you own in the borough and societies, charities, etc., that you are involved in.
6. It also means that you must comply with rules which aim to make sure you do not have a conflict of interest with the business of the Committee you sit on at the Council. Some times you will be able to declare an interest and take part in meetings, otherwise your conflict of interest may stop this happening. You will also be subject to formal disciplinary procedures which may lead to your disqualification as a co-opted member if you breach the rules.
7. Before accepting the post of a co-opted member with voting rights you should familiarise yourself with your obligations under the Code of Conduct. The Council's Monitoring Officer can assist.
8. If you do not have voting rights, you will be encouraged to comply with the Members' Code of Conduct, although if the Committee feels that you should not take part in the meeting because of the conflict of interest, you may be excluded from that part of the meeting.
9. Members who are co-opted on to a Committee on a permanent basis have the following rights regardless of whether they are allowed to vote:
 - 9.1 A right to attend meetings of the committee and take part in discussions as long as you don't have a conflict of interest;

- 9.2 A right to sit in the meeting, even for confidential items provided they do not have a conflict of interest. Co-opted members must not use any information they obtain in confidential sessions for personal gain, neither must they disclose it to any third party;
- 9.3 The right to background documents to help you understand the issues before the Committee. This may allow you to see some documents which are not available to members of the public, subject to the same criteria set out in paragraph 9.2 above.
10. If you are a co-opted member with voting rights, you can propose and second motions and vote on matters at the Committee.
11. You do not have any rights to attend other Committees or meetings of the Council except for the Committee you have been co-opted on to, nor do you have rights to see background papers for other meetings over and above the rights of members of the public.
12. If you are co-opted to a Member Working Group or for a time limited matter, then your rights only exist for that matter or for the period you are co-opted.