

# **CHAPTER 6 – SCHEME OF DELEGATION TO OFFICERS**

## **26. Scheme of Delegations to Officers**

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## **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> ( <a href="http://legislation.gov.uk">legislation.gov.uk</a> ), 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) ( <a href="#">aA</a> )
Data Protection Officer	Director of Corporate Services and Governance	Article 38 <u>General Data Protection Regulation</u> ; <u>Data Protection Act 2018</u> , Section 69
Scrutiny Officer	Democratic Services Manager	<u>Local Government Act 2000 (as amended)</u> , <del>Section 31</del> <del>9FB</del> <u>Local Democracy and Economic Development Act 2009</u> , <del>section 31</del>

## 6. Proper Officers

The Council employs the following 'Proper Officers' with responsibility for particular functions:

<b>Legislation</b>	<b>Function</b>	<b>Post</b>
<b><u>Local Government Act 1972</u></b>		
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
<b>Schedule 12</b>		
Para 4(1A)(b)	Signing of summons to Council meeting	Chief Executive
<b>Schedule 14</b>		
Para 25	Certification of resolution concerning the Public Health Acts 1875 to 1925	Director of Environment and Public Protection

<b><u>Local Government Act 1974</u></b>		
Section 30(5)	To give notice that copies of an Ombudsman's report are available	Chief Executive
<b><u>Local Government (Miscellaneous Provisions) Act 1976</u></b>		
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
<b><u>The Local Authorities' Cemeteries Order 1977</u></b>		
Regulation 10	To sign exclusive rights of burial	Director of Environment and Public Protection
<b><u>Representation of the People Act 1983</u></b>		
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
<b><u>The Local Elections (Principal Areas) (England and Wales) Rules 2006</u></b>		
Rule 50	Receipt of notice of elected candidates	Chief Executive

<b><u>The Local Elections (Parishes and Communities) (England and Wales) Rules 2006</u></b>		
Rule 5	Filling of casual vacancy	Chief Executive
<b><u>Local Government and Housing Act 1989</u></b>		
Section 2(4)	Recipient of the list of politically restricted posts	Director of Human Resources, Customer Services and Public Affairs
<b><u>The Local Government (Committees and Political Groups) Regulations 1990</u></b>		
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 vacations of seats	Democratic Services Manager
<b><u>Localism Act 2011</u></b>		
Section 33	Receipt of applications for dispensations for members with disclosable pecuniary interests	Monitoring Officer
<b><u>The Local Authorities (Standing Orders) (England) Regulations 2001</u></b>		
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
<b><u>Building Act 1984</u></b>		
Section 93	Authentication of documents	Director of Housing, Planning and Regeneration
<b><u>Food Safety Act 1990</u></b>		
Section 49(3)(a)	Authentication of documents	Director of Environment and Public Protection
<b><u>Public Health Act 1936</u></b>		
Section 85(2)	To serve notice requiring remedial action where there are verminous persons or articles	Director of Environment and Public Protection
<b><u>Public Health Act 1961</u></b>		
Section 37	Control of any verminous article.	Director of Environment and Public Protection
<b><u>Public Health (Control of Disease) Act 1984</u></b> (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).	
<b><u>The Public Health (Infectious Diseases) Regulations 1988</u> and subsequent Health Protection regulations</b>		
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
<b><u>The Health Protection (Notification) Regulations 2010</u></b>		
Regulation 2	To receive notification of suspected disease, infection or contamination in patients, by a registered medical practitioner.	Director of Public Health
<b><u>Highways Act 1980</u></b>		
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
<b><u>Registration Service Act 1953</u></b>		
Section 9	Registration matters.	Director of Human Resources, Customer Services and Public Affairs
<b><u>Local Government Finance Act 1988</u></b>		
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
<b><u>The Regulatory Reform (Fire Safety) Order 2005</u></b>		
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.