

## Index to the Constitution

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## Glossary of Terms Found in the Constitution

Throughout the Constitution the following words and phrases shall have the meaning set out below.

Any reference to legislation in the Constitution is a reference to that legislation as may be amended from time to time.

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### **Access to Information Rules**

The Council's rules detailing how notice of meetings is to be given, how the public can access agendas and reports, the circumstances in which the public may be excluded from meetings and procedures for the making of key decisions. The Access to Information Rules can be found in Part 6, Section C of this Constitution. Additional rules relating to information which the Elected Mayor and Councillors are entitled to can be found in Part 7, Section D of this Constitution.

### **Agenda**

A document which sets out the items to be considered at any meeting of the Council. Agendas must be published in advance of the meeting in accordance with legislation and the Access to Information Rules.

### **Annual Meeting**

The meeting of Full Council at which the Speaker is elected. Other business related to the beginning of a new municipal year is also conducted.

### **Articles of the Constitution**

The Articles of the Constitution set out the basic rules which govern the Council's business. More detailed procedures are found in the various Rules, Codes of Conduct and Standing Orders.

### **Background Paper**

Any document which has been relied upon by an Officer in the preparation of a report for one of the Council's meetings. Background papers must be retained and available for inspection for 4 years beginning with the date on which the decision was made.

### **Best Value**

The duty imposed on the Council by the Local Government Act 1999 to secure 'continuous improvement in the way in which functions are exercised having regard to economy, efficiency and effectiveness'.

### Glossary of Terms Found in the Constitution

## **Budget**

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

## **Budget and Policy Framework**

The plans and strategies which have to be adopted by Full Council and within which the Elected Mayor and Cabinet, Committees and Officers must operate. Details of the policies which make up the Policy Framework are set out in Article 4.7 of Part 2 of the Constitution.

## **Byelaws**

Byelaws are local laws made by the Council requiring something to be done, or not done – in a specified area. They are accompanied by some sanction or penalty for non-compliance. Byelaws can be made about a number of things, for example market places; hairdressers & barbers; nuisances etc. The process for making byelaws is set out in legislation.

## **Cabinet**

The Cabinet is made up of the Elected Mayor of between two and nine other Councillors appointed by the Elected Mayor. Cabinet is responsible for the discharge of those functions and responsibilities defined as 'executive functions' under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and also those functions which are known as 'local choice functions' where Full Council has decided they should be the responsibility of Cabinet.

## **Cabinet Councillors**

Those Councillors appointed by the Elected Mayor to the Cabinet. Each Cabinet Member is responsible for a Portfolio and attends, speaks and votes at meetings of the Cabinet.

## **Cabinet Committees**

Committees that may be set up from time to time by the Elected Mayor and Cabinet to make decisions about certain executive functions. Only Cabinet Councillors may be appointed to Cabinet Committees.

## **Cabinet Procedure Rules**

Rules which the Council has adopted to regulate the business and proceedings of Cabinet meetings. These are set out in Part 4, Section B of this Constitution.

**Call for Action**

A process introduced by the Local Government and Public Involvement in Health Act 2007 to strengthen the role of Councillors, to act on behalf of residents to resolve a local issue of consent, acting as a last resort for people who cannot get issues resolved through any other means.

**Call-in**

The mechanism through which executive decisions which have been made but not yet implemented, can be reviewed by the Scrutiny Panel; this includes decisions taken by Cabinet or decisions which have been delegated to Officers.

**Capital Expenditure**

Spending, usually on major assets like a building, where the benefit of the asset lasts for more than one year.

**Chair**

The person who presides over a meeting of Council, a Committee or any Sub-Committee.

**Chief Executive**

The Officer with overall management and operational responsibility for the Council. The post holder is also the Head of the Paid Service as defined in section 4 of the Local Government and Housing Act 1989.

**Chief Finance Officer**

The Officer appointed in accordance with section 151 of the Local Government Act 1972 who has responsibility for the administration of the financial affairs of the authority. Hackney's Chief Finance Officer is the Officer appointed to the position of Group Director, Finance and Corporate Resources.

**Chief Officers**

The Chief Officers of the Council are the Chief Executive; the Group Director, Adults, Health and Integration; the Group Director, Children and Education; the Group Director, Climate, Homes and Economy; the Group Director, Finance and Corporate Resources; Monitoring Officer (Director of Legal, Democratic and Electoral Services); and the Director, Public Health.

**Clear Day**

A clear working day excludes Saturdays, Sundays and bank and public holidays. When referring to Council meetings and the legal requirements around publication of agendas, clear working days also exclude the date of publication of the agenda and the date of the meeting.

**Committee**

A group of Councillors, and potentially voting and non-voting co-optees, which has been appointed by the Council or Cabinet to discharge specific functions. The terms of reference of Committees and Sub-Committees are set out in Appendix 3 of this Constitution.

**Confidential Information**

Defined in section 100A(3) of the Local Government Act 1972 as:

- (a) Information given to the Council by a Government department upon terms which forbids its disclosure to the public, or
- (b) Information which cannot be disclosed to the public by law or by Court order.

The management of confidential information is explained in the Access to Information Procedure Rules set out in Part 6, Section C of this Constitution.

**Constitution**

The document setting out how the Council operates, how decisions are made and the procedures that have to be followed.

**Contract Standing Orders**

The rules and procedure which govern the Council's procurement processes and how it enters into contracts as set out in Part 5, Section B of this Constitution.

**Co-optee**

A person who is appointed to serve on a Committee or Sub-Committee of the Council but who is not a Councillor or Officer. Co-optees do not normally have voting rights on Committees although there are exceptions; for example, parent governor and church representatives on the Children and Young People's Scrutiny Commission, who by law are voting members.

**Council, The**

The short name used when referring to the legal body of The Mayor and Burgesses of the London Borough of Hackney.

### **Council Procedure Rules**

Rules which the Council has adopted to regulate the business and proceedings of meetings of Full Council. These are set out in Part 4, Section A of this Constitution.

### **Councillor**

An individual who is democratically elected to serve on the Council by registered electors within a Ward. Councillors may sometimes be referred to as 'members', although this is a broader term that includes the Elected Mayor. There are currently 57 Councillors.

### **Councillor Code of Conduct**

The document which has been adopted by the London Borough of Hackney setting out what is expected of the Elected Mayor, Councillors and co-optees in terms of their conduct and behaviour. A copy of the Councillor Code of Conduct can be found in Part 7, Section A of this Constitution.

### **Delegated Powers**

Powers delegated by the Elected Mayor or Full Council to another body or individual to enable them to make decisions or discharge functions in their place.

### **Deputations**

A deputation is a presentation from registered electors about a matter for which the local authority has a responsibility or which affects the Borough. Deputations can be made to Full Council or Cabinet. Further information about deputations can be found in Part 6, Section E of this Constitution.

### **Deputy Cabinet Members**

Councillors appointed by the Elected Mayor to support them in discharging the Mayor's executive functions. Deputy Cabinet Members may attend and contribute to Cabinet meetings but cannot vote. Their attendance does not count towards the quorum of the meeting.

### **Deputy Speaker**

A Councillor, who is not a member of the Cabinet, appointed by Full Council at the Annual Meeting. In the absence of the Speaker, the Deputy Speaker will perform the functions of Speaker.

### **Director, Public Health**

The Director, Public Health is a statutory Officer who has responsibility and duties as specified in legislation across all three main areas of public health (health protection, health improvement and healthcare services). The Director, Public Health is appointed jointly by the Council and the Secretary of State, although they are then employed by the Council.

### **Glossary of Terms Found in the Constitution**



**Elected Mayor, the**

An individual who is democratically elected to serve on the Council by registered electors within the whole borough and who is entitled to carry out all of the Council's executive functions. Elections for the office of Elected Mayor are usually held at the same time as elections for Councillors.

**Executive Functions**

Those functions of the Council which the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 states are to be the responsibility of the Elected Mayor or if they decide by Cabinet, individual Cabinet Councillors or Officers. Executive Functions also include those local choice functions which the Council has decided should be the responsibility of the Elected Mayor.

**Exempt Information**

Information falling within 7 categories specified in Schedule 12A of the Local Government Act 1972 which usually cannot be disclosed to the public. The management of exempt information is explained in the Access to Information Procedure Rules set out in Part 6, Section C of the Constitution.

**Extraordinary Meeting**

A meeting of the Full Council, a Committee or the Cabinet, which is called in addition to those which appear on the Council's calendar of meetings.

**Financial Procedure Rules**

The rules and procedures which govern financial management and control within the Council as set out in Part 5, Section A of this Constitution.

**Forward Plan**

A document prepared by the Monitoring Officer on behalf of the Council which gives a minimum of 28 clear days' notice of Key Decisions to be made by the Cabinet, its Committees or Officers. The document may also include other important decisions to be made by Full Council, its Committees or Officers.

**Full Council**

A meeting that the Elected Mayor and all 57 elected Councillors are entitled to attend.

**Group Directors**

Officers who have responsibility for more than one directorate are known in the Council as Group Directors.

**Glossary of Terms Found in the Constitution**

**Group Leader**

The person appointed by a Political Group to act as the leader of that group of Councillors.

**Head of the Paid Service**

The Officer appointed by the Council who is responsible by law for coordinating the manner in which the Council discharges its different functions, determining the number and grades of staff required by the Council to discharge its functions, the organisation of Council staff and the appointment and proper management of Council staff. The Head of the Paid Service is the Chief Executive.

**Independent Adviser**

Refers to the person appointed by the Council and reporting to the Secretary of State, Chief Executive and Elected Mayor to provide advice and to monitor compliance by the Authority with Government Directions in respect of Financial Regulations.

**Independent Member**

A member of the Council who is not a Co-optee, Councillor, Elected Mayor or a Council Officer.

**Independent Panel**

A Committee appointed by the Council for the purpose of advising the Council on matters relating to the dismissal of the Head of Paid Service, the Monitoring Officer or Chief Finance Officer. The Independent Panel must include at least two Independent Persons.

**Independent Person**

A person appointed by the Council under section 28 of the Localism Act 2011. The Monitoring Officer is required by law to seek the views of the Independent Person and to take these into consideration where an allegation is made that there has been a breach of the Councillor Code of Conduct prior to making a decision whether to investigate that allegation. The Localism Act prescribes a number of conditions which must be met before an individual can be appointed to the role of Independent Person.

**Joint Committee**

A committee comprising Councillors of two or more local authorities created under section 102 of the Local Government Act 1972.

### **Key Decision**

A Key Decision is a decision which is defined in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012 as an executive decision which is likely to:

- (a) Result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
- (b) Be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the Council.

Further guidance on Key Decisions is included in the Access to Information Procedure Rules in Part 6, Section C and in Article 13 of this Constitution.

### **Licensing Code of Practice**

A document which provides guidance on how Councillors and Officers should deal with licensing matters. The aim of the Licensing Code of Practice is to ensure that licensing decisions are made openly, impartially, with sound judgement and for justifiable reasons.

### **Local Choice Functions**

Those functions which by law the Council can choose to be either an Executive Function or a Non-Executive Function.

### **Majority Group**

The Majority Group is the Political Group who has the majority in terms of the number of Councillors who form that Political Group when compared to the total number of elected Councillors.

### **Members' Allowance Scheme**

The scheme under which the Elected Mayor, Councillors, Independent Person, Independent Members and Co-opted Members are entitled to receive allowances in respect of carrying out their duties and for fulfilling any special responsibilities allocated to them. The Scheme is set out in Part 7, Section C of the Constitution.

### **Member Champions**

A Councillor who acts as an advocate or spokesperson for a specific area of the Council's business. Member Champions are appointed by the Elected Mayor.

### **Monitoring Officer**

The Officer appointed by the Council in accordance with section 5 of the Local Government and Housing Act 1989 to promote and maintain high standards of ethical conduct and to ensure the lawfulness and fairness of decision-making. The Monitoring Officer may personally appoint one or more Deputy Monitoring Officers who may act in place of the Monitoring Officer if they are unable to act owing to absence or illness. At the Council the Monitoring Officer is the Director of Legal, Democratic and Electoral Services.

### **Motion**

A Motion can be either:

- (a) A procedural matter affecting the course of a meeting.
- (b) A request made by a Councillor for a matter for which the Council has a responsibility, or which affects the Borough, to be discussed at a meeting of Full Council. A Motion can be to adopt a certain course of action, to do an act or to declare a particular attitude.

### **Municipal Year**

The period between the Annual Meetings of the Council, which are usually held in May.

### **Non-Executive Functions**

Those functions of the Council which the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 states are not to be the responsibility of the Elected Mayor and Cabinet along with those local choice functions which the Council has decided should not be the responsibility of the Elected Mayor and Cabinet.

### **Officers**

The staff employed by the Council to work for it and make decisions on its behalf.

### **Opposition Group(s)**

Opposition Group(s) is / are those Political Group(s) who have a minority in terms of the number of Councillors who form that Political Group when compared to the total number of elected Councillors.

### **Petition**

A formal written request appealing to the Council in respect of a particular cause or question. The Council operates a Petition scheme detailing how the Petitions can be submitted and the process by which they will be considered. This is set out in Part 6, Section D of the Constitution.

### **Planning Code of Practice**

A document which provides guidance on how Councillors and Officers should deal with planning matters. The aim of the Planning Code of Practice is to ensure that planning decisions are made openly, impartially, with sound judgement and for justifiable reasons.

### **Policy Framework**

See Budget and Policy Framework

### **Political Assistant**

An Officer of the Council who is appointed specifically to provide assistance to members of a Political Group or the Elected Mayor. The Local Government and Housing Act 1989 and the The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002 set out the framework regulating the appointment and conduct of Political Assistants for Political Groups and the Elected Mayor respectively.

### **Political Balance Rules**

The rules set out in the Local Government and Housing Act 1989 which direct how Political Groups are to be proportionately represented on the Council's Committee, Sub-Committees and certain other bodies.

### **Political Group**

A group of two or more Councillors who have given notice to the Chief Executive that they wish to be treated as a political group and who have indicated the name by which they are to be known and the person who is to act as its leader.

### **Portfolio**

The responsibilities or roles allocated to a Cabinet Member by the Elected Mayor.

### **Predetermination**

Predetermination occurs where a decision-maker approaches a decision with a mind which is closed to the merits of any arguments for or against that decision.

### **Proper Officer**

An Officer appointed in accordance with section 270(3) of the Local Government Act 1972 to carry out specified actions and duties on behalf of the Council. A list of the Council's Proper Officers can be found in Part 8, Section A of this Constitution.

### **Protocol**

A document forming part of the Constitution which provides guidance on how individuals interact with each other or how things should operate.

### **Glossary of Terms Found in the Constitution**

**Quorum**

The minimum number of people who have to be present before a meeting can take place. The quorums for Full Council and Cabinet are set out in the relevant procedure rules in Part 4, Sections A and B of this Constitution. The quorums for Committees and Sub-Committees are set out in the relevant terms of reference in Appendix 3 of this Constitution.

**Reserve**

A sum set aside for future spending where the timing and amounts are unknown.

**Returning Officer**

The person who is responsible for arranging elections and who formally announces the results.

**Revenue Expenditure**

Day to day running costs. Revenue expenditure is financed out of the revenue budget which is set every year.

**Scheme of Delegation**

A document which sets out which powers / functions have been delegated by the Elected Mayor or Council and explains the limitation on the exercise of those powers / functions. The Schemes of Delegation may be general, which apply across the Council, or specific to Officers.

**Scrutiny Commission(s)**

Those bodies which have been appointed by Council to discharge the overview and scrutiny functions as set out in the Local Government Act 2000. The Commissions hold the Executive to account through consideration of decisions and undertake policy reviews of matters that affect the borough's residents. The findings of the Commissions can be reported to Cabinet, Full Council or to an outside partner. The Commissions undertake functions relating to particular themes and service areas as set out in their terms of reference. The membership of the Commissions is politically balanced and consists of Councillors who are not Cabinet Councillors.

**Scrutiny Panel**

The Scrutiny Panel has been established to co-ordinate and oversee the work of the Scrutiny Commissions and which is responsible for considering Call-Ins.

**Secretary of State**

The title typically held by Cabinet Ministers in charge of Government Departments, for example the Secretary of State for Foreign Affairs. There are currently 16 different Secretaries of State.

**Section 151 Officer**

The Officer appointed in accordance with section 151 of the Local Government Act 1972 who has responsibility for the administration of the financial affairs of the authority. This position is also known as the Chief Finance Officer. The Section 151 Officer is the Group Director, Finance and Corporate Resources.

**Speaker, the**

The Speaker of Hackney Council is the first citizen of the borough and, as such, will normally carry out the ceremonial duties of the Council. In addition to their roles and duties as a Councillor, the Speaker will have the additional responsibilities set out in Article 6 of this Constitution. The Speaker is elected by Full Council at the Annual Meeting. The Speaker may not be a member of Cabinet.

**Statutory Deputy Mayor**

A member of the Cabinet appointed by the Elected Mayor to act as their deputy. In specified circumstances, the Statutory Deputy Mayor may exercise any and all of the powers of the Elected Mayor.

**Sub-Committee**

A group of Councillors (including where appropriate co-opted members) appointed by a Committee to take responsibility for one or more aspects of its functions.

**Task & Finish Group**

A small working group of interested Councillors who review specific issues of concern within a designated time frame. Task & Finish Groups report to the Committee or Commission that established them.

**Terms of Reference**

A written document setting out the responsibilities and boundaries of a particular Committee or Sub-Committee.

**Vice-chair**

The person appointed to preside at meetings in the absence of the Chair.

**Virement**

The movement of funds during the course of a financial year from one area of expenditure to another.

**Ward**

A subdivision of the borough. The London Borough of Hackney has 21 Wards and the electors in each ward elect 2 or 3 Councillors to represent them.

## **Part One - Your Council**

**Section A - An Overview of the London Borough of Hackney**

**Section B - Principles of Decision Making**

**Section C - Citizens' Rights**

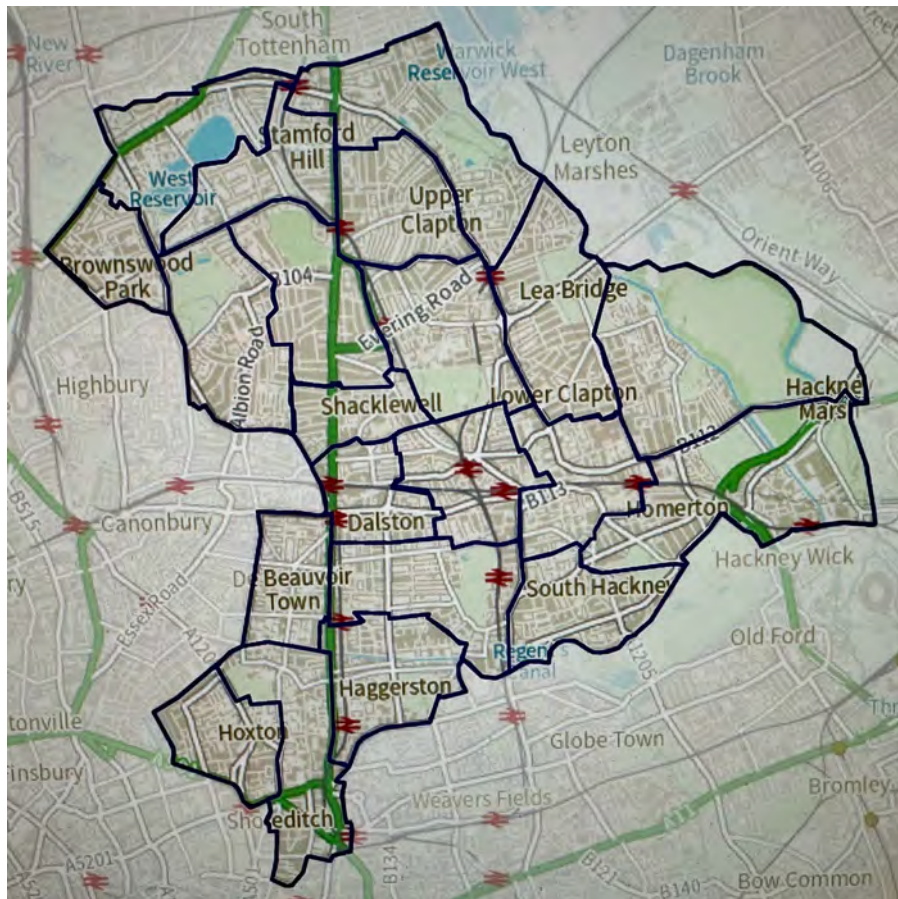


## Part One - Your Council

### Section A - An Overview of the London Borough of Hackney

#### The London Borough of Hackney

- 1.1 The London Borough of Hackney is in the north east of London and made up of the former metropolitan boroughs of Stoke Newington, Shoreditch and Hackney. Our neighbouring boroughs are; Haringey to the north; the boroughs of Newham and Waltham Forest to the east and north east; the City of London Corporation and the borough of Tower Hamlets to the south and south east; and the borough of Islington to the west.
- 1.2 Hackney is divided into 21 areas, called wards. 15 of the borough's wards elect 3 Councillors each. 6 wards elect 2 Councillors each.



## The Council

- 1.3 The Council is made up of the Elected Mayor and 57 Councillors who are elected every four years. Together they are known as “Full Council”. The Elected Mayor is democratically accountable to residents of the borough as a whole. Councillors are democratically accountable to residents of their ward. You can find details of the Elected Mayor and Councillors, along with the parties and wards they represent, on the Council’s website [link inserted].
- 1.4 The legal name for the authority is ‘The Mayor and Burgesses of the London Borough of Hackney’. We use the phrase ‘the Council’ to refer to this legal entity.

## Elected Mayor and Councillors

- 1.5 The Elected Mayor and all Councillors will maintain the highest standards of conduct and ethics, in accordance with the Council’s adopted Code of Conduct and the other Codes and Protocols adopted by the Council.
- 1.6 The Elected Mayor and all Councillors will
- (a) Act as a ‘corporate parent’ to Hackney’s looked-after children and care leavers;
  - (b) Contribute to the good governance of the authority;
  - (c) Actively encourage community participation and resident involvement in decision making;
  - (d) Effectively represent the interests of communities and, in the case of Councillors, individual residents in their own ward;
  - (e) Respond to residents’ enquiries and representations fairly and impartially
  - (f) Protect and, if possible, enhance the natural environment to the benefit of the borough and its residents and act to mitigate and ensure resilience to climate change in recognition of the Council’s declared climate emergency
  - (g) Provide community leadership and work for the good of the borough with local, regional and national organisations
  - (h) Be available to represent the Council on other bodies and attend meetings of the bodies to which they are appointed or, if they are unable to attend, present their apologies.

## **The Speaker**

- 1.7 The Speaker is the “first citizen” of the borough and acts as an ambassador for the Council locally, regionally and nationally. They are responsible for the ceremonial duties of the Council, which may include opening community buildings, welcoming visitors to the Town Hall and attending various community events. The Speaker is elected at the Annual Meeting of the Council and chairs meetings of the full Council.

## **The Elected Mayor and Cabinet**

- 1.8 The Elected Mayor is the political leader of the Council and is directly elected by those residents in the borough who are on the electoral roll. They are responsible for the appointment of the Statutory Deputy Mayor. They also appoint Councillors to serve on the Cabinet. The Elected Mayor may also appoint Councillors to serve as Deputy Cabinet Members and Mayoral Champions.
- 1.9 The Cabinet proposes priorities to the Council and suggests how resources should be used to fund these. The Cabinet is also responsible for the development of Council policies. These documents are collectively known as the Budget and Policy Framework. Once Full Council has approved the documents, Cabinet must ensure that any decisions made comply with the Budget and Policy Framework. If Cabinet wishes to make a decision outside the budget and policy framework this must be referred to Full Council.

## **Council Committees and Sub-Committees**

- 1.10 Full Council has a legal duty to perform certain responsibilities (also called functions) and Cabinet cannot perform those responsibilities. You can find out more details of which responsibilities fall to Full Council and which fall to Cabinet in Part 3 of this Constitution. Most of these responsibilities are delegated, or given, to Officers or to Council Committees or Sub-Committees.
- 1.11 The terms of reference of the Council’s Committees and Sub-Committees are set out in Appendix 3 of this Constitution.

## **Overview and Scrutiny**

- 1.12 Good governance requires effective Scrutiny arrangements. These ensure appropriate checks and balances on the exercise of powers, as well as value for money and best practice.
- 1.13 The Scrutiny Panel and Scrutiny Commissions are entitled to review and scrutinise all the Council's work. They do the same for work done by other organisations working in partnership with the Council. In particular, they are responsible for ensuring the effectiveness of Cabinet. They review matters before, during or after any decision has been made. They also review serious issues affecting the work of the Council or its citizens. This usually happens via an inquiry process and may lead to reports and recommendations being made to Cabinet and/or Full Council. Cabinet or Full Council may also consult Scrutiny Commissions on the development of policy or budget proposals.
- 1.14 The Scrutiny Panel co-ordinates and oversees the scrutiny function of the Council and provides support to the work of the Scrutiny Commissions. The Scrutiny Panel is responsible for considering any call-in of an executive decision that has recently been made by the Cabinet or under delegated authority by an Officer. You can find out more information about call-ins in Part 4, Section E of this Constitution.

## **Ward Forums**

- 1.15 Ward Forums provide an opportunity for effective engagement between ward Councillors and local citizens. They enable local discussion and locally developed plans to make a difference to their areas.
- 1.16 Ward Councillors run Ward Forums in each ward area supported by Officers. All Ward Forum meetings are held in public at a venue within the ward area.

## **Officers**

- 1.17 Any person who works for the Council to deliver services. It can include employees, contractors, consultants and agency staff. Officers advise and support Members, implement their decisions and manage the day-to-day delivery of services. Most decisions and actions taken by the Council are taken by Officers under the Council's arrangements for delegation of powers.

1.18 Some Officers have specific and separate legal duties to ensure that the Council acts within the law and uses its resources wisely. These officers are known as “Statutory Officers” or “Proper Officers” and may have specific legal titles in addition to their normal job titles.

### **The Constitution**

1.19 The Council is legally required to have a Constitution. This Constitution sets out how the Council operates, how decisions are made and the Council’s procedures. The Council follows its procedures so that decisions are taken in an efficient, transparent and accountable way. Some of these procedures are required by law whilst others are a matter of choice for the Council.

1.20 The Constitution may be amended by Full Council or the Monitoring Officer from time to time. More information about the Monitoring Officer’s role can be found in Part 8, Section C of this Constitution. Information about when the Monitoring Officer can amend the Constitution can be found in Article 15 of Part 2 of the Constitution.

## **Part One - Your Council**

### **Section B - Principles of Decision Making**

This Section explains how the Council makes decisions.

- 1.1 The Elected Mayor, Councillors and Officers must familiarise themselves with the controls and principles set out in this Section. They must be satisfied that they comply with them every time they make a decision. They must also be able to demonstrate this.

#### **The Correct Decision Maker**

- 1.2 Each decision must be made by the most appropriate person or body who has authority to make the decision.
- 1.3 Certain decisions must be made either by Full Council or its committees, whilst others are made by the Elected Mayor / Cabinet. You can find out more information about which body is responsible for making decisions in Part 3 of this Constitution. Decisions may also be delegated to Officers. More information about delegations can be found in Part 3 of this Constitution.
- 1.4 Occasionally it may be unclear who has authority to make a decision. When this happens, the Legal and Governance Service must provide advice.

#### **Avoiding Conflicts of Interest and Bias**

- 1.5 Individual decision makers must avoid potential or perceived conflicts of interest. They should also observe any rules that govern Interests and Predetermination.

#### **Best Interests and Best Value**

- 1.6 Decision makers must act in the best interests of the communities of the London Borough of Hackney. They should take the option that will deliver the best value for money and will result in the most effective and efficient use of resources.

## **Compliance with the Law, Guidance and Codes of Practice**

- 1.7 All decisions must be made in accordance with the law, including ensuring that any procedural steps are followed. In addition, decision makers must have regard to any guidance and codes of practice that may apply. Where the decision maker is affiliated to a professional body that operates a code of conduct and sets professional standards, they must also comply with these.

## **The Budget and Policy Framework**

- 1.8 All decisions must be made in accordance with the Budget and Policy Framework set by Council. This includes Directorate and Service budgets, business plans and any other policies, arrangements, procedures, rules, practices or protocols that are in force when a decision is made.
- 1.9 If any decision maker proposes to make a decision which is, or which the Monitoring Officer or Chief Finance Officer advise is, not in accordance with the Budget and Policy Framework then that decision must (unless any exceptions set out by Council apply) be referred to Full Council. More information on the Budget and Policy Framework, the Financial Procedure Rules and Contract Standing Orders, is set out in Part 4, Section C and Part 5 of this Constitution.
- 1.10 The Scrutiny Panel also has powers in respect of decisions which have or will be made which they consider to be contrary to the Budget and Policy Framework. These powers include requiring reports in respect of decisions made or to suspend, subject to review, decisions that are yet to be made. More information on the Scrutiny Panel's powers is set out in Part 4, Section D of this Constitution.

## **Considering Options and Impacts**

- 1.11 Decision makers must identify and evaluate any options that may be available. They need to assess the likely impacts of each option, with particular regard to human rights and the public sector equality duty.

## **Sustainability and Climate Change**

- 1.12 Decision makers must consider the impact of the proposed decision on sustainability and climate change, including any environmental benefits and disbenefits, taking into account the Council's declared climate emergency.

## **Equalities**

1.13 Decision makers must ensure that they consider how the decision will affect people who have protected characteristics under the Equality Act. The characteristics which are protected under the Act are age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation.

## **Consultations**

1.14 Decision makers must ensure that any consultations are properly undertaken at the appropriate time and in accordance with relevant law and guidance. Decision makers should carefully consider what the most appropriate method for undertaking any required consultation might be.

## **Evidence Based Decisions**

1.15 Decision makers must make rational, evidence based decisions, taking into account all relevant considerations. Decision makers must provide proper reasons for their decisions.

## **“Judicial” Decisions**

1.16 Decision makers acting in a ‘judicial’ capacity, for instance when determining appeals, must observe the principles of “natural justice”.

1.17 Natural justice requires that a fair, reasonable and transparent decision making procedure is followed. All parties must be afforded a fair opportunity to make representations. Procedures followed should eradicate any bias or conflict of interests (as far as possible) and full reasons for decisions should be given and recorded. Decision makers must ensure that they take all relevant information into account and disregard any information, considerations or circumstances that are not relevant to the matter that has to be decided.

## **Openness and Transparency in Decision Making**

1.18 Most meetings where decisions are made will be held in public. Further information on meetings that are held in public and meetings that are not is set out in Part 6, Section C of this Constitution. Decision makers need to understand and comply with these requirements.

1.19 All decision makers need to ensure that the processes they follow are as open and transparent as possible, particularly when decisions are made by



individuals or in meetings that are not open to the public. The aims, outcomes, options and assessed impacts, who was consulted (and when and how they were consulted), what information was taken into account and the reasons for decisions must be clear.

### **Notice of Decisions and Meetings and Record Keeping**

- 1.20 An important part of ensuring openness and transparency in decision making is making sure that appropriate notice is given that decisions are going to be taken, and that appropriate records are kept of decisions taken and the reasons for them.
- 1.21 The nature of any notice or decision record required will depend on the type of decision in question and is, in most cases, a matter of judgement for the decision maker. There are, however, particular requirements for certain types of decisions.

### **Decision Reports**

- 1.22 Formal reports are used to record all decisions taken by Council, Cabinet and committees.
- 1.23 Every report will list those documents (called background papers) relating to the subject matter of the report which:
- (a) Disclose any facts or matters on which the report or an important part of the report is based; and
  - (b) Which have been relied on to a material extent in preparing the report.
- 1.24 In addition, all reports to the Cabinet on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and relevant Scrutiny Committees, and the outcome of that consultation.
- 1.25 Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.
- 1.26 Group Directors may initiate reports on any matter where they believe the Council, Cabinet, committee or sub-committee should make a decision or should be informed.
- 1.27 Where such a report affects another Service, the appropriate Group Director must be consulted.

1.28 The appropriate Cabinet member shall be consulted prior to the publication of a Cabinet report which concerns their portfolio.

1.29 Reports shall communicate all relevant factual information and professional opinions, together with appropriate recommendations.

## Part One - Your Council

### Section C - Citizens' Rights and Responsibilities

This Section explains some of the rights and responsibilities of citizens. The word "Citizen" is used in this document to describe everyone who lives in, works in, or visits the London Borough of Hackney.

#### **Citizen's Rights**

- 1.1 Citizens have a number of rights when receiving services from the Council, for example when making planning or licensing applications or seeking housing benefit. These rights are not covered in this Constitution. Citizens can get advice about these rights from the relevant Council department, the Citizens' Advice Bureau or a solicitor.
  
- 1.2 Citizens have the right to:-
  - (a) Vote at local elections and referenda if they are registered as an elector on the electoral roll;
  - (b) Contact their local Councillor or the Elected Mayor about any relevant matters of concern to them;
  - (c) Obtain a copy of the Constitution;
  - (d) Find out, from the Forward Plan, what major executive decisions will be decided by the Cabinet or by Officers and when;
  - (e) Attend meetings of the Cabinet, particularly where key decisions are being discussed or decided, except where, for example, personal or confidential matters are being discussed;
  - (f) Attend meetings of the Council, and its committees, except where, for example, personal or confidential matters are being discussed;
  - (g) See reports and background papers and any record of decisions made by the Council and the Cabinet;
  - (h) Petition to request a referendum on a change in the Council's governance arrangements if they are registered as an elector on the electoral roll;
  - (i) Contribute to investigations by the Scrutiny Commissions;
  - (j) Complain to the Council about a problem with a Council service;
  - (k) Complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should do this only after using the Council's own complaints procedure;
  - (l) Complain to the Council's Monitoring Officer if they have evidence which they think shows that the Elected Mayor, a Councillor or a co-optee has not followed the Council's Code of Conduct;

- (m) Inspect the Council's accounts if they are resident in the borough or an interested person and make their views known to the external auditor
- (n) Submit petitions or form a deputation if they are resident in the borough;
- (o) Participate in Tenant and Residents' Associations when acting as open forms if they live in a property covered by a Tenant and Residents' Association;
- (p) Participate in Ward Forums when they are a resident of that ward; and
- (q) Respond to any consultation issued by the Council.

### **Citizen's Responsibilities**

1.3 Being a Citizen also carries with it a number of responsibilities:

- (a) Assisting the Council with the compilation of the electoral register;
- (b) Exercising their right to vote in local, regional and national elections;
- (c) Respecting and valuing the diversity of communities which make up the London Borough of Hackney;
- (d) Treating other Citizens with respect;
- (e) Meeting obligations by paying any rent, Council Tax, National Non-Domestic Rates or other charges which are owed to the Council; and
- (f) Ensuring that their children receive an appropriate education.

1.4 When dealing with the Council, Citizens are expected to conduct themselves in an appropriate and respectful manner and must not

- (a) Engage in violent, abusive or threatening behaviour or language to anyone, including elected members and officers of the Council;
- (b) Use language or make statements that are racist, derogatory or offensive; or
- (c) Cause damage to Council property or property owned by elected members and officers of the Council.

## **Part Two - Articles of the Constitution**

### **Article 1 - The Constitution**

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

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

#### **The Constitution**

1.2 This Constitution, and all its appendices, is the Constitution of the London Borough of Hackney.

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

1.3 The purpose of the Constitution is to:

- (a) Enable the Council to provide clear leadership to the community in partnership with Citizens, businesses and other organisations;
- (b) Support the active involvement of Citizens in the process of local authority decision-making;
- (c) Help Councillors to represent their constituents effectively;
- (d) Enable decisions to be taken efficiently and appropriately;
- (e) Create a powerful and effective means of holding decision-makers to public account;
- (f) Ensure that no one will review or scrutinise a decision in which they were directly involved;
- (g) Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (h) Provide a means of improving the delivery of services to the community.

### **Interpretation and review of the Constitution**

- 1.4 Where the Constitution permits the Council to choose between different courses of action, the Council will always choose the option which it thinks is closest to the purposes stated above.
- 1.5 Full Council will monitor and evaluate the operation of the Constitution.

## Part Two - Articles of the Constitution

### Article 2 - Citizens

#### Council responsibilities

2.1 The Council recognises and values the rich cultural diversity of the citizens who work, live or study in the borough and is committed to working in partnership with the communities of Hackney to improve existing services and develop new services to meet their needs. The Council will aim to achieve this by: -

- Working in partnership with the following groups:
  - The Community Strategy Partnership
  - Tenant and Residents' Associations
  - Voluntary sector and community groups
  - Local business organisations and relevant partners;
- Consulting all sections of the community on matters that affect them. The Council will use a variety of methods to consult with the community;
- Listening to the views of all sections of the community and developing more effective ways of working with local people, particularly those in hard to reach groups such as young people and global majority ethnic communities;
- Respecting the Citizens of the borough, and valuing and promoting the cultural and economic diversity of the borough.

#### Citizens' rights

2.2 Citizens' rights are set out in Part One, Section C of this Constitution. Further information on the rights of Citizens to obtain information is set out in Part 6, Section A of this Constitution.

#### Citizens' participation in Council business

2.3 The Council is committed to supporting Citizens in contributing to the Council's decisions.

2.4 Citizens have the right to:

- (a) Ask questions of the
  - (i) Elected Mayor;
  - (ii) Councillors of the Cabinet;
  - (iii) Deputy Cabinet Members;

- (iv) the Chair of any Committee or Sub-Committee; and
  - (v) Councillors as representatives on outside bodies
- at Full Council and Cabinet meetings;
- (b) Speak on agenda items at Planning Sub-Committee and Licensing Sub-Committee meetings where they have made representations;
  - (c) Contribute to the work of the Scrutiny Panel and Commissions;
  - (d) Form part of a deputation to a Full Council or Cabinet in accordance with the rules set out in Part 6, Section E of this Constitution;
  - (e) Participate in Ward Forums when they are a resident of that ward;
  - (f) Take up one or many roles within the Council, such as a co-opted member;
  - (g) Respond to consultations and participate in a focus group or stakeholder group, or attend a roadshow;
  - (h) Present petitions in accordance with Part 6, Section D of this Constitution. Citizens on the electoral register may also present a petition to request a referendum to change how the Council operates;
  - (i) Submit an expression of interest on behalf of a voluntary or community body to provide, or to assist in providing, a relevant service on behalf of the Council; and
  - (j) Nominate, on behalf of a voluntary or community body, land of community value to be included on the Council's list of assets of community value.

## **Complaints**

2.5 The views of Citizens about how the Council is performing are important and valued by the Council.

2.6 Citizens have the right to:

- (a) Contact the Elected Mayor and Ward Councillors;
- (b) Make a formal complaint using the Council's complaints procedure;
- (c) Make a complaint to the Ombudsman after using the Council's own complaints scheme;



- (d) Complain to the Monitoring Officer about a breach of the Councillor Code of Conduct.

### **Citizens responsibilities**

- 2.7 The responsibilities of Citizens are set out in Part One, Section C of this Constitution.

**Part Two - Articles of the Constitution**  
**Article 3 - Members of the Council**

**Composition and eligibility**

3.1 **Composition** - The Council comprises the Elected Mayor and 57 Councillors. Councillors will be elected by the voters in accordance with a scheme drawn up by the Electoral Commission and approved by the Secretary of State.

3.2 **Eligibility** – To stand for election as Elected Mayor or Councillor you must:

- (a) Be at least 18 years old; and
- (b) Be a British citizen, an eligible Commonwealth Citizen or a citizen of any member state of the European Union;

You must also meet at least one of the following four qualifications:

- (a) You are, and will continue to be, registered as a local government elector for the borough from the day of your nomination onwards;
- (b) You have occupied, as owner or tenant, any land or premises in the borough for the whole of the 12 month period before the day of nomination and the day of election;
- (c) Your main or only place of work has been in the borough for the whole of the 12 month period before the day of nomination and the day of election; or
- (d) You have lived in the borough during the whole of the 12 month period before the day of nomination and the day of election.

A person cannot hold office as both the Elected Mayor and Councillor. If you are in any doubt about whether you are eligible to stand as the Elected Mayor or as a Councillor, you should contact the Council's Electoral Services department for advice.

**Election and terms of office of Councillors**

3.3 The local election of Councillors will usually be held on the first Thursday in May every four years. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next local election unless they are disqualified, resign or die.

## **Groups**

- 3.4 The political party, or combination of parties, with the largest number of members shall form the Majority Group.
- 3.5 The political party, or combination of parties, with the largest number of members who are not members of the Majority Group shall form the Principal Opposition Group. Other political parties will be Minority Opposition Groups.

## **Rights and responsibilities of Members**

- 3.6 The Elected Mayor and all Councillors will:
- (a) Act collectively as ultimate policy-makers;
  - (b) Communicate the Council's work and role to Citizens and promote their understanding of the Council's work;
  - (c) Represent and become advocates for their communities and, having regard to the rich cultural diversity of the borough, bring their views into the Council's decision-making process;
  - (d) Contribute to the good governance of the area and actively encourage community participation and Citizen involvement in decision making;
  - (e) Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - (f) Balance different interests identified within the ward and borough and represent the ward and borough as a whole; dealing with these interests with integrity and with regard to the Code of Conduct contained in Part 7, Section A of the Constitution;
  - (g) Be involved in decision-making;
  - (h) Be available to represent the Council on other bodies;
  - (i) Maintain the highest standards of conduct and ethics;
  - (j) Have rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law;
  - (k) Not make public information which is confidential or exempt without the consent of the Council;

- (l) Not divulge information given in confidence to anyone other than a Councillor or Officers entitled to know it;
- (m) Be entitled to join a political group of their choice; and
- (n) Be called a member of a party group, providing the requirements of section 15 of the Local Government Act 1989 are complied with, which requires that a party group must consist of at least two Councillors.

### **Rights and responsibilities specific to non-executive Members**

3.7 In addition to the other rights and responsibilities set out above, non-executive Members have the right to:

- (a) Act as a check and balance on the powers and actions of the Elected Mayor and Cabinet through serving as a member of the Scrutiny Panel and Scrutiny Commissions, providing that any rules on political balance which apply to that Panel or Commission are maintained;
- (b) Call-in any decision of the Cabinet which is capable of being called in as set out in Part 4, Section E of the Constitution;
- (c) Call an extraordinary Full Council meeting as set out in Part 4, Section A of the Constitution;
- (d) Serve as a member of any non-executive Committee, providing that any rules on political balance which apply to that Committee are maintained;
- (e) Ask a question on a report to the Cabinet or introduce a deputation; and
- (f) Receive agendas, minutes and reports of meetings of the Cabinet as set out in Part 7, Section D of the Constitution.

### **Election of the Mayor**

3.8 The ordinary election of the Elected Mayor will be at the time of the local Council elections. The term of office of the Elected Mayor will be 4 years. They will take office on the fourth day after their election and will continue in office until the fourth day after their successor is elected, unless they are disqualified, resign or die.

### **Role of the Elected Mayor**

3.9 The Elected Mayor shall, in addition to the rights and responsibilities for all Councillors contained in Article 3.6 above, carry out the roles and functions contained in Article 5.

### **Conduct**

3.10 Councillors and the Elected Mayor must comply with the requirements of the Councillor Code of Conduct and observe the Protocol for Elected Mayor & Councillor/Officer Relations as set out in Part 9, Section C of this Constitution.

3.11 Members of the Licensing Committee and Planning Sub-Committee must also comply with the requirements of the Licensing and Planning Codes of Practice respectively.

### **Allowances**

3.12 Councillors and the Elected Mayor are entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 7, Section C of this Constitution.

## Part Two - Articles of the Constitution

### Article 4 - Full Council

#### Role of Full Council

- 4.1 Full Council comprises the Elected Mayor and the 57 Councillors who represent the areas of the London Borough of Hackney, called wards.
- 4.2 Full Council determines the Council's Budget and Policy Framework, and agrees the strategic direction for the Council which is then implemented by Cabinet and monitored by Overview and Scrutiny. Further explanation of the term Budget and Policy Framework is set out in the Glossary and Part 4, Section C of this Constitution.
- 4.3 The Full Council meeting is the assembly, where Councillors speak up for and on behalf of their constituents. It is an opportunity for deliberation and political debate on issues of concern on which the Council should express a view, and also an opportunity for Councillors from all political parties to come together as the elected voice of the borough.
- 4.4 Full Council meetings provide the opportunity for Citizens to engage and hold the Elected Mayor and Councillors to account by asking questions and making deputations as set out in Part 6, Section E of this Constitution.
- 4.5 The frequency of the meetings of Full Council is determined at the Annual Meeting.

#### Full Council meetings

- 4.6 There are three types of Full Council meetings:
  - (a) The Annual Meeting
  - (b) Ordinary meetings
  - (c) Extraordinary meetings

and they will be conducted in accordance with the Council Procedure Rules as set out in Part 4, Section A of this Constitution.

#### Functions of Full Council

- 4.7 The following functions will be exercised by Full Council only: -
  - (a) Adopting and changing the Constitution in accordance with Article 15;

- (b) Approving or adopting the Budget and Policy Framework, the annual Council Tax requirements, and any application to the Secretary of State responsible for housing in respect of any housing land transfer;
- (c) Making decisions about any matter relating to the discharge of an executive function covered by the Budget and Policy Framework, where the Cabinet is minded to make a decision in a manner which would be contrary to the policy framework or contrary or not wholly in accordance with the budget;
- (d) Establishing Committees, Panels, Boards and Commissions (other than Cabinet Committees), agreeing their terms of reference, making appointments to them subject to the legal rules regarding proportionality between different political groups and appointing the Chair and Vice-Chair;
- (e) Appointing representatives to outside bodies, unless the appointment is a decision of the Executive, or has been delegated by Full Council;
- (f) Adopting or revising the Members' Allowances Scheme;
- (g) Changing the name of the area or any part of the area;
- (h) Conferring the title of Honorary Freeman or granting the Freedom of the Borough;
- (i) Considering petitions which are referred to Full Council;
- (j) Confirming the appointment, dismissal, redundancy or early retirement of the Head of Paid Service;
- (k) Confirming appointments to the roles of Chief Finance Officer and Monitoring Officer;
- (l) Determining the level of disciplinary action or dismissal of specified Statutory Officers;
- (m) Adopting a Code of Conduct for Councillors and the Elected Mayor;
- (n) Appointing the Independent Person;
- (o) Approving the annual Pay Policy Statement which includes details of the pay of Chief Officers; the pay of the Council's lowest paid employees, and the relationship between the pay of Chief Officers and the pay of its employees who are not Chief Officers;

- (p) Making, amending, revoking, re-enacting or adopting Byelaws and promoting or opposing the makings of local legislation or personal bills;
- (q) All local choice functions as set out in Appendix 2 of this Constitution which Full Council has decided should be undertaken by itself rather than by Cabinet, a Committee, a Sub-Committee or an officer; and
- (r) All other matters which must be reserved to Full Council by law.

### **Policy framework**

4.8 The policy framework documents, plans and strategies shall consist of the following:

**(a) Mandatory (as required by law)**

Local Transport Plan under section 108(3) Transport Act 2000

Local Development Framework and Local Area Action Plans under section 15 Planning and Compulsory Purchase Act 2004

Licensing Authority Policy Statement under section 5 Licensing Act 2003

Gambling Policy Statement under section 349 Gambling Act 2005

Crime & Disorder Reduction Strategy under sections 5 and 6 Crime and Disorder Act 1998

Youth Justice Plan under section 40 Crime and Disorder Act 1998

**(b) Discretionary (as recommended by the Secretary of State )**

Strategic Plan

**(c) Discretionary (as decided by Full Council)**

Housing Strategy

Equalities Statement

4.9 The policy framework plans and strategies will vary, from time to time in response to legislation. Any change to the framework which is necessary because of a change in legislation will be incorporated into this Constitution by the Monitoring Officer without the need for the agreement of Full Council.



## **Budget**

- 4.10 The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

## **Housing Land Transfer**

- 4.11 A Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State responsible for housing for a programme of disposal of 500 or more properties to a person under the Leasehold Reform Housing and Urban Development Act 1993 (as amended) or the disposal of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

## **Responsibility for functions**

- 4.12 The Monitoring Officer will maintain the tables in Appendices setting out the responsibilities for the Council's functions. Any change to the functions arising from a change in legislation will be incorporated into this Constitution by the Monitoring Officer without the need for the agreement of Full Council.

## Part Two - Articles of the Constitution

### Article 5 - The Executive (known as the Elected Mayor and Cabinet)

- 5.1 In accordance with the Local Government Acts, and following a local referendum, the Council operates with an Elected Mayor and Cabinet model of governance.
- 5.2 The Elected Mayor and Cabinet shall carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution. This is explained further in paragraphs 5.4 and 5.5 below. The Elected Mayor and Cabinet shall also be responsible for exercising the general power of competence conferred by the Localism Act 2011.

#### Form and composition

- 5.3 The Cabinet will consist of the Elected Mayor together with at least 2, but not more than 9, Councillors appointed to the Cabinet by the Elected Mayor. One of the appointed Councillors will be Deputy Mayor as defined by legislation, known as the Statutory Deputy Mayor. The Elected Mayor will advise the Annual Meeting who they have nominated to the Cabinet and who has been appointed to be the Statutory Deputy Mayor.

#### Role and functions of the Elected Mayor

- 5.4 The Elected Mayor is entitled to carry out all of the Council's executive functions and retains this entitlement whether they choose to delegate any or all of these functions. The Elected Mayor may choose to delegate functions to be carried out by the Cabinet collectively, or by a member of the Cabinet, or by a committee of the Cabinet, or by an Officer of the Council.
- 5.5 The precise nature of the Elected Mayor's role and functions will depend on the choice of the office holder and their policies but will include the following:
- (a) To give overall political direction to the Council and, in drawing up policies for the Council, seek to balance the interests of the diverse community;
  - (b) To set priorities that contribute to the life and development of the borough;
  - (c) To appoint the Cabinet and the Statutory Deputy Mayor;
  - (d) To determine a scheme of delegation for executive functions;
  - (e) To chair meetings of the Cabinet;

## Part Two - Articles of the Constitution

### Article 5 - The Executive (known as the Elected Mayor and Cabinet)

- (f) To represent the Council on such external bodies as they decide;
- (g) To represent the interests of Hackney to the government and other partners and stakeholders;
- (h) To promote and improve the economic, social and environmental well-being of Hackney and its inhabitants;
- (i) To have regard to the impact that any policies that they and the Council promote might have on sustainability and climate change, including any environmental benefits and disbenefits, taking into account the Council's declared climate emergency;
- (j) To lead and speak for Hackney as the principal public spokesperson and act as a champion for the whole borough;
- (k) To promote the rich cultural diversity of Hackney as one of the key strengths of the borough;
- (l) To ensure the Council is an effective partner to other agencies in the development of Hackney;
- (m) To be accessible to Citizens when carrying out their duties;
- (n) To act with the highest degree of integrity in accordance with the Councillor Code of Conduct;
- (o) To take action in emergencies, in consultation with the Chief Executive.

### **The Elected Mayor as a member of Full Council**

5.6 The Elected Mayor will be treated as a member of Full Council unless the law or context requires otherwise. In particular the Elected Mayor:

- (a) Is subject to the same rules about qualification and disqualification as any Councillor;
- (b) Must follow the rules about disclosure of interests and comply with the Councillor Code of Conduct set out in Part 7, Section A of this Constitution;
- (c) May be a member of, attend and speak at any meeting of Full Council, its committees and sub-committees, except the Standards Committee and the Scrutiny Panel and Commissions. The Elected

Mayor may, however, be invited to address the Standards Committee and the Scrutiny Panel and Commissions;

- (d) Is subject to the Members' Allowances Scheme set out in Part 7, Section C of the Constitution; and
- (e) Is subject to the same rules about casual vacancy as apply to all Councillors.

The title of Mayor may only be used by the Elected Mayor.

### **Inability of the Elected Mayor to act**

- 5.7 If for any reason the Elected Mayor is unable to act, or the office of the Elected Mayor is vacant, the Statutory Deputy Mayor will act in their place until either the Elected Mayor is able to act or an election has been held.
- 5.8 If both the Elected Mayor and Statutory Deputy Mayor are unable to act or their offices are vacant at the same time, then Cabinet must act in the Elected Mayor's place, or arrange for a Councillor of the Cabinet to do so.
- 5.9 Where the Elected Mayor and Statutory Deputy Mayor are unable to act because of suspension from office or because they are unfit to act on health grounds, then an interim Elected Mayor may be appointed by Full Council and the provisions of Regulation 47 Local Authorities (Cabinet and Alternative Arrangements) (Modification of Enactments and Other Provisions) (England) Order 2001 will apply.

### **The Cabinet**

- 5.10 **Composition** – Only Councillors may be appointed to the Cabinet by the Elected Mayor. Cabinet Councillors cannot have substitutes. Neither the Speaker nor Deputy Speaker of the Council may be appointed to the Cabinet. Councillors of the Cabinet may not be members of the Scrutiny Panel or a Scrutiny Commission.
- 5.11 **Term of office** – Councillors of the Cabinet will hold office until their appointment is terminated by the Elected Mayor, they resign from the Cabinet or they are no longer a Councillor.
- 5.12 **Appointment by the Elected Mayor** – Subject to Article 5.3, the size and composition of the Cabinet will be solely a matter for the Elected Mayor to decide. They may choose to appoint Councillors from any political group or those not in a political group. The Cabinet need not reflect the political balance of the Council as a whole. The Elected Mayor will report their appointments to Full Council at the Annual Meeting.

#### **Part Two - Articles of the Constitution**

#### **Article 5 - The Executive (known as the Elected Mayor and Cabinet)**

- 5.13 **Removal from office** – The Elected Mayor will notify the Monitoring Officer and the next Full Council meeting of any changes to the Councillors appointed to the Cabinet.
- 5.14 **Inability of the whole Cabinet to act** – If all the Councillors of the Cabinet are unable to act for any reason, then Full Council will appoint an Interim Cabinet to discharge the relevant executive functions.

### **Cabinet Committees**

- 5.15 **Cabinet Procurement and Insourcing Committee (CPIC)** – The Committee has been authorised by Cabinet to give detailed consideration on all issues relating to procurement practice and policy and to award all high-risk contracts.
- 5.16 **Corporate Parenting Board (CPB)** – The Board is an advisory committee of Cabinet and oversees the implementation of the Corporate Parenting Strategy and Action Plan and monitors the quality and effectiveness of services to ensure they fulfil the Council's responsibilities and achieve good outcomes for children in care.
- 5.17 **Hackney Integrated Commissioning Board** – The Committee has been authorised by Cabinet to make decisions and manage pooled funds with the Integrated Commissioning Board in accordance with the Boards's terms of reference and schemes of delegation.

Detailed terms of reference for these committees and boards are set out in Appendix 3 of this Constitution.

### **Proceedings of Cabinet**

- 5.18 Proceedings of Cabinet meetings shall take place in accordance with the Cabinet Procedure Rules set out in Part 4, Section B of this Constitution.

### **Responsibility for functions**

- 5.19 The Elected Mayor will advise the Annual Meeting of their scheme of delegation. The scheme of delegation will set out which individual Councillors of the Cabinet, Committees, Officers or joint arrangements are responsible for the exercise of particular Cabinet functions. The Elected Mayor will notify the Monitoring Officer of any changes to the scheme within 48 hours of changes coming into effect.

## Statutory Deputy Mayor

- 5.20 **Appointment** - At the first Annual Meeting of Full Council after an election, the Elected Mayor will appoint one of the Councillors of the Cabinet to act as the Statutory Deputy Mayor.
- 5.21 **Term of office** – The Statutory Deputy Mayor will hold office until the end of the Elected Mayor’s term of office, unless they resign from the Cabinet or the office of Councillor, they resign as Statutory Deputy Mayor, or are removed by the Elected Mayor from the office of Statutory Deputy Mayor.
- 5.22 **Duties of the Statutory Deputy Mayor** – The Statutory Deputy Mayor, as referred to in paragraph 5.3 above, will deputise for the Elected Mayor or act in their absence and in this capacity will exercise all of the powers of the Elected Mayor. The Statutory Deputy Mayor will also serve on any bodies and undertake any tasks, or hold any positions or responsibility assigned to them by the Elected Mayor.
- 5.23 **Removal from office** – The Elected Mayor will notify the Monitoring Officer and the next Full Council meeting if they have appointed a new Statutory Deputy Mayor.

## Deputy Cabinet Members

- 5.24 The Elected Mayor may appoint any number of Deputy Cabinet Members who may attend and contribute to meetings of the Cabinet. Deputy Cabinet Members are not part of the executive of the Council to comply with the requirements of the Local Government Act 2000.
- 5.25 The role of Deputy Cabinet Member is to provide support to the Elected Mayor and Cabinet; their brief will be determined by the Elected Mayor. Deputy Cabinet Members are responsible to the Elected Mayor and Cabinet Members and can answer questions at Full Council and other meetings of the Council including scrutiny.
- 5.26 Deputy Cabinet Members have no voting rights at Cabinet meetings. The attendance of Deputy Cabinet Members does not count towards the quorum of a Cabinet meeting.
- 5.27 Deputy Cabinet Members are entitled to receive an allowance in accordance with the Members’ Allowance Scheme set out in Part 6, Section C of this Constitution.
- 5.28 The Monitoring Officer will maintain a list of Deputy Cabinet Members as notified by the Elected Mayor from time to time.

**Part Two - Articles of the Constitution**  
**Article 6 - The Speaker & Deputy Speaker**

- 6.1 The Speaker and Deputy Speaker are elected at the Annual Meeting and act as the Council's civic ambassadors. The Speaker is the London Borough of Hackney's 'First Citizen'.
- 6.2 The Speaker, and in their absence, the Deputy Speaker, has the following responsibilities:
- (a) Together with the Elected Mayor, to promote the Council as a whole and act as a focal point for the community;
  - (b) To promote public involvement in the Council's activities;
  - (c) To attend such civic, public and ceremonial functions as the Council and Elected Mayor determine appropriate;
  - (d) To be the guardian of the democratic process of the Council and the rights laid out in the Constitution;
  - (e) To uphold and promote the purposes of the Constitution and to interpret the Constitution on the advice of the Monitoring Officer, when necessary;
  - (f) To preside over meetings of the Full Council so that its business can be carried out efficiently, and having appropriate regard to the rights of elected members and the interests of the community;
  - (g) To ensure that Full Council meetings are a forum for a debate of matters of concern to the local community, and at which Councillors who are not Councillors of the Cabinet are able to hold the Cabinet to account;
  - (h) To be the Councillor with primary responsibility for twinning with other places which reflect the diversity of the borough. To take the lead, to support and participate in any twinning events or functions with other boroughs, organisations or individuals and promote new twinning arrangements.
- 6.3 Chains of Office will only be worn by the Speaker and Deputy Speaker when carrying out civic and ceremonial duties. No other elected member will wear Chains of Office.

## Part Two - Articles of the Constitution

### Article 7 - Overview and Scrutiny

The Scrutiny Panel and Scrutiny Commissions carry out the Council's overview and scrutiny function and are set up to hold the Elected Mayor and Cabinet to account. The role of scrutiny is non-adversarial and non-partisan. The Scrutiny Panel and Commissions act as a critical friend and provide challenge to decision makers at the Council as well as external agencies.

7.1 The Council must appoint at least one Overview and Scrutiny body to:

- (a) Hold the Elected Mayor and Cabinet to account by examining executive decisions that are about to be made, decisions which have been made but not yet implemented (known as the call-in process); and decisions which have been implemented (post-hoc review);
- (b) Review Policy Framework documents and policies more generally and make suggestions for improving them;
- (c) Contribute to continuous improvement of service delivery by considering performance, participation by citizens in the functions delivered by the service, value for money reviews and budget investigations;
- (d) Review and make recommendations on the discharge of regulatory functions;
- (e) Consider and make recommendations to Full Council and external partner stakeholder organisations on matters which have a direct bearing on the economic, social or environmental well-being of Citizens;
- (f) In the case of the Health in Hackney Scrutiny Commission, to review and scrutinise matters relating to the health service in the Council's area and to prepare reports and make recommendations in accordance with any Regulations and Directions made under the Health and Social Act 2001. The Health in Hackney Scrutiny Commission may, from time to time, decide to appoint a Joint Health Scrutiny Committee involving one or more other local authorities;
- (g) In the case of the Living in Hackney Scrutiny Commission, to review and scrutinise decisions made, or actions taken, by the Council or any responsible authority relating to crime and disorder. To prepare reports or make recommendations to Full Council and to provide



copies to the responsible authorities and any co-operating persons and bodies in accordance with the Police and Justice Act 2006;

- (h) Request information from relevant external partner authorities, invite interested parties to comment as appropriate and make recommendations.
- (i) Consider any referral by a Councillor under the Councillor Call for Action, and if considered appropriate to scrutinise decisions and/or actions taken in relation to a matter;
- (j) Consider any Petitions referred to it in accordance with Part 6, Section D of this Constitution.

7.2 The Scrutiny Panel and Commissions may make recommendations arising from such work to the Elected Mayor and Cabinet, Full Council and external partner / stakeholder organisations.

#### **Attendance by Elected Mayor, Cabinet Councillors and other persons**

7.3 The Scrutiny Panel and Commissions may require the Elected Mayor, Cabinet Councillors or Chief Officers to attend meetings of the Panel or Commissions to answer questions and may invite other persons to attend meetings of the Commissions.

7.4 The Elected Mayor, Cabinet Councillors or Chief Officers shall comply with any requirement to attend a meeting.

7.5 A Councillor must not be involved in scrutinising a decision in which they were directly involved.

7.6 A person is not obliged to answer any question. In addition a person is entitled to refuse to answer any question where the topic under discussion is the subject of legal proceedings.

#### **Role and Function of the Scrutiny Panel**

7.7 The Council shall appoint a Scrutiny Panel to coordinate and oversee the work of the Scrutiny Commissions.

7.8 The Scrutiny Panel will be responsible for establishing task-finish scrutiny panels and for considering a request made by any 5 non-executive Members for the call-in of a cabinet decision or a decision of the Joint Committee of the Fourth Growth Boroughs. The Scrutiny Panel's terms of reference are set out in Appendix 3 of the Constitution.

- 7.9 The Scrutiny Panel shall comprise 9 Members, who cannot be Members of the Cabinet. It shall include the Chairs and Vice-Chairs of the Scrutiny Commissions.
- 7.10 The Scrutiny Panel's Chair shall be a member of the Majority Group. Chairs of the Scrutiny Commissions are not eligible for the position of Chair of the Scrutiny Panel. The Vice-Chair of the Panel should be a member of the larger opposition party.
- 7.11 The Scrutiny Panel may invite the Elected Mayor and the Deputy Mayor to attend meetings of the Panel to assist in considering the scrutiny work programme, and how the Elected Mayor and Deputy Mayor can participate in the Panel's work programme. The Scrutiny Panel may also invite the Chairs of the Audit and Corporate Committees to assist in discharging the functions of the Panel.

**Role and function of the Scrutiny Commissions**

7.12 Full Council will appoint the following Scrutiny Commissions:

Commission	Scope
Living in Hackney Scrutiny Commission	Quality of life in local communities covering neighbourhoods, place, wellbeing and amenities.
Skills, Economy and Growth Scrutiny Commission	Prosperity of the borough and development, in particular economic development, employment and large-scale schemes.
Health in Hackney Scrutiny Commission	Health Services, Adult Social Services and Older People
Children and Young People's Scrutiny Commission	Children's Social Care Service, Hackney Education Service and Young People

7.13 The Children and Young People Scrutiny Commission shall include in its membership the following voting representatives:

- (a) One London Diocesan board for Schools (Church of England) representative;

- (b) One Roman Catholic Westminster Diocesan Schools Commission representative;
- (c) Two parent governor representatives: and the following non-voting representatives;
- (d) One Orthodox Jewish community representative;
- (e) One representative from the North London Muslim Community Centre;
- (f) One representative from the Free Churches Group;
- (g) One representative from the Hackney Schools Governors' Association; and
- (h) Up to five representatives from the Hackney Youth Parliament or Children in Care Council.

7.14 Within their terms of reference, the Scrutiny Commissions may:

- (a) Develop a rolling programme of scrutiny and review which shall be reviewed on a quarterly basis;
- (b) Have oversight of the Community Strategy for the purpose of contributing to policy development;
- (c) Review and/or scrutinise decisions or actions relating to the discharge of the Council's functions within its terms of reference, which may include reviewing decisions before they have been taken (policy development) or after they have been implemented (post-hoc review);
- (d) Consider a request made by any 5 non-executive Members for the call-in of a Cabinet decision where the request is referred to the Commission;
- (e) Make reports and or recommendations to the Cabinet for possible forwarding to Full Council and/or the Cabinet, and/or Corporate Committee and/or any Ward Forum with the discharge of any Council functions; and
- (f) Exercise responsibility for any resources made available to them.

## Specific functions of Scrutiny Commissions

7.15 The specific functions are: -

### Policy Development and Review

- (a) To assist Full Council and the Cabinet in the development of the budget and policy framework by in-depth analysis of policy issues;
- (b) To conduct research and consult with the community on policy issues and options available to the Council;
- (c) To liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working; and
- (d) To consult or question Councillors of the Cabinet and Chief Officers about their views on issues and proposals affecting the area.

### Scrutiny

- (e) To review and scrutinise executive decisions made by the Elected Mayor, the Cabinet, by an individual Councillor of the Cabinet, by a Committee of the Cabinet, or by an Officer of the Council;
- (f) To review and scrutinise the work of the Council in relation to its policy objectives, performance targets and or particular service areas;
- (g) To question Councillors of the Cabinet and Chief Officers about their decisions and the performance of the services for which they are responsible, whether generally in comparison with service plans and targets over a period of time or in relation to particular decisions initiatives or projects;
- (h) For the Health in Hackney Scrutiny Commission, to carry out health scrutiny in accordance with Section 244 Regulations under that section of the National Health Services Act 2006 (as amended by the Local Government and Public Involvement in Health Act 2007 and the Health and Social Care Act 2012 relating to reviewing and scrutinising local health service matters). Where the proposal relates to more than one local authority area, it must be considered by a Joint Health Scrutiny Committee appointed by each of the local authorities in question;
- (i) For the Living in Hackney Scrutiny Commission, to discharge the functions conferred under the Police and Justice Act 2006;

- (j) To make recommendations to Cabinet arising from the outcome of the scrutiny process for possible forwarding to Full Council;
- (k) To review and scrutinise the performance of other public bodies in the area, invite them to address the Scrutiny Commission, and prepare reports about their initiatives and performance;
- (l) To gather evidence from any person or organisation outside the Council;
- (m) To consider referrals from Ward Forums and Enhanced Tenants Residents Associations and initiate reviews of issues as deemed appropriate.

#### Community Representation

- (n) To promote closer links between Overview and Scrutiny Councillors and Citizens;
- (o) To encourage an enhanced community representation role for Overview and Scrutiny Members including enhanced methods of consultation with local people;
- (p) To receive information from the Council's consultative Ward Forums and Enhanced Tenants Residents' Associations on matters that affect or are likely to affect the local area;
- (q) To keep the Council's area-based governance arrangements under review and to make recommendations to the Scrutiny Panel, to the Cabinet and/or Full Council as to how participation in the democratic process by local people can be enhanced;
- (r) To receive petitions, deputations and representations from local people and other stakeholders about matters of concern within the Scrutiny Commission's remit. Where considered appropriate, to refer them to the Cabinet, an appropriate Committee or Officer for action, with a recommendation for a report back if requested.

#### **Developing the Work Programme**

7.16 In developing their work programmes, the Scrutiny Commissions shall take into account the following:

- (a) Recommendations received from the Scrutiny Panel;
- (b) Cross-cutting items proposed by the Scrutiny Panel;

- (c) Petitions received from the public;
- (d) The contents of the Forward Plan;
- (e) Issues emerging from the ward/representational role of any Councillor;
- (f) Issues relating to Councillor Call for Action;
- (g) Referrals from Healthwatch Hackney relating to health and social care matters;
- (h) Referrals from any elected member on any matter within the remit of the Scrutiny Commission;
- (i) Referrals from any Councillor on a local crime and disorder matter;
- (j) Referrals from Full Council, the Cabinet or another Committee;
- (k) Issues which, whilst not the direct responsibility of the Council, have a direct bearing on the economic, social or environmental well-being of the borough's Citizens;
- (l) Issues relating to any Joint Overview and Scrutiny Committees.

### **Proceedings of Overview and Scrutiny**

7.17 The Scrutiny Panel and Commissions will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4, Section D of this Constitution.

**Part Two - Articles of the Constitution**  
**Article 8 - The Standards Committee and Independent Person**

**Role of the Standards Committee**

- 8.1 Full Council has established a Standards Committee which works to promote high standards of conduct of the elected and co-opted members within the Council. The proceedings of the Standards Committee are governed by the Council Procedure Rules set out in Part 4, Section A of this Constitution.
- 8.2 The Committee shall comprise:
- (a) The Councillor(s) of the Cabinet who holds the ethical governance portfolio;
  - (b) Eight non-executive Members; and
  - (c) Up to six non-voting co-opted Members.
- 8.3 Full Council may not appoint a person as a non-voting co-opted member of the Standards Committee unless the appointment has been advertised in the local area and the appointee:
- (a) Has submitted an application to the Council;
  - (b) Has been interviewed by the Monitoring Officer, or an Officer appointed by them;
  - (c) Has not been a Councillor or Officer of the Council in the five years immediately preceding the appointment;
  - (d) Is not a close relative or close friend of a Councillor or Officer of the Council;
  - (e) Has the ability to consider and evaluate information and arguments and reach sound, justifiable and fair conclusions based on that information;
  - (f) Is independent of party politics; and
  - (g) Is not currently a Councillor or Officer of another local authority.
- 8.4 Co-opted members are not entitled to vote at meetings of the Committee or its Sub-Committees.
- 8.5 The Standards Committee will operate within the terms of reference, as detailed in Appendix 3 of the Constitution.

## **Proceedings of the Standards Committee**

- 8.6 Proceedings of the Standards Committee relating to complaints against Councillors shall take place in accordance with the requirements of the law.

## **Sub-Committees**

- 8.7 The Committee may appoint Sub-Committees to determine complaints against the Elected Mayor and Councillors and/or to discharge any of its other functions.

## **Independent Person**

- 8.8 Full Council will appoint an Independent Person in accordance with section 28 of the Localism Act 2011.

## **Role of the Independent Person**

- 8.9 The Council's Monitoring Officer must seek and take into account the views of the Independent Person before making a decision whether to investigate a complaint about the conduct of an elected member or co-opted member.
- 8.10 The Monitoring Officer may consult the Independent Person on other matters not referred to in paragraph 8.9.
- 8.11 An elected member or co-opted member who is the subject of a complaint may consult the Independent Person.
- 8.12 The Independent Person, as part of an Independent Panel, has a role in providing Full Council with advice, views and recommendations on the proposed disciplinary action or dismissal of specified statutory senior officers in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

## **Appointment of the Independent Person**

- 8.13 Full Council may not appoint an Independent Person unless the appointment has been advertised in the local area and the appointee:
- (a) Has submitted an application to the Council;
  - (b) Has been interviewed by the Monitoring Officer, or an Officer appointed by them;



- (c) Has not been a Councillor or Officer of the Council in the five years immediately preceding the appointment;
- (d) Is not a close relative or close friend of a Councillor or Officer of the Council;
- (e) Has the ability to consider and evaluate information and arguments and reach sound, justifiable and fair conclusions based on that information;
- (f) Is independent of party politics; and
- (g) Is not currently a Councillor or Officer of another local authority.

8.14 The appointment of the Independent Person must be approved by a majority of Councillors at Full Council.

**Part Two - Articles of the Constitution**  
**Article 9 - Council Committees and Other Bodies**

The following Committees / Boards help Full Council perform its functions.

**Appointments Committee**

- 9.1 The Appointments Committee discharges, on behalf of the Council, the functions of the employer in relation to the appointment, discipline, pay, and terms and conditions of service, and dismissal for all Chief Officers (as defined by section 43 of the Localism Act 2011), subject to the Officer Appointment Procedure Rules set out in Part 4 of the Constitution, and the approval of the Full Council where required.
- 9.2 The Appointments Committee also approves any discretionary payments made to a Chief Officer either by way of honorarium or severance payment in accordance with the Pay Policy Statement.

**Audit Committee**

- 9.3 The Audit Committee's responsibilities relate to the Council's risk management framework, internal financial and governance control and the integrity of financial reporting. The Audit Committee oversees internal and external audit, helping to ensure efficient and effective assurance arrangements are in place.

**Constitution Committee**

- 9.4 The Constitution Committee is responsible for oversight of the Council's Constitution and may review and recommend amendments to the Constitution to ensure that it remains fit for purpose.

**Corporate Committee**

- 9.5 The Corporate Committee oversees the Council's regulatory functions, planning, elections and human resources. The Committee is also responsible for any other Council function that has not been specifically allocated to Full Council or any other committee.
- 9.6 The Corporate Committee establishes a Planning Sub-Committee for the purposes of determining planning applications in accordance with that Sub-Committee's terms of reference.

## **Health and Wellbeing Board**

9.7 The Health and Wellbeing Board is a multi-agency partnership board under which the local authority, the Integrated Commissioning Board and other partners improve the commissioning of health and social care services and work towards improving the health of the local population. It has responsibility for the duties set out in the Health and Social Care Act 2012.

## **Licensing Committee**

9.8 The Licensing Committee is responsible for licensing functions under the Licensing Act 2003 and the Gambling Act 2005 and other statutory licensing functions. The Committee is responsible for developing and monitoring the Council's licensing function, which includes making recommendations on the Council's licensing and gambling policies.

9.9 The Licensing Committee establishes Licensing Sub-Committees which are responsible for considering and deciding some individual licensing applications.

## **Pensions Committee**

9.10 The Pensions Committee acts as trustee of the Council's pension fund, in line with legislation. The Committee is responsible for monitoring performance of the fund, setting and reviewing strategic objectives and appointing administrators, advisers, investment managers and custodians.

## **Scrutiny Panel and Scrutiny Commissions**

9.11 The Scrutiny Panel and Scrutiny Commissions help hold the Cabinet to account, assist with developing Council policies and scrutinise budgetary proposals.

## **Standards Committee**

9.12 The Standards Committee is responsible for promoting and maintaining high ethical standards at the Council.

9.13 The Standards Committee has established two Sub-Committees: the Standards Assessment Sub-Committee and the Standards Hearing Sub-Committee. These may be called upon to consider allegations of a breach of the Councillor Code of Conduct.

### **Pensions Board**

9.14 The local Pensions Board is an advisory Board of the Council. It is responsible for ensuring compliance with local government pension scheme regulations and ensuring the effective and efficient governance and administration of the London Borough of Hackney Pension Fund.

### **Terms of reference**

9.15 All Council Committees and Sub-Committees must operate in line with their terms of reference. The terms of reference are set out in Appendix 3 of this Constitution.

### **Proceedings**

9.16 Proceedings of the Committees and Sub-Committees must comply with the Council Procedure Rules set out in Part 4, Section A of this Constitution.

## Part Two - Articles of the Constitution

### Article 10 - Ward Forums

#### Role and Function

- 10.1 The Council has 21 Wards. The Councillors in these Wards form bodies known as Ward Forums.
- 10.2 Ward Forums represent and promote the needs of the ward within the Council.
- 10.3 Ward Forums meet up to three times a year at venues within the ward and will look at issues which concern Citizens.
- 10.4 Ward Councillors lead Ward Forum meetings and they are supported by officers. Ward Councillors determine whether there will be specific roles for Citizens in managing the business of the Ward Forum.
- 10.5 Councillors can opt to hold joint Ward Forum meetings with Councillors from another Ward on a regular or case-by-case basis.

#### Delegation to Forums

- 10.6 Ward Forums have no delegated authority from the Cabinet or Full Council. They are not decision-making bodies.

#### Chair

- 10.7 Each Ward Forum is chaired by a Councillor, who is elected by the Councillors present.

#### Meetings

- 10.8 Each Ward Forum meets in public and each meeting is advertised in advance. Ward Forums usually meet up to three times a year. The principal objectives of the meetings are to hear the views of Citizens to help improve the local area, and to agree actions that can be taken to address issues that arise. Councillors set the agenda of the Ward Forum in advance of the meeting.

#### Access to information

- 10.9 Ward Forums are not subject to the Access to Information Rules as set out in Part 6, Section C of this Constitution.

**Part Two - Articles of the Constitution**  
**Article 11 - Joint Arrangements**

**Arrangements to promote well-being**

- 11.1 The Council or the Cabinet may, in order to promote the economic, social or environmental well-being of its area:
- (a) Make arrangements or agreements with any person or body;
  - (b) Co-operate with, facilitate or co-ordinate the activities of any person or body; and
  - (c) Exercise on behalf of that person or body any of its functions.

**Joint arrangements**

- 11.2 The Council may establish joint arrangements with one or more local authorities and may authorise them to undertake Council functions or advise the Council in line with these arrangements. The arrangements may involve the appointing a Joint committee with these other local authorities.
- 11.3 The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. These arrangements may involve the appointing a joint committee with these other authorities. Cabinet may only appoint Councillors of the Cabinet to the joint committee and appointments do not need to reflect the political composition of the Council as a whole.
- 11.4 When the Council is planning changes to the way they deliver health services which could be substantial and/or which extend beyond the borough, the Council may need to form a Joint Health Scrutiny Committee with other boroughs. It will then be able to consult with local providers and commissioners of health and social care services. This Committee would review and scrutinise issues relating to the health service and make reports and recommendations about them. The process by which this is established shall be agreed by the Health in Hackney Scrutiny Commission.
- 11.5 If there is an urgent need to establish a Joint Health Scrutiny Committee with other local authorities, the Monitoring Officer can make arrangements for establishing Joint Health Scrutiny Committee after consulting with the Chair and Vice-Chair of the Health in Hackney Scrutiny Commission.
- 11.6 Authorities responsible for crime and disorder strategies may require Full Council to appoint a Joint Crime and Disorder Committee and to arrange for

crime and disorder scrutiny functions in relation to any (or all) of those Councils to be excisable by that Committee.

### **Delegation to and from other local authorities**

- 11.7 Full Council may delegate non-executive functions to another local authority or, in cases where that function is carried out by the executive of another local authority, to the executive of that authority.
- 11.8 Cabinet may delegate executive functions to another local authority or, in cases where that function is carried out by the executive of another local authority, to the executive of that authority.
- 11.9 The decision whether or not to accept a delegation from another local authority is reserved to Full Council.

### **Delegation to and from other organisations**

- 11.10 Full Council may delegate non-executive functions to other organisations or boards where legislation allows.
- 11.11 Cabinet may delegate executive functions to other organisations or boards where legislation allows.
- 11.12 The decision whether or not to accept such a delegation from another organisation or board is reserved to Full Council.

## Part Two - Articles of the Constitution

### Article 12 - Officers

#### Management structure

- 12.1 The Council can employ the staff it considers necessary to carry out its functions. Council staff are called “Officers”.
- 12.2 Chief Officers – The Council must by law employ a person to fill each of the following posts. These officers are called Chief Officers.
- (a) Head of Paid Service;
  - (b) Monitoring Officer;
  - (c) Chief Finance Officer (also known as the s151 Officer);
  - (d) Director of Children’s Services;
  - (e) Director of Adult Social Services; and
  - (f) Director of Public Health.
- 12.3 The Head of Paid Service/Chief Executive may decide to appoint other Chief Officers. The Chief Executive has authority to vary the portfolios, functions and areas of responsibility of all Chief Officers other than any statutory duties associated with that role.
- 12.4 Structure – The Chief Executive determines and publicises a description of the overall structure of the Council by department that shows the management structure and deployment of officers.

#### Responsibilities of the Head of Paid Service

- 12.5 The Chief Executive is the Head of Paid Service.
- 12.6 The Head of Paid Service reports to Full Council, the Elected Mayor and Cabinet and other Committees on how the Council should be staffed, managed and organised so that it operates efficiently and effectively.
- 12.7 Corporate management responsibility – The Head of Paid Service is responsible for the overall corporate management and operations of the Council and its staff. They are responsible for the recruitment of all staff below Group Director level, except the Council’s Monitoring Officer and Director of Public Health.
- 12.8 Providing advice – The Head of Paid Service provides advice to all elected members involved in the decision-making process.



- 12.9 Service strategies – The Head of Paid Service advises and assists in planning and delivering effective policies and programmes that make best use of available resources to achieve the Council’s priorities.
- 12.10 Representing and Negotiating on behalf of the Council - The Head of Paid Service is responsible for representing the Council and negotiating with external bodies and networks.
- 12.11 Emergency Powers – The Head of Paid Service has the power to discharge the responsibilities of other Chief Officers when there is an emergency or action is needed urgently. They do this in consultation with the Elected Mayor.
- 12.12 Restrictions on who may be the Head of Paid Service – The Head of Paid Service cannot be the Monitoring Officer, but they can be Chief Finance Officer if they are a qualified accountant as described in section 5(1A) Local Government and Housing Act 1989.

### **Responsibilities of the Monitoring Officer**

- 12.13 The Monitoring Officer is the Director of Legal, Democratic and Electoral Services. The role of the Monitoring Officer is to ensure that the Council operates within the law and its Constitution. Further information can be found in the Monitoring Officer Protocol set out in Part 8, Section C of this Constitution. The Monitoring Officer cannot be the Chief Finance Officer or the Head of the Paid Service.

### Unlawfulness, maladministration or injustice by the Council

- 12.14 If the Monitoring Officer considers that any proposal, decision or omission by the Council or by the Elected Mayor and Cabinet would be unlawful or has given rise to maladministration, they must make a report to Full Council. Before making a report they must consult with the Head of Paid Service and Chief Finance Officer. When the Monitoring Officer makes such a report, no further action can be taken and the proposal or decision cannot be implemented until the report has been considered. The report must be considered by Full Council within 21 days.
- 12.15 The Monitoring Officer shall not have a duty to prepare a report with regard to maladministration and injustice unless a Local Commissioner has conducted an investigation (as provided for in Part III of the Local Government Act 1974) in relation to that proposal, decision or omission. When such a report is completed, the Monitoring Officer will ensure that a copy is sent to each member of the Council.

### Unlawfulness, maladministration or injustice by the Elected Mayor and Cabinet

- 12.16 Where the proposal, decision or omission that has led to or would lead to unlawfulness or maladministration is that of the Elected Mayor or Cabinet, the Monitoring Officer must make a report to Cabinet, which must be considered within 21 days.
- 12.17 As soon as practicable after Cabinet has considered the Monitoring Officer's report, it must prepare a report that will include:
- (a) What action Cabinet has taken in response to the report; or
  - (b) What action Cabinet proposes to take in response to the report and when it proposes to take that action; and
  - (c) The reasons for taking that action, or the reasons for not taking any action.

As soon as practicable after Cabinet has prepared this report, it must circulate a copy of the report to all Councillors and the Monitoring Officer.

### Supporting the Standards Committee

- 12.18 The Monitoring Officer, together with the Independent Person, will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

### Maintaining the Constitution

- 12.19 The Monitoring Officer will maintain an up-to-date hard copy version of the Constitution and will ensure that it is made widely available to the Elected Mayor, Councillors, Officers and the public.

### Conducting investigations regarding the conduct of the Elected Mayor and Councillors

- 12.20 The Monitoring Officer will consider complaints about the conduct of Elected Mayor and Councillors and will, where necessary, arrange the conduct of investigations, and make reports or recommendations about them to the Standards Committee.

### Register of Interests

- 12.21 The Monitoring Officer will establish and maintain a register of interests of the Elected Mayor, Councillors and voting co-opted members.

#### Proper Officer for access to information

- 12.22 The Monitoring Officer will ensure that all non-exempt or confidential Cabinet and Committee decisions, together with the reasons for those decisions and relevant Officer reports and background papers, are publicly available as soon as possible.

#### Advising whether Cabinet decisions are within the policy framework

- 12.23 The Monitoring Officer will advise whether decisions of the Cabinet are in line with the policy framework.

#### Providing advice

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

#### **Responsibilities of the Chief Finance Officer**

- 12.25 The Chief Finance Officer is appointed under Section 151 of the Local Government Act 1972. The Council has designated the Group Director of Finance and Corporate Resources as its Chief Finance Officer.
- 12.26 The Chief Finance Officer is responsible for the administration of the financial affairs of the Council.
- 12.27 The Chief Finance Officer provides advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and supports and advises Councillors and Officers.

#### Ensuring lawfulness of expenditure

- 12.28 After consulting the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to Full Council, or to Cabinet in relation to a Cabinet function, and to the Council's external auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully. Where the Chief Finance Officer makes such a report, no further action can be taken and the proposal or decision cannot be implemented until the report has been considered.

- 12.29 When the report is completed, the Chief Finance Officer must send a copy of the current audit of the Council's accounts to each Elected Mayor and members of the Council. The Chief Finance Officer will as soon as is reasonably practicable notify the Council's auditors of the date, time and place of the proposed meeting. As soon as is reasonably practicable after the meeting, the Chief Finance Officer will notify its auditor of any decision made at the meeting.

#### Ensuring lawfulness of expenditure by the Elected Mayor and Cabinet

- 12.30 Where the Chief Finance Officer considers that any proposal, decision or course of action on the part of the Elected Mayor and Cabinet will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully, Cabinet must consider the report referred to above at a meeting and decide whether it agrees or disagrees with the report. The Cabinet must also decide what action to take when it meets. The meeting must be held on, or within, 21 days from the day that the copies of the report are sent.
- 12.31 As soon as practicable after the Cabinet has considered the Chief Finance Officer's report it must prepare a report that will include:
- (a) What action the Cabinet has taken in response to the report;
  - (b) What action the Cabinet proposes to take in response to the report and when it proposes to take that action;
  - (c) The reasons for taking that action, or the reasons for not taking any action.

As soon as practicable after Cabinet has prepared this report, it shall arrange for a copy of the report to be circulated to the person who has the duty to audit the Council's accounts, all Councillors and the Chief Finance Officer.

#### Providing financial information

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

#### Advising whether Cabinet decisions are within the budget framework

- 12.33 The Chief Finance Officer will advise whether decisions of the Cabinet are in line with the budget framework.

### **Responsibilities of the Director of Children's Services**

- 12.34 Every top-tier or unitary local authority in England is required by the Children Act 2004 to appoint a Director of Children's Services and to designate a lead Councillor for children's services in accordance with section 18 Children's Act 2004.
- 12.35 At the London Borough of Hackney, the Group Director of Children and Education is the designated Director of Children's Services. As such, they are accountable for the delivery of education and social services functions for children, and any health functions for children delegated to the authority by an NHS body.

### **Responsibilities of the Director of Adult Social Services**

- 12.36 Section 6 of the Local Authority Social Services Act 1970 requires the appointment of an Officer, to be known as the Director of Adult Social Services. The Authority shall also secure the provision of adequate staff to assist the Director of Adult Social Services in the discharge of their functions.
- 12.37 At the London Borough of Hackney, the Group Director of Adults, Health and Integration is the designated Director of Adult Social Services and responsible for all of the authority's social services functions, other than those for which the authority's Director of Children's Services is responsible under Section 18 of the Children Act 2004.

### **Responsibilities of the Director of Public Health**

- 12.38 Full Council must act jointly with the Secretary of State to appoint an Officer known as the Director of Public Health in accordance with Part 3 of the National Health Service Act 2006. The Council's Director of Public Health is jointly appointed with the City of London Corporation and provides leadership to secure better health for the citizens of both Hackney and the City.
- 12.39 The responsibilities of the Director of Public Health are broadly to implement all the health improvement and public health duties of local authorities. The responsibilities of the Director of Public Health include:
- (a) The health improvement duties that the National Health Service Act 2006 places on local authorities;
  - (b) The exercise of any public health functions which the Secretary of State requires the local authority to exercise by regulations made under section 6C National Health Service Act 2006;

- (c) Any public health activity undertaken by the local authority under arrangements with the Secretary of State;
- (d) Local authority functions in relation to planning for, and responding to, emergencies that present a risk to public health;
- (e) The local authority role co-operating with police, probation and prison services in relation to assessing risks of violent or sexual offenders; and
- (f) Other public health functions that the Secretary of State may specify in regulations.

### **The Council's duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

12.40 The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources it considers to be sufficient to perform their duties.

### **Conduct of Officers**

12.41 All officers must comply with the Council's Employee Code of Conduct and the Protocol for Elected Mayor & Councillor / Officer Relations. The Protocol is set out in Part 9, Section C of this Constitution.

### **Employment**

12.42 The recruitment, selection, disciplining and dismissal of Officers must comply with the Officer Employment Procedure Rules set out in Part 4 of the Constitution.

### **Proper Officers**

12.43 The Monitoring Officer must maintain a list of Proper Officers. This list can be found in Part 8, Section A of this Constitution.

## **Part Two - Articles of the Constitution**

### **Article 13 - Decision Making**

#### **Responsibility for decision-making**

- 13.1 The Council will issue and keep up to date a record of what part of the Council or which individual has responsibility for particular types of decisions, or for decisions relating to particular areas or functions. This record is set out in Part 3 of the Constitution.
- 13.2 Notice of decisions to be taken and publication of decisions made will be in accordance with the Access to Information Procedure Rules set out in Part 6, Section C of the Constitution.

#### **Principles of decision-making**

- 13.3 All decisions of the Council will be made in accordance with the principles set out in Part 1, Section B of the Constitution.

#### **Decisions reserved to Full Council**

- 13.4 Full Council will make decisions relating to those functions listed in Article 4.6.

#### **Key Decisions**

- 13.5 A key decision is an executive decision which is likely to
- (a) Result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decisions relates, or
  - (b) Be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the Council.
- 13.6 Key decisions can be made by the Elected Mayor alone, by Cabinet collectively, by any executive committees, by individual Cabinet Councillors and by Officers. The decision maker must comply with the requirements of the Access to Information Procedure Rules as set out in Part 6, Section C of this Constitution.

#### **Decision-making by the Full Council**

- 13.7 Subject to Article 16, Full Council meetings will comply with Council Procedure Rules set out in Part 4, Section A of this Constitution.

### **Decision-making by the Cabinet**

13.8 Subject to Article 16, the Cabinet will comply with the Cabinet Procedure Rules set out in Part 4, Section B of this Constitution.

### **Decision-making by the Scrutiny Panel and Commissions**

13.9 The Scrutiny Panel and Commissions will follow the Overview and Scrutiny Procedure Rules set out in Part 4, Section D of this Constitution when considering any matter.

### **Decision-making by Council Committees and Sub-Committees etc**

13.11 Subject to Article 16, other Council Committees and Sub-Committees etc will comply with the Council Procedure Rules set out in Part 4, Section A of this Constitution.

### **Decision-making by Council bodies acting as tribunals**

13.12 Council bodies or persons acting as a tribunal or in a quasi-judicial manner will follow a procedure which accords with the requirements of natural justice.



**Part Two - Articles of the Constitution**  
**Article 14 - Finance, Contracts and Legal Matters**

**Financial management**

14.1 The management of the Council's financial affairs will be conducted in accordance with the financial standing orders set out in Part 5, Section A of the Constitution.

**Contracts**

14.2 Every contract made by the Council will comply with the Contract Standing Orders set out in Part 5, Section B of this Constitution.

**Legal Procedures**

14.3 The Director of Legal, Democratic and Electoral Services is authorised to:

- (a) Issue, defend, settle or participate in any legal proceedings or mediation (including preparatory steps) where this is necessary to give effect to the decisions of the Council or where the Director considers that such action is necessary to protect the Council's interests;
- (b) Prepare any legal document or agreement;
- (c) Sign any legal document on behalf of the Council;
- (d) Witness the affixing of the Council's seal;
- (e) Register, enforce and remove any charge on the title of any property, in conjunction with the relevant Cabinet Councillor;
- (f) Consent to the registration of other charges on the title of any property where the Council already holds a charge;
- (g) Take out letters of administration or grant of probate on behalf of the Council;
- (h) Instruct Counsel and external solicitors;
- (i) Engage professional experts and witnesses;
- (j) Waive, alter or modify the rules relating to the hearing of applications for licences, registrations and consents by the Council;

- (k) Delegate authority to carry out any of the responsibilities listed above to such other Officers within the Legal Service as they consider appropriate.

### **Authentication of documents**

- 14.4 Where the production of any document is required in connection with any legal proceedings, including mediation, the Director of Legal, Democratic and Electoral Services, or any other person(s) authorised by them, is authorised to produce the document and certify that it is a true copy of the original.

### **Entering into a contract or agreement**

- 14.5 Any contract entered into by the Council will be made in writing.
- 14.6 The following contracts or agreements must be made under the Common Seal of the Council, which is attested by either the Director of Legal, Democratic and Electoral Services or some other person authorised by them:
  - (a) Any contract entered into by the Council which is valued at £500,000 or more;
  - (b) All high risk contracts;
  - (c) Any civic agreements;
  - (d) Any agreement where no price or other tangible consideration is mentioned;
  - (e) Any agreement which is required by law to be made under seal;
  - (f) Any document which in the opinion of the Director of Legal, Democratic and Electoral Services should be made under seal.
- 14.7 A decision made by the Council will be sufficient authority for signing or sealing any document necessary to give effect to the decision.

### **Common Seal of the Council**

- 14.8 The Common Seal of the Council will be kept in a safe place in the custody of the Director of Legal, Democratic and Electoral Services. The Common Seal may be applied to documents physically or electronically.

**Part Two - Articles of the Constitution**  
**Article 15 - Review and Revision of the Constitution**

**Duty to monitor and review the Constitution**

- 15.1 Full Council and the Monitoring Officer are responsible for monitoring and reviewing the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.
- 15.2 To ensure that the Monitoring Officer is aware of the strengths and weaknesses of the Constitution, and to enable them to make recommendations for ways in which it could be amended, the Monitoring Officer may:
- (a) Observe any meetings of the Council, whether conducted by elected members or Officers;
  - (b) Undertake an audit of decisions made;
  - (c) Record and analyse issues raised with them by elected members, co-optees, Officers, the public and other relevant stakeholders; and
  - (d) Compare practices in this authority with those in other comparable authorities, or national examples of best practice.

**Changes to the Constitution**

- 15.3 Full Council must approve changes to the Constitution other than as set out below. Where amendments concern ethical governance issues, the Standards Committee must consider them before Full Council.
- 15.4 Unless the change relates only to the operation of the Council's scrutiny functions, any resolution of Full Council to approve any amendment to the Constitution will not take effect unless the Elected Mayor has first been notified of the amendment and has either consented in writing to the amendment or a period of 5 working days has elapsed since being notified of the amendment.
- 15.5 The Monitoring Officer may make amendments to the Constitution without the approval of Full Council which:
- (a) Are required as a result of any legislation, including new or amending legislation;
  - (b) Correct any typographical, grammatical or formatting errors;

(c) Improve public accessibility of the Constitution;

(d) Arise as a result of any restructure of the Council's staffing arrangements agreed by the Head of the Paid Service, including re-naming of posts and service areas.

15.6 Before any change from an Elected Mayor and Cabinet system to another form of organisational system, e.g. Leader and Executive system, Committee system, the Council must take reasonable steps to consult with local electors and other interested persons in the area and must hold a binding referendum. If a referendum votes for change, this will not take effect until the end of an Elected Mayor's term of office.

## Part Two - Articles of the Constitution

### Article 16 - Suspension, Interpretation and Publication of the Constitution

#### Suspension of the Constitution

##### Limit to suspension

16.1 The Articles of this Constitution may not be suspended. However, Full Council may suspend Council Procedure Rules to the extent permitted within the Rules and the law.

##### Procedure for suspension

16.2 Unless otherwise stated, a motion to suspend any of the Council Procedure Rules set out in Part 4, Section A of the Constitution may not be moved without notice unless at least one third of the whole number of elected members are present. The extent and duration of suspension must be proportionate to the reason for that suspension and must take into account the purposes of the Constitution.

##### Rules capable of suspension without notice by less than one half of the whole number of elected members

16.3 The following Council Procedure Rules may be suspended:

- (a) Duration of meeting (Rule 7);
- (b) Questions by the public (Rule 9);
- (c) Questions by Councillors – except there shall be no suspension of the time limit for Councillors' questions (Rule 10);
- (d) Deputations (Rule 11);
- (e) Petitions (Rule 12);
- (f) Total time for consideration of motions for discussion (Rule 16.4);
- (g) Debating reports (Rule 18);
- (h) Previous decisions and motions (Rule 20);
- (i) Conduct of the Elected Mayor and Councillors (Rule 25).

#### Interpretation

16.4 At any meeting of the Council, the Speaker or Chair is responsible for rulings as to the construction, interpretation or application of the Constitution having taken advice from the Monitoring Officer or legal adviser. A member may request an explanation from the Speaker or Chair as to their ruling, but once an explanation has been provided the ruling will be final.

## **Publication**

- 16.5 The Monitoring Officer will ensure elected members receive an electronic copy of the Constitution. and is available for inspection on the Council's website.
- 16.6 The Monitoring Officer will ensure that a printed copy of the Constitution is available for inspection at Hackney Town Hall on request. Paper copies of the Constitution can be purchased by the press and the public on payment of a reasonable fee.

## **Part Three - Responsibility for Council and Executive Functions**

## Part Three - Responsibility for Functions

### Introduction

- 1.1 Local authority functions are split between “executive functions”, which are the responsibility of the Mayor and Cabinet and “non-executive functions” which are the responsibility of Full Council and its committees.
- 1.2 Whether a function is an executive or non-executive function is specified in legislation - the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
- 1.3 The Council is required to explain when a function is delegated to Committees, Sub-Committees, Panels, Board or Officers. The Council does this through the Terms of Reference of those Committees etc and in Schemes of Delegation to Officers.
- 1.4 The tables which appear in Appendix 1 of this Constitution set out how the Council has decided to allocate responsibility for non-executive functions. Where a table indicates that the function is exercisable by both a Committee or Sub-Committee and an Officer, the Officer may only exercise the function to the extent that is not covered within the terms of reference of the Committee or Sub-Committee.
- 1.5 The Elected Mayor is entitled to carry out all of the Council’s executive functions. The Elected Mayor retains this entitlement whether or not they choose to delegate any or all of these functions. The Elected Mayor may choose to delegate functions to be carried out by the Cabinet collectively, by another Councillor of the Cabinet, by a Committee of the Cabinet, or by an Officer of the Council. The Elected Mayor will notify Full Council at the Annual Meeting of their scheme of delegation, which will set out which individual members of the Cabinet, Committees, officers or joint arrangements are responsible for the exercise of particular executive functions. The Elected Mayor will notify the Monitoring Officer of any changes to the scheme within 48 hours of any changes coming into effect.
- 1.6 In addition to executive and non-executive functions there are also ‘local choice’ functions and the Council is able to decide whether those functions should be exercised by the executive or by Council. The tables which appear in Appendix 2 of this Constitution set out how the Council has decided to allocate responsibility for these local choice functions.



## **Terms of reference of Full Council, Council Committees, Executive Committees etc**

1.7 The terms of reference of Full Council and all of the various committees, sub-committees, commissions, boards etc are set out in alphabetical order in Appendix 3 of this Constitution.

## **Delegation to Officers**

### Delegation of executive functions

1.8 The Chief Executive may exercise any executive function in cases of extreme urgency.

1.9 In cases where the exercise of an executive function is not specifically reserved to the Elected Mayor, the wider Cabinet or a Committee of the Cabinet, then the function is delegated to and exercisable as follows:

- (a) Any Group Director may exercise any executive function falling within their directorate or budget area;
- (b) Any Group Director may exercise any executive function falling within such other corporate areas of responsibility to which a Group Director may be nominated from time to time;
- (c) The Chief Executive may exercise any executive function in the absence of a relevant Chief Officer or nominate another Group Director to do so in the Chief Executive's absence;
- (d) The Director of Legal, Democratic and Electoral Services shall have authority to issue, defend, settle or participate in any legal proceedings where such action is necessary to give effect to the decisions of the Council, or in any case where the Director of Legal, Democratic and Electoral Services considers that such action is necessary to protect the Council's interests;
- (e) The Director of Legal, Democratic and Electoral Services shall have authority to prepare any legal agreement or document.

### Delegation of non-executive functions to Officers

1.10 The Chief Executive may exercise any non-executive function in cases of extreme urgency.

1.11 In cases where the exercise of a non-executive function is not specifically reserved to Full Council or delegated to a Council committee by law or by this Constitution, the function is delegated to and exercisable as follows:

- (a) Any Group Director may exercise any non-executive function falling within their directorate or budget area;
- (b) Any Group Director may exercise any non-executive function falling within such other corporate areas of responsibility to which a Group Director may be nominated from time to time;
- (c) The Chief Executive may exercise any non-executive function in the absence of a relevant Group Director or nominate another Group Director to do so in the Chief Executive's absence.
- (d) The Director of Legal, Democratic and Electoral Services shall have authority to issue, defend, settle or participate in any legal proceedings where such action is necessary to give effect to the decisions of the Council, or in any case where the Director of Legal, Democratic and Electoral Services considers that such action is necessary to protect the Council's interests;
- (e) The Director of Legal, Democratic and Electoral Services shall have authority to prepare any legal agreement or document.

### **Schemes of delegations for each directorate**

- 1.12 Each Group Director will establish a scheme of delegation for their directorate or budget area which specifies the function, names the post which may carry out that delegated decision and explain any limits on the delegation. The limits on delegation may include the obligation to consult, record and/or refer back to the Group Director in certain circumstances.
- 1.13 The Monitoring Officer will specify the format for the scheme of delegation and may issue guidance to Group Directors from time to time.
- 1.14 Each Group Director has a duty to review their directorate scheme of delegation at least half-yearly and otherwise keep their directorate scheme of delegation up to date to take account of any legislative changes, changes in job titles etc.
- 1.15 It is the responsibility of each Group Director to provide a copy of their directorate scheme of delegation to the Monitoring Officer within 2 working days of it being amended or updated.

### **Proper Officer Functions**

- 1.16 Certain Officers, known as "Proper Officers", are designated to carry out certain functions. These functions appear in Part 8, Section A of this Constitution.

## **Part Four - Procedure Rules**

### **Section A - Council Procedure Rules**

### **Section B - Cabinet Procedure Rules**

### **Section C - Budget and Policy Framework Procedure Rules**

### **Section D - Overview and Scrutiny Procedure Rules**

### **Section E - Call-in Procedure Rules**

## **Part Four - Procedure Rules**

### **Section A - Council Procedure Rules**

The Council Procedure Rules explain:

- How Full Council meetings are conducted and managed; and
- How these Rules apply to meetings of committees and sub-committees.

Index of Council Procedure Rules:

Rule 1 - Annual Meeting

Rule 2 - Ordinary Meetings

Rule 3 - Extraordinary Meetings

Rule 4 - Notice of summons to meetings

Rule 5 - Chair of meeting

Rule 6 - Quorum

Rule 8 - Elected Mayor's statement

Rule 9 - Questions by the public

Rule 10 - Questions by Councillors

Rule 11 - Deputations

Rule 12 - Petitions

Rule 13 - Opposition Sponsored Business

Rule 14 - Motions

Rule 15 - Motions without notice

Rule 16 - Procedure regarding motions

Rule 17 - Rules of debate for motions

Rule 18 - Debating reports

Rule 19 - State of Hackney debate

Rule 20 - Previous decisions and motions

Rule 21 - Voting

Rule 22 - Minutes

Rule 23 - Record of attendance

Rule 24 - Exclusion of public

Rule 25 - Conduct of the Elected Mayor and Councillors

Rule 26 - General disturbance and / or disturbance by the public

Rule 27 - Suspension and amendment of Council Procedure Rules

Rule 28 - Interpretation of Council Procedure Rules

Rule 29 - Mobile phones and other electronic communication devices

Rule 30 - Application to committees and sub-committees

Rule 32 - Convening meetings of committees and sub-committees

## Rule 1 - Annual Meeting

- 1.1 Usually, the Annual Meeting will take place on a date to be agreed in May.
- 1.2 In a year when there is an ordinary election of the Elected Mayor and Councillors the Annual Meeting will take place either:
- On the eighth (12th) day after the election; or
  - On any other day that the Council has agreed, within 25 days after the election.

### What happens at the Annual Meeting

- 1.3 The Council will:
- (a) Elect the Speaker;
  - (b) Elect the Deputy Speaker;
  - (c) In an election year, note the results of the elections of the Mayor and Councillors to the various wards in the borough.
  - (d) Establish Committees;
  - (e) Approve membership of these Committees and appointments to Chairs and Vice-Chairs for them.
  - (f) Receive nominations of Councillors to serve on outside bodies, where the appointment is the responsibility of Full Council;
  - (g) Receive a statement from the Elected Mayor outlining their priorities for the year ahead and, where appropriate, reflecting on the previous year. The Leader(s) of the Opposition Group(s) will be invited to respond;
  - (h) Note the Elected Mayor's appointments to Cabinet, Mayoral Advisors and Mayoral Champions for the coming municipal year.
  - (i) Note the establishment of any Executive Committees for the coming year, and appointments to these Committees;
  - (j) Note the Elected Mayor's Scheme of Delegation for executive functions;
  - (k) Approve a calendar of Ordinary Meetings of Council for the year; and
  - (l) Consider any additional business set out in the notice convening the meeting.

## Rule 2 - Ordinary Meetings

2.1 Dates for Ordinary Meetings of the Full Council are agreed at the Council's Annual Meeting.

### What happens at an Ordinary meeting?

2.2 Full Council will:

- (a) Elect a person to act in place of i the Speaker or Deputy Speaker if neither is present;
- (b) Receive apologies for absence;
- (c) Receive any announcements from the Speaker;
- (d) Approve the minutes of the previous Ordinary Meeting, any Extraordinary Meeting and, where relevant, the Annual Meeting;
- (e) Receive any declarations of interest from the Elected Mayor and Councillors;
- (f) Receive deputations or petitions if these are included on the agenda;
- (g) Receive and answer questions from the public and Councillors that are included on the agenda;
- (e) Deal with any business outstanding from the last Full Council meeting;
- (f) Receive a statement from the Elected Mayor (or the Statutory Deputy Mayor in their absence), if they wish to make a statement. The Leader(s) of the Opposition Group(s) will be invited to respond;
- (g) Receive any reports from Cabinet, the Elected Mayor and Cabinet Councillors and the Council's Committees;
- (h) Receive any reports from Officers;
- (i) Receive reports from an Independent Panel on disciplinary action or dismissal of specified statutory senior officers;
- (j) Consider any motions listed on the agenda;
- (k) Agree any changes in membership or chairs / vice-chairs of committees; and
- (l) Consider any other business specified in the summons to the meeting.

- 2.3 The Speaker can vary the order of business and may take urgent items (as specified in the Access to Information Procedure Rules) at their discretion.

### **Rule 3 - Extraordinary Meetings**

#### Calling Extraordinary Meetings

- 3.1 The following can request that the Monitoring Officer calls a meeting of Full Council in addition to the ordinary meetings set out in the Council's calendar of meetings:

- (a) Full Council by resolution;
- (b) The Speaker;
- (c) Any five elected members of the Council if;
  - they have each signed a written request to call a meeting. This must provide the specific purpose for the request and must be sent to the Speaker; and
  - the Speaker has either refused to call a meeting or has failed to call a meeting within seven days of the date the request was sent.

- 3.2 The Monitoring Officer may call an extraordinary Full Council meeting.

#### Business

- 3.3 Only matters raised in the request for an extraordinary meeting may be discussed at that meeting.

#### Time and Place of extraordinary meetings

- 3.4 The Monitoring Officer will decide the time and place of any extraordinary meeting, after consulting the Speaker.

### **Rule 4 - Notice of summons to meetings**

- 4.1 The Chief Executive will give notice to the public of the time and place of any meeting, following the Access to Information Rules. At least five clear working days (which does not include the date of the meeting, the date of publication or bank holidays) before a meeting, the Chief Executive will send a summons they have signed to every Councillor, or leave it at their usual place of residence. A Councillor can agree to the summons being transmitted in electronic form to a specified email.



- 4.2 The summons will give the date, time and place of each meeting. It will specify the business that will be considered and will be accompanied by any reports as are available.

#### **Rule 5 - Chair of meeting**

- 5.1 The Speaker will preside at all meetings of Full Council if they are present.
- 5.2 If the Speaker is absent the Deputy Speaker will preside.
- 5.3 If the Deputy Speaker is unable or unwilling to preside, Full Council must appoint another Councillor (other than the Elected Mayor, Statutory Deputy Mayor or any other member of the Cabinet) to do so.
- 5.4 The person presiding at the meeting may exercise any power or duty of the Speaker.

#### **Rule 6 - Quorum**

- 6.1 The quorum, or number of Members of Full Council needed to be present at a meeting for it to take place, is one quarter of the total number of the Elected Mayor and Councillors.
- 6.2 If there is no quorum when the meeting is due to start, those present will wait for 20 minutes to see if a quorum can be achieved. If after 20 minutes there is still no quorum, the meeting will be abandoned.
- 6.3 If at any time during the meeting there are not enough councillors to maintain a quorum, the meeting will be adjourned, or held over, immediately for a maximum of 20 minutes. If a quorum is achieved during that time, the meeting will resume. If after that 20 minutes a quorum is not possible the meeting will be abandoned.
- 6.4 Any business not carried out because of the rules on quorum will be adjourned to a specified date and time or the next ordinary meeting.

#### **Rule 7 - Duration of Meeting**

- 7.1 Meetings must end by 10pm. When the business of the meeting has not finished by 10pm, the meeting will be adjourned to another agreed time, unless there is a motion (or request) for it to continue. The motion can be made without notice and must be seconded. The motion must be made by 9:50pm. An extended meeting must conclude by 10:30pm.
- 7.2 Remaining business not dealt with under Rule 7.3 will be considered at a time and date fixed by the Speaker. If they do not fix a time and date, any

remaining business not dealt with under Rule 7.3 will be considered at the next ordinary meeting.

7.3 At the end of the meeting, the remaining business on the agenda shall be dealt with as follows:

- (a) If a report, a motion (or an amendment to a motion) is still being discussed, the Councillor speaking at the time can continue speaking for the rest of the time allowed for speeches under these rules;
- (b) The Councillor who moved the report or motion has a right of reply before the motion or amendment is put to the vote. No other right to reply is allowed;
- (c) All outstanding reports are deemed to have been moved for adoption, and motions and amendments moved and seconded;
- (d) The Speaker must put the remaining matters on the agenda to the meeting in turn. These items will not be discussed. Full Council will decide and, if necessary, vote on each item;
- (e) The vote will be carried out by a show of hands only. Questions are not allowed. No other motion will be allowed. If a Councillor wishes to record that they do not agree, they must immediately tell the Speaker;
- (f) Any outstanding individual Councillors' motions are referred to a relevant committee or the Cabinet, unless the mover of the motion has requested that it be voted on at the meeting; and
- (g) When all motions and recommendations have been dealt with, the Speaker will declare the meeting closed.

#### **Rule 8 - Elected Mayor's statement**

8.1 The Elected Mayor (or the Statutory Deputy Mayor in the Elected Mayor's absence) may make a statement at any Ordinary Meeting of Full Council on any issue.

8.2 Following this statement, the Leader(s) of the Opposition Group(s), or the Deputy Opposition Group Leader(s) in the Group Leader(s) absence, will be given the opportunity to respond.

8.3 Following the Opposition's right to respond, the Elected Mayor will have a right of reply.

8.4 All such speeches will follow the rules set out in Rule 17.4.

#### **Part Four - Procedure Rules**

#### **Section A - Council Procedure Rules**

## **Rule 9 - Questions by the public**

### General

- 9.1 At ordinary meetings of the Full Council, any person who lives, works or studies in the Borough may ask questions of
- (a) the Elected Mayor;
  - (b) Councillors of the Cabinet;
  - (c) Deputy Cabinet Members;
  - (d) The Chair of any Committee or Sub-Committee; or
  - (e) Councillors as representatives on external bodies.

### Notice of questions

- 9.2 A question may only be asked if the Monitoring Officer has received notice in writing or by email no later than 12 noon, four clear working days in advance of the Full Council meeting.
- 9.3 The notice must state to whom the question is to be addressed and the name and address of the questioner.

### Number and length of questions

- 9.4 No person may submit more than one question to a meeting of Full Council and the question must be no longer than fifty words.

### Scope of questions

- 9.5 The Monitoring Officer may reject a question if it:
- (a) Is not about a matter for which the local authority has a responsibility, or which affects the Borough;
  - (b) Is potentially defamatory, frivolous, offensive or vexatious;
  - (c) Is substantially the same as a question, motion, petition or deputation which has been put at any meeting of the Council in the past six months;
  - (d) Requires the disclosure of confidential or exempt information or relates to a safeguarding matter;
  - (e) Relates to an individual planning or licensing application; or

- (f) Relates to something which is the subject of any contemplated or actual legal proceedings in which the Council is involved, either as a claimant, defendant or interested party. This also includes any matters which are the subject of mediation.

9.6 The Monitoring Officer will include all valid questions on the Full Council agenda. If a question is rejected, the questioner will be advised in writing and given reasons for the rejection.

#### Order of questions

9.7 Questions will be asked in the order that they were received. If the Speaker decides that some questions are similar to others, they can group these together.

#### Asking the question at the meeting

9.8 The Speaker will invite the questioner to put the question to the person named in the agenda. If the person who has submitted the question is unable to be present at the meeting, the Speaker may:

- (a) Ask the question on the questioner's behalf and invite the relevant person to respond;
- (b) Indicate that a written reply will be given; or
- (c) Decide that the question will not be dealt with.

#### Responses

9.9 An answer may take the form of:

- (a) A direct verbal answer;
- (b) Where the reply cannot be given verbally, a promise that a response will be sent later to the question; or
- (c) Where the information is in a publication of the Council or other published work, a reference to that publication.

9.10 The Elected Mayor, Deputy Mayor, Councillor of the Cabinet or Mayoral Advisor may nominate a Councillor of the Cabinet or Mayoral Advisor to answer the question or any supplemental question and the Chair of a Committee may likewise nominate another Councillor to reply.

### Supplementary questions

9.11 The person asking a question may ask one supplementary question without notice to the Councillor to whom the first question was asked. A further supplementary question may be asked by any other Councillor, if the Speaker agrees. Each supplementary question must arise directly from the original question and must not be a speech or statement.

### Timing

9.12 At each Full Council meeting a total of 30 minutes will be set aside for public questions. Any questions not addressed within this time will be dealt with by way of a written reply within 10 working days of the meeting.

9.13 Timing of questions:

- (a) The initial reply will last up to five minutes;
- (b) A supplementary question will last up to one minute; and
- (c) Any reply to a supplementary question will last up to two minutes.

### Reference of question to the Elected Mayor or Cabinet or a Committee

9.14 No discussion will take place on any question, unless the Speaker decides otherwise. However, the Elected Mayor or any Councillor may ask that a matter raised by a question is referred to Cabinet, the appropriate Committee or Sub-Committee. Once seconded, the motion will be voted on without discussion.

## **Rule 10 - Questions by Councillors**

### General

10.1 A member of the Council may ask any question in relation to their role as the Council's representatives on any outside body. They may also ask a question on any matter in relation to which the Council has powers or duties, or which affects Hackney to the following:

- (a) The Speaker;
- (b) The Elected Mayor;
- (c) Councillors of the Cabinet;
- (d) Deputy Cabinet Members;

- (e) The Chair of any Committee or Sub-Committee; or
- (f) Councillors as representatives on external bodies

#### Notice of questions

- 10.2 A question may only be asked if the Monitoring Officer has received notice in writing or by email no later than 12 noon, eight clear working days in advance of the Full Council meeting.
- 10.3 The notice must state to whom the question is to be addressed.

#### Number and length of questions

- 10.4 A Councillor may ask a maximum of two questions per meeting and each question must be no longer than fifty words.

#### Scope of questions

- 10.5 The Monitoring Officer may reject a question if it:
- (a) Is not about a matter for which the local authority has a responsibility, or which affects the Borough;
  - (b) Is potentially defamatory, frivolous, offensive or vexatious;
  - (c) Is substantially the same as a question, motion, petition or deputation which has been put at a Council meeting in the past six months;
  - (d) Requires the disclosure of confidential or exempt information or relates to a safeguarding matter;
  - (e) Relates to an individual planning or licensing application; or
  - (f) Relates to something which is the subject of any contemplated or actual legal proceedings in which the Council is involved either as a claimant, defendant or interested party. This also includes any matters which are the subject of mediation.
- 10.6 The Monitoring Officer will include all valid questions on the Full Council agenda. If a question is rejected, the Councillor will be advised in writing and given reasons for the rejection.

### Order of Questions

10.7 Questions will be placed on the Full Council agenda in the order that they are received by the Monitoring Officer. Questions from the majority group and opposition groups will be alternated.

### Asking the question at the meeting

10.8 The Speaker will ask the Councillor to put the question to the person named in the agenda. If the Councillor who submitted a question is not present when the question is called, the question may, with the consent of the Speaker, be asked by another Councillor.

### Responses

10.9 An answer may take the form of:

- (a) A direct verbal answer;
- (b) Where the reply cannot be given verbally, a promise that a response will be sent later to the question; or
- (c) Where the information is in a publication of the Council or other published work, a reference to that publication.

10.10 The Elected Mayor, Deputy Mayor, Councillor of the Cabinet or Mayoral Advisor may nominate a Councillor of the Cabinet or Mayoral Advisor to answer the question or any supplemental question. The Chair of a Committee may nominate another Councillor of the Council to reply.

### Supplementary Questions

10.11 A Councillor asking a question may ask one supplementary question without notice to the Councillor to whom the first question was asked. Any other Councillor may ask further supplementary question if the Speaker agrees. Each supplementary question must arise directly from the original question and must not be a speech or statement.

### Timing

10.12 At each Full Council meeting a total of 30 minutes will be set aside for questions by Councillors. Any questions not addressed within this time will be dealt with by way of a written reply within 10 working days of the meeting.

#### 10.13 Timing of questions:

- (a) The initial reply will last up to five minutes;
- (b) A supplementary question will last up to one minute; and
- (c) Any reply to a supplementary question will last up to two minutes.

### **Rule 11 - Deputations**

11.1 A deputation is a presentation from registered electors about a matter for which the Council has a responsibility or which affects the Borough

11.2 Full Council may only receive a deputation if the Monitoring Officer has received a Notice of Deputation no later than 12-noon eight clear working days prior to the Full Council meeting.

11.3 No more than two deputations will be taken at each meeting of Full Council.

#### Notice of Deputation

11.4 The Notice of Deputation must be signed by no less than ten registered local government electors of the Borough, state the subject of the deputation and the name of the Councillor who will introduce it.

11.5 The Councillor who is to introduce the deputation must sign the Notice of Deputation form to indicate their agreement to do so.

#### Scope of Deputation

11.6 The Monitoring Officer may reject a deputation if it:

- (a) Is not about a matter for which the local authority has a responsibility, or which affects the Borough;
- (b) Is potentially defamatory, frivolous, offensive or vexatious;
- (c) Is substantially the same as a question, motion, petition or deputation which has been put at any meeting of the Council in the past six months;
- (d) Requires the disclosure of confidential or exempt information or relates to a safeguarding matter;
- (e) Relates to an individual planning or licensing application;
- (f) Relates to something which is the subject of any contemplated or actual legal proceedings in which the Council is involved either as a



claimant, defendant or interested party. This includes any matters which are the subject of mediation; or

- (g) Is submitted by or on behalf of a political party, or it is submitted on paper bearing the name, insignia or other identifier of a political party.

11.7 Upon receipt of a Notice of Deputation, the Monitoring Officer will decide whether it will appear on the agenda papers. In making that decision, the Monitoring Officer must have regard to:

- (a) whether the deputation concerns an executive function, in which case the deputation should be referred to Cabinet; and
- (b) the other business to be considered at the meeting and the efficient conduct of the meeting.

A deputation will normally be accepted where there is an item on the agenda which relates to the same subject matter. Where there is no such item, the Monitoring Officer will consult the relevant lead Cabinet Councillor and / or the Elected Mayor as to whether it should be heard at Full Council.

11.7 The deputation leader must be notified promptly in writing if the deputation is not to be taken at the meeting.

#### Taking the Deputation at the Meeting

11.8 A maximum of 15 minutes will be allocated to each deputation.

11.10 When the item is called by the Speaker, any Councillor can, without notice, move a motion that the deputation:

- (a) Should not be heard at Full Council; and
- (b) Should be referred to either:
  - (i) The Elected Mayor
  - (ii) Cabinet
  - (iii) A Councillor of the Cabinet
  - (iv) A Deputy Cabinet Member
  - (v) A Committee of the Council
  - (vi) The Scrutiny Panel

This motion must be seconded. Once seconded, the motion must be put to a vote. There will be no debate.

- 11.11 The Deputation Leader will be given five minutes to introduce the deputation, following which the Elected Mayor and Councillors may ask questions for a period of five minutes.
- 11.12 The Elected Mayor, relevant Councillor of the Cabinet or Deputy Cabinet Member must be given the opportunity to respond to Full Council on the issues raised, and advise Full Council what actions will be taken as a result of the deputation. This response must last no more than five minutes. If no response is given at the meeting, a response should be given at the next ordinary meeting of Full Council.
- 11.13 A copy of the response will be sent to the Deputation Leader.

### **Rule 12 - Petitions**

- 12.1 Full Council will consider petitions in accordance with the terms of the adopted Petitions scheme set out in Part 6, Section D of this Constitution.

### **Rule 13 - Opposition Sponsored Business**

- 13.1 Opposition sponsored business may take place at any meeting of Full Council except the budget setting meeting and the Annual Meeting.
- 13.2 If any Opposition Group wants to have an item of business included in the agenda for a meeting, they must notify the Monitoring Officer by 12 noon, eight clear working days in advance of the meeting.
- 13.3 The Monitoring Officer will include the item on the agenda for the meeting but may reject an item if it:
- (a) Is not about a matter for which the local authority has a responsibility, or which affects the Borough;
  - (b) Is potentially defamatory, frivolous, offensive or vexatious;
  - (c) Is substantially the same as a question, motion, petition or deputation which has been put at any meeting of Council in the past six months;
  - (d) Requires the disclosure of confidential or exempt information or relates to a safeguarding matter;
  - (e) Relates to an individual planning or licensing application; or
  - (f) Relates to something which is the subject of any contemplated or actual legal proceedings in which the Council is involved either as a

claimant, defendant or interested party. This includes any matters which are the subject of mediation.

- 13.4 An item of opposition sponsored business is not a motion. If the Monitoring Officer considers that the notification from the Opposition Group should more appropriately be treated as a motion, they will include it in the agenda as a motion.
- 13.5 A representative of the Opposition Group sponsoring the item will open the debate. No seconder is required.
- 13.6 The Speaker must then invite Councillors to debate the item for a maximum of 10 minutes. Once the debate has been concluded, or the time period has expired, the Speaker will move on to the next business.

#### **Rule 14 - Motions**

14.1 A Motion can be either:

- (a) A procedural matter affecting the course of a meeting.
- (b) A request made by a Councillor for a matter for which the Council has a responsibility, or which affects the Borough, to be discussed at a meeting of Full Council. A Motion can be to adopt a certain course of action, to do an act or to declare a particular attitude.

Motions must be proposed and seconded.

#### Notice of Motions

14.2 Other than those motions listed in Rule 15, written notice of every Motion for discussion must be signed by at least two Councillors. It must be delivered to the Monitoring Officer not later than 12 noon, eight clear working days prior to the Full Council meeting.

#### Scope of Motions

14.3 The Monitoring Officer may reject a Motion for discussion if it:

- (a) Is not about a matter for which the Council has a responsibility, or which affects the Borough;
- (b) Is potentially defamatory, frivolous, offensive or vexatious;
- (c) Is substantially the same as a question, motion, petition or deputation which has been put at a meeting of Full Council in the past six months;

- (d) Requires the disclosure of confidential or exempt information or relates to a safeguarding matter;
- (e) Relates to an individual planning or licensing application.
- (f) Relates to something which is the subject of any contemplated or actual legal proceedings in which the Council is involved either as a claimant, defendant or interested party. This includes any matters which are the subject of mediation.
- (g) Is not expressed in positive terms requiring the Council to adopt a certain course of action or to do some act or to declare a particular attitude.

14.4 The Monitoring Officer will include all valid Motions for discussion on the Full Council agenda. If a Motion is not valid, the Councillors will be advised in writing, including the reasons for the rejection.

14.5 The Motion for discussion will be listed on the agenda in the order in which the notice was received and determined to be compliant with these procedure rules unless the Councillors giving notice state in writing that they wish the motion to be considered at a later meeting.

#### Withdrawal of Motion

14.6 A Councillor proposing a Motion may withdraw it if both the meeting and the seconder consent. There will be no discussion about the decision of the meeting to consent or not. No Councillor may speak on the Motion after permission to withdraw has been requested, unless permission is refused.

#### **Rule 15 - Motions without notice**

15.1 The following procedural Motions may be moved and seconded without written notice:

- (a) To appoint a chair of the meeting;
- (b) In relation to the accuracy of the minutes;
- (c) To change the order of business in the agenda;
- (d) To refer a matter to an appropriate body or individual;
- (e) To appoint a committee or a Councillor to a position arising from an item on the summons for the meeting;
- (f) To receive reports or adoption of recommendations of committees or officers and any resolutions following from them;

- (g) To withdraw or amend a Motion;
- (h) To proceed to the next business;
- (i) That the question be now put;
- (j) To adjourn a debate;
- (k) To adjourn a meeting;
- (l) To suspend a particular Council procedure rule;
- (m) To continue the meeting beyond 10pm;
- (n) To exclude the public and press in accordance with the Access to Information Rules;
- (o) To not hear further a Councillor who has been named under Rule 26.3 or to exclude them from the meeting under Rule 26.4.

#### **Rule 16 - Procedure regarding motions**

- 16.1 Any Councillor may move that a Motion be referred for consideration to the Cabinet, the Elected Mayor, another Councillor of the Cabinet, a Deputy Cabinet Member, a Committee of the Council, the Scrutiny Panel or the Scrutiny Commissions, as appropriate. The Motion, if seconded, will be put and determined without discussion.
- 16.2 A Motion on any matter for which the Cabinet has decision-making powers will be referred to the Cabinet for consideration only.
- 16.3 When a Motion is to be debated and the Councillor who gave notice of the motion is not present at the meeting, the Speaker may exercise discretion and call upon another Councillor of the Council to move the Motion.
- 16.4 The total time for consideration of Motions for discussion will not exceed 30 minutes in one meeting. Any Motion for discussion not debated will be referred, without discussion, to the next ordinary meeting of Full Council for discussion.

#### **Moving and Seconding a Motion**

- 16.5 A Motion must be moved and seconded by the Councillors who gave notice, or, with the consent of Full Council, by any other Councillor before it can be debated.

### Secunder of Motion - Right to speak

16.6 Any Councillor who seconds a Motion or amendment may choose whether they wish to speak immediately after the proposer or reserve their speech until a later period in the debate.

### **Rule 17 - Rules of debate for motions**

#### Right to require Motion in writing

17.1 The Speaker may require a notice of Motion to be written down and handed to them before it is discussed.

#### Content, conduct and length of speeches

17.2 Speeches must be directed to the question under discussion, or a personal explanation or point of order;

17.3 Councillors and Officers at any meeting must be addressed or referred to by their respective titles;

17.4 The Speaker will decide on the length of speeches;

17.5 Unless otherwise stated in these Rules, no speech may exceed 5 minutes or 10 minutes in the case of the Elected Mayor without the consent of Full Council.

#### When a Councillor may speak again

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

- (a) To speak once on an amendment moved by another Councillor;
- (b) To move a further amendment if the Motion has been amended since they last spoke;
- (c) If their first speech was on an amendment moved by another Councillor, to speak on the main issue (whether or not the amendment on which they spoke was carried);
- (d) In exercise of a right of reply;
- (e) On a point of order, naming the procedure rule on which they rely;
- (f) By way of personal explanation.

### Amendments to motions

- 17.7 An amendment to a Motion moved by a Councillor and seconded by another Councillor must be in writing and relevant to the Motion and must be either:
- (a) To refer the matter to an appropriate body or individual for consideration or reconsideration; or
  - (b) To leave out, insert or add words as long as the effect is not to negate the Motion.
- 17.8 Councillors who wish to propose amendment(s) to a Motion for discussion as printed on the agenda for full Council must provide a copy of the proposed amendment(s) to the Monitoring Officer by noon the day before the Council meeting. This is to ensure that the proposed amendment(s) can be circulated to all Councillors in readiness for the meeting itself.
- 17.9 Where proposed amendments are not received by the deadline, the Monitoring Officer, in consultation with The Speaker, may exercise their discretion to accept the proposed amendment if there are exceptional circumstances.
- 17.10 Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- 17.11 If an amendment is not carried, other amendments to the original Motion may be moved.
- 17.12 If an amendment is carried, the Motion as amended takes the place of the original motion. This becomes the substantive Motion to which any further amendments are moved, replacing the original one.
- 17.13 After an amendment has been carried the Speaker may read out the new substantive Motion before accepting any further amendments if this would provide clarity for the meeting. If there are no further amendments, the substantive Motion shall be put to the vote.

### Altering a Motion with notice

- 17.14 Where a Councillor has given notice, they may alter their Motion with the consent of the meeting. The meeting's consent or otherwise will be signified without discussion. If the alteration is simply to accept an amendment proposed by another Councillor the consent of the meeting is not required.

### Altering a Motion moved without notice

17.15 A Councillor may alter a Motion which they moved without notice, only with the consent of both the meeting and the seconder. The meeting's consent or otherwise will be signified without discussion. Only alterations which could be made as an amendment may be made.

### Right of reply

17.16 The proposer of a Motion has the right to reply at the end of the debate, before it is put to the vote, where the Elected Mayor or any Councillor has spoken in opposition to the Motion.

17.17 The proposer shall not introduce new matters when exercising a right of reply.

### Motions which may be moved during debate

17.18 When a Motion is under debate, no other Motion may be moved except the following procedural Motions:

- (a) To withdraw or amend a Motion;
- (b) To close the Motion (this must be seconded and vote has to take place);
- (c) To proceed to the next business;
- (d) That the question be now put;
- (e) To adjourn the debate;
- (f) To adjourn the meeting;
- (g) To extend the time of the meeting;
- (h) To exclude the public and press in accordance with the Access to Information Procedure Rules; or
- (i) To not hear further a Councillor who has been named under Rule 26.3 or to exclude them from the meeting under Rule 26.4.

### Closure Motions

17.19 A Councillor may move, without comment, the following Motions at the end of a speech of another Councillor:

- (a) To proceed to the next business;



- (b) That the question be now put;
- (c) To adjourn the debate;
- (d) To adjourn the meeting.

#### Point of Order

17.20 The Elected Mayor or any Councillor may raise a point of order at any time. The Speaker will hear it immediately. A point of order may only relate to an alleged breach of these Council Procedure Rules or the law. Elected Mayor or Councillor must indicate the Rule or law and the way in which they consider it has been broken. The ruling of the Speaker on the matter will be final.

#### Personal Explanation

17.21 The Elected Mayor or any Councillor may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the The Elected Mayor or Councillor which may appear to have been misunderstood in the present debate. The ruling of the Speaker on the admissibility of a personal explanation will be final.

### **Rule 18 - Debating reports**

- 18.1 When the report is a Cabinet member's report, the Cabinet member must introduce the report and propose any recommendations.
- 18.2 When the report is an Officer's report, the Officer must introduce the report and the recommendations will be taken as being proposed to the meeting. In the case of Annual Reports, these may be introduced by the relevant Lead Cabinet Member or Committee Chair even if the report is an Officer's report.
- 18.3 When the report is from a Council Committee, the Chair of that Committee will introduce the report and propose any recommendations.
- 18.4 The recommendations in the report do not have to be seconded.
- 18.5 The Speaker must invite the Elected Mayor and Councillors to ask questions of the Cabinet Member, Officer or Committee Chair as appropriate.
- 18.6 The Speaker must then ask whether those present wish to debate the report. If the Elected Mayor or any Council indicates that they do, the report must be debated. The Speaker has the absolute discretion to determine the length of the debate and speeches.
- 18.7 Once the debate has concluded, the Speaker will put the recommendation(s) to the vote.

#### **Part Four - Procedure Rules**

#### **Section A - Council Procedure Rules**

## **Rule 19 - State of Hackney debate**

### Calling of debate

19.1 The Elected Mayor may call a State of Hackney Debate on a date and in a form to be agreed with the Speaker.

### Form of debate

19.2 The Elected Mayor will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the State of Hackney Debate. Council Procedure Rules may be suspended by the Speaker on the advice of the Monitoring Officer to ensure maximum flexibility.

### Chairing of debate

19.3 The debate will be chaired by the Speaker.

### Results of debate

19.4 The results of the debate will be:

- (a) Disseminated as widely as possible within the community and to agencies and organisations in the area; and
- (b) Considered by the Elected Mayor in proposing the budget and policy framework to Full Council for the coming year.

## **Rule 20 - Previous decisions and motions**

### Motion to revoke a previous decision

20.1 A Motion to revoke a decision made at a meeting of Full Council within the past six months cannot be moved unless notice of motion is signed by at least one third of the Councillors, which may include the Elected Mayor.

### Motion similar to one previously rejected

20.2 A motion which has the same effect as one rejected in the past six months by Full Council cannot be moved unless a notice of motion or amendment is signed by at least one third of the Councillors of the Council. Once Full Council has determined such a motion, no one may propose a similar motion or amendment within a further period of six months.

20.3 The above Rules do not apply to Motions moved following a recommendation to Full Council made by Cabinet or a Committee.

## **Part Four - Procedure Rules**

### **Section A - Council Procedure Rules**

## **Rule 21 - Voting**

### Majority

21.1 Unless this Constitution provides otherwise, any matter will be decided by a simple majority. The vote of the Elected Mayor and any Councillor will not be counted or recorded unless, when the vote is started, they are in a seat in the Council Chamber.

### Show of hands

21.2 Unless a recorded vote is demanded under Rule 21.3, or the Constitution provides otherwise, the Speaker will take the vote by a show of hands, and if there is no dissent, by the affirmation of the meeting.

### Recorded vote

21.3 If ten Councillors, which may include the Elected Mayor, present at the meeting demand it, a recorded vote will be taken where each person will be asked to confirm whether they vote for or against the motion or amendment or abstain from voting.

21.4 Where a recorded vote is taken, the names of those persons for or against the motion and those persons abstaining from voting will be recorded in the minutes.

### Recorded vote on the Council's budget and council tax

21.5 In accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014, a recorded vote will be taken at Full Council and Cabinet on any vote in respect of the Council's budget and council tax (including any amendments).

21.6 The names of persons who voted for or against the motion or any amendment and those persons abstaining from voting will be recorded in the minutes.

### Right to require individual vote to be recorded

21.7 Where the Elected Mayor or any Councillor makes a request to have their vote recorded immediately after a vote is taken, their vote will be recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

### Speaker's casting vote

21.8 If there are equal numbers of votes for and against, the Speaker will have a second or casting vote providing that they have already voted on the motion.

There will be no restriction on how the Speaker chooses to exercise a casting vote.

#### Voting on appointments or nominations to committees

21.9 Where a vote is required on an election or appointment and two or more persons are nominated, the Speaker will call for a vote on the nominations in turn. No-one may vote for more than one person.

21.10 The procedure to be followed is

- (a) Members will be invited to vote for one of the nominees
- (b) If one nominee secures an absolute majority of those present and voting, they will be declared elected/appointed
- (c) If no nominee secures an absolute majority of those present and voting, the nominee with the least number of votes shall be eliminated from the contest;
- (d) The above steps will be repeated until one nominee secures an absolute majority of those present and voting.

#### **Rule 22 - Minutes**

##### Signing the minutes

22.1 The Speaker, or in their absence the Deputy Speaker or other person presiding over the meeting, will sign the minutes of the proceedings at the next suitable Council meeting.

22.2 The Speaker will ask whether the minutes of the previous meeting can be signed as a correct record. Only the accuracy of the minutes can be discussed.

##### No requirement to sign minutes of previous meeting at an Extraordinary meeting

22.3 The agenda for an extraordinary meeting will not include an item for the approval of minutes of an ordinary Full Council meeting.

#### **Rule 23 - Record of attendance**

23.1 The Elected Mayor and Councillors must sign their names on the attendance sheets before the conclusion of every meeting to provide a record of their attendance.

- 23.2 The Elected Mayor and Councillors will not be counted as being present if they attend the meeting for less than 30 minutes. Where a meeting is of less than 30 minutes' duration, the period shall be the duration of the meeting.

#### **Rule 24 - Exclusion of public**

- 24.1 The public and press may only be excluded from a meeting either because an item of exempt or confidential business is to be discussed (see the Access to Information Procedure Rules set out in Part 5, Section C of this Constitution) or because of a public disturbance to the meeting (Rule 27).
- 24.2 A Motion may be moved at any time for the exclusion of the public from the whole or any part of the proceedings of Full Council to discuss exempt or confidential business. The Motion shall specify, by reference to Section 100(A) of the Local Government Act 1972, the reason why the public is to be excluded.

#### **Rule 25 - Conduct of the Elected Mayor and Councillors**

- 25.1 When the Elected Mayor or a Councillor speaks at Full Council they must stand and address the meeting through the Speaker. If more than one person stands, the Speaker will ask one to speak and the others must sit. The Elected Mayor and Councillors must remain seated whilst someone is speaking, unless they wish to make a point of order or a point of personal explanation.
- 25.2 If the Elected Mayor or any Councillor wishes to make a point of order or point of personal explanation whilst someone else is speaking they must stand and wait for the Speaker to address them.
- 25.3 If the Elected Mayor or a Councillor is unable to stand through illness or disability, they may remain seated and the Speaker will ensure that they are given full and equal access to participation and debate.

#### Speaker standing

- 25.4 When the Speaker stands during a debate, the Elected Mayor or any Councillor speaking must stop and sit down. The meeting must be silent.

#### Elected Mayor or any Councillor not to be heard further

- 25.5 If the Elected Mayor or any Councillor persistently disregards the ruling of the Speaker by behaving improperly or offensively or deliberately obstructs business, a motion may be moved that they are not heard further. If seconded, the motion will be voted on without discussion.

### Elected Mayor or any Councillor asked to leave the meeting

25.6 If the Elected Mayor or any Councillor continues to behave inappropriately after such a motion is carried, a motion may be moved that either they leave the meeting or that the meeting is adjourned for a specific period. If seconded, the motion will be voted on without discussion.

## **Rule 26 - General disturbance and / or disturbance by the public**

### Removal of member of the public

26.1 If a member of the public interrupts or otherwise disrupts a meeting, the Speaker will warn that person that if they continue to interrupt or be disruptive they will be removed. If, despite the warning, the person continues to interrupt or disrupt the meeting, the Speaker will order their removal from the meeting.

### General disturbance

26.2 If there is a disturbance by the public that makes the conduct of the meeting impossible, the Speaker may:

- (a) Adjourn the meeting for as long as they think necessary to resolve the disturbance. The meeting may not resume any later than 9:50pm;
- (b) Call for any part of the meeting room to be cleared of those causing the disturbance;
- (c) Decide to move the meeting to another room in the Council's buildings; or
- (d) Adjourn the meeting to another date.

### Recording a meeting

26.3 Any photography or recording of sound and/or video made during the meeting must comply with the provisions in the Protocol for Recording/Livestreaming of Council Meetings set out in Part 6, Section F of this Constitution.

## **Rule 27 - Suspension and amendment of Council Procedure Rules**

### Suspension

27.1 The following Council Procedure Rules may be suspended for the duration of the meeting either:

- (a) By motion on notice in accordance with Rule 14, or

- (b) By motion without notice provided that at least one half of the whole number of members of Full Council are present and a majority of those present support the motion:
- (i) Duration of meeting (Rule 7);
  - (ii) Questions by the public (Rule 9);
  - (iii) Questions by Councillors – except there shall be no suspension of the time limit for Councillors' questions (Rule 10);
  - (iv) Deputations (Rule 11);
  - (v) Petitions (Rule 12);
  - (vi) Total time for consideration of motions (Rule 16.4);
  - (vii) Debating reports (Rule 18);
  - (viii) Previous decisions and motions (Rule 20); or
  - (ix) Conduct of the Elected Mayor and Councillors (Rule 25).

#### Amendment

27.2 Other than as detailed above, any motion to add to, vary or revoke these Council Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of Full Council where it will be considered alongside a report from the Monitoring Officer.

#### **Rule 28 - Interpretation of Council Procedure Rules**

28.1 At any meeting of the Council, the Speaker will make decisions, or rulings, about the construction, interpretation or application of the Council Procedure Rules. They will take advice from the Monitoring Officer or legal adviser before doing so. A member may ask the Speaker to explain the ruling, but once an explanation has been provided the ruling will be final.

28.2 Any representations should be made to the Monitoring Officer following the meeting.

#### **Rule 29 - Mobile phones and other electronic communication devices**

29.1 No one is allowed to make or receive telephone calls during a meeting.

29.2 Electronic communication devices, such as mobile phones, laptops, tablets etc, may be used during a meeting to access agendas, reports, speeches etc

or use social networking sites for the purposes of live reporting of the meeting. Audible notifications must be turned off.

- 29.3 Photography or recording of sound and/or video made during the meeting must comply with the Protocol for Recording/Livestreaming of Council meetings as set out in Part 6, Section F of this Constitution.

### **Rule 30 - Application to committees and sub-committees**

30. The following Council Procedure Rules apply to all non-executive meetings of Council Committees, and Sub-Committees:

- (a) Business (Rule 3);
- (b) Time and Place of Meetings (Rule 4);
- (c) Notice of meeting (Rule 5);
- (d) Chair of meeting (Rule 6);
- (e) Quorum - but see different rules for Sub-Committees (Rule 7);
- (f) Duration of Meeting - but not to meetings of any quasi-judicial Committee or Sub-Committee or one at which the appointment of staff is being considered (Rule 8);
- (g) Motions and amendments without notice - but not establishment of Committee or appointment of Councillors except where the terms of reference permit (Rule 15);
- (h) Speeches (Rule 17.4);
- (i) Points of Order (Rule 17.12)
- (j) Points of personal explanation (Rule 17.13);
- (k) Voting (Rule 21);
- (l) Minutes (Rule 22);
- (m) Conduct of the Elected Mayor and Councillors (Rule 25);
- (n) Disturbance by the Public (Rule 26);
- (o) Mobile phones and other electronic communication devices (Rule 29).

- 30.1 References to the Speaker have the same meaning as references to the Chair of Committee or Sub-Committee as appropriate.



31.2 References to motion have the same meaning as references to the matter under consideration.

31.3 References to Full Council shall be construed as references to the Committee or Sub-Committee as appropriate.

#### Order of Business

31.4 The Committee / Sub-Committee will:

- (a) Appoint a person to preside as chair if the Chair and Vice-Chair are not present;
- (b) Approve the minutes of the last meeting;
- (c) Receive any declarations of interest from Councillors;
- (d) Receive deputations and questions from the public referred by the Monitoring Officer, as long as these are in line with any particular rules or procedures that apply to the Committee/Sub-Committee;
- (e) Carry out the business on the agenda. This is determined by the terms of reference for each Committee or Sub-Committee.

#### Attendance

31.5 The Elected Mayor or any Councillor can attend meetings of Committees and Sub-Committees as an observer. If they do they:

- (a) Cannot vote; and
- (b) Can speak with the permission of the Chair

31.6 Where a motion has been referred to a Committee or Sub-Committee by Full Council, the Councillor who proposed the motion must be given notice of the meeting and can attend the meeting and explain the motion.

#### Sub-Committees

31.7 Committees can establish Sub-Committees to carry out any of the functions within the Committee's terms of reference. These functions will still remain the responsibility of the parent Committee overall.

31.8 The quorum of a Sub-Committee will be one-quarter of the whole number of members of that Sub-Committee, subject to a minimum quorum of two Councillors per meeting. Any Councillor who is attending in a substitute capacity will count for the purposes of the quorum.

## Working Parties

31.9 Committees and Sub-Committees can from time to time set up working parties. Working parties are not decision-making bodies and may comprise a combination of Members, Officers, external advisers etc. Meetings of working parties are not governed by these rules of procedure. The appointing body will decide the business and conduct of the meetings. These will form part of the terms of reference for the working party.

31.10 Rights of access to working party meetings and to information relating to these meetings are the same as general rights of access to information under legislation or the common law.

## **Rule 32 - Convening meetings of committees and sub-committees**

32.1 The Monitoring Officer will call all meetings of Committees and Sub-Committees and will decide the venue and time of the meeting.

32.2 The Chair of any Committee or Sub-Committee may ask the Monitoring Officer to call a special meeting of the Committee or Sub-Committee at any time.

32.3 If at least one-quarter of the members of a Committee or Sub-Committee inform the Monitoring Officer in writing that they wish to call a special meeting, the Monitoring Officer must call such a meeting at the earliest opportunity consistent with the requirements of the Access to Information Procedure Rules, set out in Part 6, Section C of this Constitution.

## **Part 4 - Procedure Rules**

### **Section B - Cabinet Procedure Rules**

The Cabinet Procedure Rules explain:

- How Cabinet meetings are conducted and managed; and
- How these Rules apply to meetings of any Cabinet committees and sub-committees.

Index of Cabinet Procedure Rules:

Rule 1 - Power to make executive decisions

Rule 2 - Delegation

Rule 3 - Conflicts of Interest

Rule 4 - How decisions are made by the Elected Mayor and Cabinet

Rule 5 - Cabinet Meetings

Rule 6 - Deputations

Rule 7 - Questions to Cabinet

Rule 8 - Petitions

Rule 9 - Agenda for meetings of the Cabinet and Notice and Summons to meeting

Rule 10 - Extraordinary meetings

Rule 11 - Motions without notice

Rule 12 - Voting

Rule 13 - General rules about the conduct of the meeting

Rule 14 - Application to executive committees and sub-committees

## **Rule 1 - Power to make executive decisions**

1.1 By law, some areas of responsibility, or functions, are the responsibility of a Council's Executive. These are called executive functions, and decisions relating to them are executive decisions. The Elected Mayor can make executive decisions. The Elected Mayor can also delegate authority to exercise these functions to any extent:

- (a) To Cabinet as a whole;
- (b) To a committee of Cabinet;
- (c) To an individual Councillor of Cabinet;
- (d) To an Officer;
- (e) To an area committee;
- (f) Under joint arrangements; or
- (g) To another local authority.

## **Rule 2 - Delegation**

2.1 At the Annual Meeting, the Elected Mayor will present a report that gives details of delegations they wish to make for the municipal year. The report will contain the following information:

- (a) The names of the Councillors appointed to Cabinet by the Elected Mayor;
- (b) Details of any authority delegated to an individual Councillor of the Cabinet. This will include details of the nature, extent and any limitation of their authority.
- (c) Details of any Cabinet committees to be appointed and the names of Councillors appointed to them;
- (d) Details of the appointment of any Deputy Cabinet Members;
- (e) The nature and extent of any delegation of executive functions to any area committee, another authority or any joint arrangements;
- (f) The names of members of the Cabinet appointed to any joint committee for the coming year; and

- (g) The nature and extent of any delegation of executive functions to officers.

#### Sub-delegation of Cabinet functions

- 2.2 Cabinet functions can be sub-delegated, or delegated further, except where the Elected Mayor says that this can not happen.
- 2.3 If the Elected Mayor delegates functions to Cabinet, the Cabinet can delegate further to the following people or bodies:
  - (a) A Committee of Cabinet;
  - (b) An officer;
  - (c) Under joint arrangements;
  - (d) To another local authority; or
  - (e) Area committees
- 2.4 If the Elected Mayor delegates functions to a Committee of the Cabinet, the Committee may delegate further to an officer, except where the Elected Mayor has said that they are not allowed to delegate further.
- 2.5 When the Elected Mayor or Cabinet has delegated functions to another person or body, the Elected Mayor or Cabinet may still discharge these functions.
- 2.6 The Elected Mayor may amend the scheme of delegation relating to the executive functions at any time during the year. To do so, the Elected Mayor must give written notice to the Monitoring Officer and to the person, body or Committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, committee or Cabinet as a whole.

#### **Rule 3 - Conflicts of Interest**

- 3.1 By law any member of the Executive must declare any conflict of interest, and any dispensation granted in respect of that conflict of interest, when taking a decision either collectively at Cabinet or individually. These conflicts of interest are required to be noted in the published decision notice(s).
- 3.2 There is no clear definition as to what is meant by a conflict of interest. The following is a non-exhaustive list of situations where a member of the Executive may be regarded as having, or being perceived to have, a conflict

of interest that is incompatible with their duty to take decisions in accordance with Part 1, Section B of this Constitution:

- (a) They may have two or more different interests in a particular matter that are incompatible with each other or the general principles of the Councillor Code of Conduct or the Principles of Public Life;
- (b) They may profit personally from decisions made in their official capacity;
- (c) They may owe separate duties to act in the best interests of two or more constituents and these duties conflict or there is a significant risk that they may conflict;
- (d) Their duty to act in the best interest of any constituent conflicts, or there is a significant risk that it may conflict, with their own interest in that matter.

- 3.3 Where a member of the Executive believes that they may have a conflict of interest over and above any personal interest they are already required to declare under the Councillor Code of Conduct, they should seek advice from the Monitoring Officer. The Monitoring Officer will decide whether a dispensation is required.
- 3.4 Where a conflict of interest exists, a member of the Executive should only remain, speak and vote on any item if a dispensation has been granted.

#### **Rule 4 - How decisions are made by the Elected Mayor and Cabinet?**

- 4.1 Executive decisions that have been delegated to Cabinet, or to a committee of Cabinet, will be taken at a meeting held as required by the Access to Information Procedure Rules in Part 6, Section C of the Constitution.

#### **Rule 5 - Cabinet Meetings**

- 5.1 The Cabinet meets on dates set out in the Council's meetings calendar. It meets at the Council's main offices or any other location to be decided by the Elected Mayor.
- 5.2 If the Elected Mayor is present, they will chair the meeting. If the Elected Mayor is absent, the Statutory Deputy Mayor will chair the meeting.
- 5.3 Meetings of Cabinet will normally be open to the public, unless confidential or exempt information is to be discussed or the Access to Information Procedure Rules set out in Part 6, Section C of this Constitution require this.

- 5.4 The rights of the public in respect of attending and recording Cabinet Meetings are set out in the Access to Information Procedure Rules in Part 6, Section C of this Constitution and the Protocol for Recording/Livestreaming Council Meetings set out in Part 6, Section F of this Constitution.
- 5.5 The quorum for a meeting of the Cabinet is 3 members of the Cabinet. This must include the Elected Mayor or the Statutory Deputy Mayor. If neither of these are present the meeting will not be quorate.
- 5.6 The quorum for a meeting of a committee of the Cabinet shall be one quarter of the total number of elected members of the Cabinet, or 2, whichever is the larger.
- 5.7 The leader of any opposition group, the Chairs and Vice-Chairs of the Scrutiny Commissions and the Speaker may attend and speak at any meeting of the Cabinet. They must be sent all Cabinet agendas and reports, including confidential and exempt items.
- 5.8 Meetings of Cabinet will:
- (a) Receive apologies;
  - (b) Approve the minutes of the previous meeting;
  - (c) Receive any declarations of interest from elected members;
  - (d) Receive any deputations or petitions for which notice has been given and that are included on the agenda;
  - (e) Receive any questions from, and provide answers to, members of the public that are included on the agenda;
  - (f) Consider any matters referred to the Cabinet by a Scrutiny Commission or by Full Council for reconsideration by the Executive. The referral must comply with the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Rules;
  - (g) Consider reports from Scrutiny Commissions;
  - (h) Consider reports as set out in the agenda.
  - (i) Receive details of any decisions made by individual Cabinet Members, committees of the Cabinet and key decisions delegated to and taken by Officers.
  - (j) Consider any item of business that the Elected Mayor has asked to be placed on the agenda.

- (k) Consider any report that any two of the Council's statutory Officers, acting within their statutory duties, decide ought to be considered by the Cabinet.
- (l) Consider any items of urgent business.

## **Rule 6 - Deputations**

6.1 Council Procedure Rule 11 (Deputations) will apply to Cabinet with the following changes:

- (a) All - references in that Rule to "Full Council" will be taken to mean "Cabinet".
- (b) All - references to the "Speaker" will be taken to mean the person chairing Cabinet.
- (c) Rule 11.2 - no more than one deputation may be taken at each meeting of Cabinet.
- (d) Rule 11.6(i) does not apply.
- (e) Rule 11.10 does not apply.

## **Rule 7 - Questions to Cabinet**

7.1 A member of the public who lives, works or studies in the Borough can ask a question of Cabinet.

7.2 Council Procedure Rule 9 (Questions by the public) applies to Cabinet and references in that Rule to "Full Council" must be taken to apply to "Cabinet" with the following changes:

- (a) All - references to the "Speaker" will be taken to mean references to the person chairing the meeting.
- (b) Rule 9.1 - questions may be asked of the Elected Mayor, Councillors of the Cabinet and Mayoral Advisors.
- (c) Rule 9.12 - the total amount of time for questions at Cabinet will be no more than 15 minutes.

7.3 If the Chair agrees, a member of the public can ask a question at Cabinet without having given notice. If a question without notice is asked, the Chair will explain that it might not be possible to give a full answer on the night and that a written response will be provided.



7.4 A Councillor may ask a question at Cabinet at the discretion of the Chair. Questions should relate to the items on the published agenda and should be submitted to the Monitoring Officer no later than 12 noon, four clear working days in advance of the Cabinet meeting.

### **Rule 8 - Petitions**

8.1 Where a petition is considered by, or referred to, Cabinet, paragraphs 7.2 to 7.7 of the Council's Petition scheme apply.

### **Rule 9 - Agenda for meetings of the Cabinet and Notice and Summons to meeting**

9.1 The Monitoring Officer will give notice to the public of the time and place of any meeting as detailed in the Access to Information Rules, set out in Part 6, Section C of this Constitution.

### **Rule 10 - Extraordinary meetings**

10.1 When any two of the Council's statutory Officers, acting within their statutory duties, are of the opinion that Cabinet should consider a report from them and no Cabinet meeting is scheduled to take place within the specified timeframe, the Monitoring Officer can call an extraordinary meeting of Cabinet.

### **Rule 11 - Motions without notice**

11.1 The following motions may be moved without notice:

- (a) To change the order of business in the agenda;
- (b) To refer a matter to an appropriate body or individual;
- (c) To appoint an Executive committee or a Councillor to a position arising from an item on the agenda for the meeting;
- (d) To withdraw a motion;
- (e) To amend a motion;
- (f) To proceed to the next business;
- (g) To adjourn a debate;
- (h) To adjourn a meeting;
- (i) To suspend a particular Cabinet Procedure Rule; and

- (j) To exclude the public and press in accordance with the Access to Information Rules.

### **Rule 12 - Voting**

- 12.1 Unless this Constitution or the law provides otherwise the Elected Mayor and Councillors of the Cabinet voting and present in the room at the time the question was put will decide the matter by a simple majority.
- 12.2 If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There is no restriction on how the Chair chooses to exercise a casting vote.
- 12.3 A recorded vote will be taken at Cabinet on any vote in relation to the Council's budget and council tax. This is required by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014. The names of those who voted for or against such a decision or abstained must be recorded and included in the minutes of the meeting. A recorded vote must also be taken on any proposed amendments relating to the budget and council tax.

### **Rule 13 - General rules about the conduct of the meeting**

- 13.1 The following Council Procedure Rules will apply to meetings of Cabinet and any references in those Rules to "Full Council" shall be taken to refer to "Cabinet" and any references to "the Speaker" to the person chairing the meeting.
  - (a) Rule 26 - General disturbance and/or disturbance by the public;
  - (b) Rule 28 - Interpretation of Council Procedure Rules; and
  - (c) Rule 29 - Mobile phones and other electronic communications devices.

### **Rule 14 - Application to executive committees and sub-committees**

- 14.1 The following Cabinet Procedure Rules apply to all meetings of Cabinet Committees or Sub-Committees:
  - (a) Conflicts of interest (Rule 3);
  - (b) Cabinet meetings (Rule 5, other than Rules 5.2 and 5.5);
  - (c) Questions to Cabinet (Rule 7);
  - (d) Agenda for meetings of the Cabinet and Notice and Summons to meeting (Rule 9);

- (e) Extraordinary meetings (Rule 10);
- (f) Motions without notice (Rule 11);
- (g) Voting (Rule 12); and
- (h) General rules about conduct of the meeting (Rule 13)

14.2 References in the above rules to the “Elected Mayor” and “Statutory Deputy Mayor” shall be taken to refer to the “Chair” and “Vice-Chair” of the Cabinet Committee or Sub-Committees.

**Part 4 - Procedure Rules**  
**Section C - Budget and Policy Framework Procedure Rules**

**Responsibility**

- 1.1 Full Council is responsible for the adoption of:
- (a) Those plans and strategies which form part of the Council's policy framework;
  - (b) The annual Council Tax requirements; and
  - (c) The Council's budget.
- 1.2 Following adoption, responsibility for implementation rests with the Elected Mayor and Cabinet.

**Process for developing the framework**

- 2.1 The process by which the budget and plans/strategies within the policy framework are developed shall be as follows:
- (a) Before a plan/strategy or a budget needs to be adopted, Cabinet will publish initial proposals having first canvassed the views of local stakeholders as appropriate and in a manner suitable to the matter under consideration.
  - (b) Any representations made to Cabinet shall be taken into account in formulating the initial proposals and shall be reflected in any report dealing with them. If the matter is one where a Scrutiny Commission has carried out a review of policy, then the outcome of that review will be reported to the Cabinet and considered in the preparation of initial proposals.
  - (c) Cabinet may seek advice from a Scrutiny Commission on any proposals. The Scrutiny Commission may report to Cabinet on the outcome of its deliberations. Cabinet should allow the Scrutiny Commission four weeks, or any other reasonable time, to respond to the initial proposal unless Cabinet considers that there are special reasons that make this timetable inappropriate. If this is the case then it will inform the Scrutiny Commission of the time for response when the proposals are referred to it. The Commission may establish a task and finish group to carry out the review.
  - (d) Having considered the report of a Scrutiny Commission, Cabinet may amend its proposals before submitting them to the Full Council meeting for consideration. It will also report to Full Council on how it

has taken into account any recommendations from the Scrutiny Commission, or its reasons for not doing so.

- (e) Full Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back for further consideration, or substitute its own proposals in their place. The report to Full Council will include Cabinet's proposals and any report from any relevant Scrutiny Commission.
- (f) If Full Council accepts Cabinet's recommendation without amendment, then the decision will have immediate effect. If Full Council wishes to amend Cabinet's proposals, or substitute its own proposals in their place, it may only make an 'in principle' decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- (g) If an 'in principle' decision is made, the decision will be published in accordance with the Access to Information Rules contained in Part 6, Section C of this Constitution and a copy will be given to the Elected Mayor.
- (h) If an 'in principle' decision is made Full Council must inform the Elected Mayor of their objections to the proposals and must give instructions requiring Cabinet to reconsider, in the light of those objections, the proposals.
- (i) The instruction must specify a period of at least 5 working days beginning with the day after the Elected Mayor receives notice of the decision within which Cabinet may:
  - (i) Submit revisions of the original Cabinet proposal with reasons for any amendments that have been made; or
  - (ii) Advise of any disagreement that Cabinet has with any of the 'in principle' decisions, and their reasons for that disagreement.
- (j) The Monitoring Officer will convene an extraordinary meeting of Full Council within 10 clear working days of the receipt of Cabinet's response and Full Council may either:
  - (i) Approve either the original Cabinet proposal or any revision to that proposal put forward by Cabinet by way of a simple majority of those present and voting; or

- (ii) Approve a different decision which does not accord with either the original Cabinet proposal or any revision to that proposal put forward by Cabinet by way of a two thirds majority of those present and voting.
- (k) The decision will be published in accordance with the Access to Information Rules set out in Part 6, Section C of this Constitution and will take immediate effect.
- (l) In approving the budget and/or document within the policy framework, Full Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework document which may be undertaken by the Cabinet. Any other changes to the budget and policy framework are reserved to Full Council.
- (m) The timescales referred to in paragraphs (i) and (j) above, may be varied if this is required to meet the statutory deadlines for fixing the Council's budget.

#### Opposition Budget Proposals

- (n) Any Opposition Group may submit an alternative budget proposal for consideration by Full Council. This should be provided in writing to the Governance Service by 5pm one working day before the meeting. Amendments may be considered after this deadline with the agreement of the Chief Finance Officer and Monitoring Officer.
- (o) In developing alternative proposals, an Opposition Group must seek advice from the Chief Finance Officer. This is so the Chief Finance Officer can fulfil their statutory duty to comment on the robustness of the estimates and the adequacy of reserves contained within the alternative proposal as required by section 25 of the LGA 2003.
- (p) When considering any alternative budgets the Council shall consider each individually in the order they were received by the Governance Service. If following debate an alternative budget proposal is carried by way of a simple majority of those present and voting, then this amounts to an amendment to Cabinet's proposals and the steps specified in paragraphs (g) to (j) will be followed.

### **Decisions outside the budget or policy framework**

- 3.1 Subject to the provisions of Rule 9 (virement), the Elected Mayor and Cabinet (which includes a committee of the Cabinet, Officers to whom powers have been delegated as well as those acting under any joint arrangements that may be in place) may only make decisions which are in line with the budget and

policy framework. If any of these bodies or persons wishes to make a decision which is:

- (a) Contrary to any policy framework document, or
- (b) Contrary to, or not wholly in accordance, with the budget

approved by Full Council then that decision may only be made by Full Council, subject to rule 3.2 below.

- 3.2 If any body or person wants to make a decision to which Rule 4 applies, they must take advice from the Monitoring Officer and/or the Chief Financial Officer prior to making the decision. If the advice of either of those Officers is that the decision would not be in line with the existing budget and/or policy framework, then the discussion must be referred by the body or person to Full Council for decision, unless the decision is urgent in which case Rule 4 shall apply.

#### **Urgent decisions outside the budget or policy framework**

- 4.1. The Elected Mayor and Cabinet (which includes a committee of the Cabinet, Officers to whom powers have been delegated as well as those acting under any joint arrangements that may be in place), may make a decision which is contrary to the Council's policy framework, or contrary to, or not wholly in accordance with the budget approved by Full Council, if the decision is a matter of urgency. However, the decision may only be made:
- (a) If it is not practical to convene a quorate meeting of Full Council; and
  - (b) If the Chair of the relevant Scrutiny Commission agrees that the decision is a matter of urgency. If the Chair of the relevant Scrutiny Commission is absent, then the consent of the Speaker must be sought. If both are absent, then the consent of the Deputy Speaker must be sought.
- 4.2 The reasons why 4.1(a) and (b) apply must be noted on the record of the decision.
- 4.3 Following the decision, the decision-maker will provide a full report to the next available Full Council meeting explaining the decision, the reasons for it, and why the decision was treated as a matter of urgency.

## **Virement**

5.1 Virements are restricted in the following ways:

- (a) Chief Officers may vire budget provision between budget heads within their areas of responsibility subject to the Financial Procedure Rules; and
- (b) The Elected Mayor and Cabinet may only vary directorate cash limits in the circumstances set out in the Financial Procedure Rules.

## **In-year changes to budget and policy framework**

6.1 No changes to the budget or any plans or strategies which make up the policy framework may be made by Elected Mayor and Cabinet (which includes a committee of the Cabinet, Officers to whom powers have been delegated as well as those acting under any joint arrangements that may be in place) other than:

- (a) Changes necessary to ensure compliance with the law, ministerial direction or government guidance; or
- (b) Where Full Council has agreed in advance the circumstances in which changes may be made.

## **Call-in of decisions outside the budget or policy framework**

7.1 Where a Scrutiny Commission is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or, contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or the Chief Finance Officer.

7.2 The Monitoring Officer and/or Chief Finance Officer will prepare a report for Cabinet with a copy being sent to every member of the Council. If the Monitoring Officer and/or Chief Finance Officer concludes that the decision was a departure, then regardless of whether the decision was delegated or not, Cabinet must meet to decide what action to take in respect of the report and then prepare a report to Full Council. If the Monitoring Officer and/or the Chief Finance Officer concludes that the decision was not a departure, then a report must be prepared for the relevant Scrutiny Commission.

7.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget, the relevant Scrutiny Commission may refer the matter to Full Council.



- 7.4 In such cases, no further action will be taken in respect of the decision or its implementation until Full Council has met and considered the matter at its next normal meeting. At the meeting, Full Council will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. Full Council may either:
- (a) Endorse a decision or proposal as falling within the existing budget and policy framework. In this case no further action is required, except that the decision of Full Council will be minuted and circulated to all Councillors in the normal way; or
  - (b) Amend the Council's Financial Procedure Rules or the policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree the decision with immediate effect. In this case, no further action is required except that the decision of Full Council will be minuted and circulated to all Councillors in the normal way; or
  - (c) Accept that the decision or proposal is contrary to the policy framework, or contrary to or not wholly in accordance with the budget but not amend the existing framework to accommodate it. In this case, it may require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer and/or Chief Financial Officer.

## **Part Four - Procedure Rules**

### **Section D - Overview and Scrutiny Procedure Rules**

#### **Arrangements for overview and scrutiny**

1. The Council will have a Scrutiny Panel and four Scrutiny Commissions as set out in Article 7 of this Constitution. Article 7 sets out the broad framework for the operation of the Council's overview and scrutiny function. These rules set out some of the more detailed working arrangements.

#### **Meetings of the Scrutiny Panel and Commissions**

2. The Scrutiny Panel will hold 4 ordinary meetings in every municipal year. Extraordinary Meetings may be called from time to time if the Chair of the Panel or the Monitoring Officer considers it necessary or expedient.
3. The Scrutiny Commissions are each expected to meet at least 8 times every municipal year; this may include site visits and informal meetings undertaken as part of a review.

#### **Quorum**

4. The quorum for the Scrutiny Panel and the Scrutiny Commissions shall be one quarter of voting members or three voting members, whichever is the greater.

#### **Chairs and Vice-chairs**

5. The Chairs of the Scrutiny Panel and the Scrutiny Commissions shall be appointed at the Annual Meeting. The Vice-Chairs may be appointed at the Annual Meeting or at the first meeting of the Panel/Commission.
6. The Chair of the Scrutiny Panel must be a Councillor of the majority political group of the Council, but may not be a Chair of a Scrutiny Commission. The Vice-Chair shall ordinarily be a Councillor from a minority political group of the Council. However, if the minority political group fails to make a nomination then the Scrutiny Panel may elect a Vice-Chair at their first meeting.

#### **Reports from Scrutiny Panel or Commissions**

7. Once a Scrutiny Panel or Commission has prepared recommendations, it will prepare a formal report for consideration by the Elected Mayor, a Councillor of Councilor, the Cabinet or Full Council as appropriate. A report to Full Council is only usually necessary if the recommendation(s) would require a departure from or a change to the agreed Budget or Policy Framework. Where

recommendations are made that relate to an external organisation (such as an NHS Trust), the report will also be submitted to that body.

8. A copy of any report must be given to the Monitoring Officer. The Monitoring Officer must also be told by which decision making body the report is to be considered.
9. If the Scrutiny Panel or Commission cannot agree on one single final report, then up to one minority report may be prepared and submitted for consideration alongside the majority report.
10. When a report is referred to Full Council or Cabinet, the report of the Scrutiny Panel or Commission will normally be considered at the next scheduled meeting.

### **Ensuring that reports are considered by the Cabinet and other bodies**

11. If a report is referred to Full Council, it must also consider the Executive's response to the recommendations. The decision made by Full Council will be placed on the agenda of the next scheduled meeting of the Scrutiny Panel and/or Commission.
12. If the report is referred to Cabinet, the report will be considered under the standing item "Issues Arising from Overview and Scrutiny", unless it can be considered in the context of Cabinet's deliberations on a substantive item on the agenda. Cabinet shall also consider the response of the lead Cabinet Councillor(s) for the portfolio area(s) to which the report's recommendations relate. The outcome of the discussion by Cabinet will be placed on the agenda of the next scheduled meeting of the Scrutiny Panel and/or Commission.
13. In cases where the decision maker is the Elected Mayor personally or any other individual Councillor of the Cabinet, they must consider the matter and report back to the Scrutiny Panel and/or Commission within 2 weeks. If the Elected Mayor or Councillor does not accept some or all of the recommendations, then they must include within that report the reasons for not doing so. A copy of the response must be sent to the Monitoring Officer. The Elected Mayor or Councillor must attend the meeting of the Scrutiny Panel and/or Commission that considers their response.
14. Where the decision-maker is an external (non-Council) organisation and they have a statutory duty to respond to the Scrutiny Panel and/or a Commission, a written response shall be requested within the timescale required, or if mutually agreed, by another set deadline, so the response can be placed on the agenda of the next scheduled meeting of the Panel and/or Commission. Where that organisation does not have a statutory duty to respond to the

Scrutiny Panel and/or a Commission, a written response shall be invited within a reasonable period of time noting that, if submitted, the response would be placed on the agenda of the next scheduled meeting of the Panel and/or Commission.

15. The Scrutiny Panel and each Scrutiny Commission will in any event have access to the Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed consideration by the Panel or a Commission, the Panel or Commission will be able to respond in the course of the Executive's planned consultation process in relation to any Key Decision.

### **Rights of access to documents**

16. The additional rights that members of the Scrutiny Panel and Commissions have to access documents are detailed in the Elected Mayor and Councillors Access to Information Rules set out in Part 7, Section D of this Constitution.

### **Elected Mayor, Councillors of the Cabinet and Officers giving account**

17. The Scrutiny Panel and any Scrutiny Commission may scrutinise and review decisions made, or actions taken, in connection with the discharge of any Council functions relevant to the issues it is examining. As well as reviewing documentation, it may require any member of the Executive, the Head of the Paid Service and/or any Senior Officer and, subject to contractual arrangements, any other person delivering a Council service, to attend before it to explain in relation to matters within their remit:

- (a) Any particular decision or series of decisions;
- (b) The extent to which the actions taken implement Council policy;
- (c) The performance of relevant services; and/or
- (d) As required under the Council Petition Scheme.

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

18. Where the Elected Mayor, Councillor of the Cabinet, or Senior Officer is required to attend the Scrutiny Panel or a Commission under this provision, the Chair of that Panel/Commission will inform the Elected Mayor, Councillor of the Cabinet or Senior Officer in writing giving at least 10 working days' notice of the meeting at which their attendance is required. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the Commission. Where the account to be given to the Commission will require

the production of a report, then the Elected Mayor, Councillor of the Cabinet or Senior Officer concerned will be given sufficient notice to allow for preparation of that document.

19. Where, in exceptional circumstances, the Elected Mayor, Councillor of the Cabinet or Senior Officer is unable to attend on the required date, the Scrutiny Panel/Commission will, in consultation with the Elected Mayor, Councillor of the Cabinet or Senior Officer, arrange an alternative date for attendance, or, an alternative attendee.
20. If a Senior Officer considers that another Officer should attend because their knowledge and experience is more relevant to the issue being discussed, the Senior Officer will advise the Chair of the Scrutiny Panel/Commission.

### **Attendance by others**

21. The relevant Scrutiny Panel or Commission will be able to exercise legal rights to require attendance by individuals who are not Officers, or the Elected Mayor or a Councillor of the Cabinet, such as:
  - (a) The right to require attendance by an Officer of a local NHS body - Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2013;
  - (b) The right to require attendance by Officers or employees of responsible authorities and co-operating bodies of a local Community Safety Partnership - Crime and Disorder (Overview and Scrutiny) Regulations 2009; and
  - (c) The right to require information from partner authorities which relate to local improvement targets - Local Authorities (Overview and Scrutiny Committees) (England) Regulations 2012.
22. A Scrutiny Panel or Commission may invite people other than those referred to above to address it, discuss issues of local concern, and/or answer questions. It may, for example, wish to hear from citizens, stakeholders and members and/or officers in other parts of the public or private sector; and shall be free to invite such people to attend.

### **Councillor Call for Action**

23. The Councillor Call for Action is a procedure which enables Councillors to have a matter referred to the Scrutiny Panel or relevant Scrutiny Commission for consideration. Prior to requesting such reference, Councillors are required to raise the matter with the relevant Group Director and Councillor of the Cabinet in order to achieve a resolution without the need for formal reference.

#### **Part Four - Procedure Rules**

#### **Section D - Overview and Scrutiny Procedure Rules**

24. Any member of any Scrutiny Panel/Commission may, by giving written notice of at least 15 working days to the Monitoring Officer prior to the date of the meeting at which the Councillor wishes to raise the matter, request that any matter which is relevant to the functions of the Scrutiny Panel/Commission is included in the agenda for discussion at a meeting of the Panel/Commission.
25. Any Councillor may, by giving written notice of at least 15 working days to the Monitoring Officer, request that any local government matter which is relevant to the functions of the Scrutiny Panel/Commission is included in the agenda and is discussed at a meeting of the Panel/Commission.
26. Any Councillor may, by giving written notice of at least 15 working days to the Monitoring Officer, request that a local crime and disorder matter is included in the agenda for discussion at a meeting of the Living in Hackney Scrutiny Commission.
27. A local government matter pursuant to paragraph 25 shall not include:
  - (a) Any matter relating to a planning decision;
  - (b) Any matter relating to a licensing decision;
  - (c) Any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
  - (d) Any matter which the Monitoring Officer determines to be vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Scrutiny Panel/Commission.
28. A matter shall not fall within a description above if it consists of an allegation that a function for which the authority is responsible has not been discharged at all or that its discharge has failed or is failing on a systematic basis, notwithstanding the fact that the allegation specifies or refers to a planning decision, a licensing decision or a matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to review or right of appeal conferred by or under any enactment.
29. The Scrutiny Panel and Commissions will undertake their proceedings pursuant to the powers set out in Article 7 of the Constitution.
30. Where a local government matter is referred to the Scrutiny Panel/Commission by a Councillor, the Scrutiny Panel/Commission may, in considering whether or not to exercise any of its powers in relation to a matter, have regard to:

- (a) Any powers which a Councillor may exercise in relation to the matter by virtue of section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local Councillors in England); and
  - (b) Any representations made by the Councillor as to why it would be appropriate for the Scrutiny Panel/Commission to exercise any of its powers to include a matter on the agenda for discussion at a meeting of any Panel/Commission.
- 31. If the Scrutiny Panel/Commission decides not to exercise any of those powers in relation to the matter, it shall notify the Councillor of –
  - (a) Its decision; and
  - (b) The reasons for it.
- 32. The Scrutiny Panel or Commission shall provide the Councillor with a copy of any report or recommendations which it makes to the authority or the Cabinet if the matter is included in the agenda and discussed at a meeting of the Scrutiny Panel/Commission.

### **Crime and Disorder Matters**

- 33. The Living in Hackney Scrutiny Commission is the designated Crime and Disorder Commission. A “crime and disorder matter” means a matter concerning crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment) or the misuse of drugs, alcohol and other substances in that area.
- 34. Where the Living in Hackney Scrutiny Commission, as the Crime and Disorder Commission, makes a report or recommendations to Full Council it must:
  - (a) Provide a copy of the report or recommendations to any member of the authority who referred the local crime and disorder matter in question to the Commission;
  - (b) Provide a copy of the report or recommendations to such of the responsible authorities, co-operating persons and bodies as it thinks appropriate.
- 35. Where a copy of a report or recommendations is provided to a responsible authority, co-operating person or body under paragraph 34 above that authority, person or body shall:

- (a) Consider the report or recommendations;
- (b) Respond to the Living in Hackney Scrutiny Commission indicating what (if any) action it proposes to take;
- (c) Have regard to the report or recommendations in exercising its functions.

### **Joint Committee of the Four Growth Boroughs**

- 36. This Committee is a formally constituted Joint Committee undertaking executive functions on behalf of the Four Growth Boroughs (Hackney, Newham, Tower Hamlets and Waltham Forest).
- 37. Decisions of the Joint Committee may be called-in by one or more participating boroughs pursuant to the Joint Committee's Procedure Rules. Each of the boroughs shall apply their existing overview and scrutiny arrangements to decisions of the Joint Committee.
- 38. Upon publication of the record of Joint Committee decisions, members of Hackney Council may call-in any such decision pursuant to the Joint Committee Procedure Rules.

### **Agenda items at Scrutiny Panel and Commission meetings**

- 39. The Scrutiny Panel and Commissions shall include within their agendas the following business:
  - (a) Declarations of interest (including whipping declarations);
  - (b) Minutes of any previous meetings;
  - (c) Consideration of the body's own work programme;

### **Other business**

- 40. Where the Scrutiny Panel or Commissions conducts investigations (e.g. with a view to policy development), the Panel/Commission may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles; that:
  - (a) The investigation be conducted fairly and all Councillors (including co-opted members) of the Panel / Commission be given the opportunity to ask questions of attendees, and to contribute and speak;



- (b) Those assisting the meeting by giving evidence be treated with respect and courtesy;
  - (c) The investigation be conducted so as to maximise the efficiency of the investigation or analysis;
  - (d) Evidence collected is analysed; and
  - (e) Any recommendations made are based upon that evidence.
41. Following any investigation or review, the Scrutiny Panel or Commission, may prepare a report for submission to the relevant decision-maker, Executive and/or Full Council as appropriate and shall make its report and findings public except to the extent that they may include confidential or exempt information.
42. These procedure rules shall apply to any Scrutiny Commissions and working parties.
43. Nothing in these procedure rules prevents more detailed liaison between the Executive and the Scrutiny Panel and Commissions as appropriate, depending on the particular matter under consideration.

## Part Four - Procedure Rules

### Section E - Call In Procedure Rules

A 'call-in' is the process whereby Councillors who are not members of the Cabinet can request that executive decisions are considered by the Scrutiny Panel.

#### Scope of the rules

- 1.1 All Councillors have the ability to call-in the majority of "executive decisions", and this is a fundamental aspect of the Council's scrutiny processes. This includes decisions taken by the Elected Mayor and Cabinet, or Officers acting under powers delegated to them.
- 1.2 The power should only be used in exceptional circumstances where the Councillors calling-in the decision have evidence to suggest that:
  - (a) The decision maker did not take the decision in accordance with the principles of decision making, namely
    - proportionality (i.e. the action must be proportionate to the desired outcome).
    - due consultation and the taking of professional advice from officers.
    - respect for human rights.
    - a presumption in favour of openness.
    - clarity of aims and desired outcomes.
    - relevant matters have not been ignored.
    - consideration and evaluation of alternatives and reasons for decisions.
    - due regard to the statutory framework, guidance and Codes of Conduct.
  - (b) The decision maker did not act in accordance with the policy framework.
  - (c) The decision maker did not act in accordance with the Council's budget.
  - (d) The decision maker failed to consider relevant evidence when making the decision.
  - (e) The decision would not be in the interests of the borough's residents and a preferable alternative decision could be adopted.

## **Requirements for call-in**

- 2.1 In order to ensure that call-in is not abused, nor causes unreasonable delay, the following requirements must be fully satisfied before a matter will be considered for call-in:
- (a) At least five Councillors who are not members of the Council's executive (one of which will be the named signatory) must request a call-in of the decision. The Councillors requesting the call-in will decide who will be the 'lead requestor'.
  - (b) The request for call-in must specify the reason for the call-in based upon paragraph 1.2 above and provide sufficient detail to enable the decision to be scrutinised.
  - (c) The request for call-in must be received by the Monitoring Officer within 5 working days of the decision being published. The request for call-in should be submitted electronically. The lead requestor must complete and submit a form and each of the other Councillors supporting the call-in must send an email in support. All emails must be sent from the Councillors' individual Council email addresses.
  - (d) The decision for which call-in is requested must not have been subject to a prior call-in request.

## **Suspension and publication of the decision**

- 3.1 Decisions made by the Cabinet, a Cabinet Member or an executive decision made by an officer under delegated powers, will be published on the working day following the decision being made.
- 3.2 The decisions will include the date of publication and will specify that it will come into force, and may then be implemented, on the expiration of 5 days after publication unless the decision is called-in.

## **Assessing the call-in request**

- 4.1 Upon receipt of any call-in request, the Monitoring Officer will assess the call-in form and the information supporting the request to decide whether it meets the requirements set out in these Rules.
- 4.2 The Monitoring Officer will have the final say as to whether the request is a valid call-in, with the presumption in favour of it being valid.

- 4.3. The decision will remain suspended until the Monitoring Officer has completed their assessment of the request. If the call-in request is deemed valid, the decision will remain suspended to enable the consideration of the call-in to take place, as detailed below.

### **Consideration of the call-in**

- 5.1 The Monitoring Officer shall notify the Elected Mayor and Cabinet of any call-in that they determine to be valid.
- 5.2 The call-in shall be placed on the agenda for the next meeting of the Scrutiny Panel. However, if there is no meeting of the Scrutiny Panel scheduled to take place within 10 working days of the Monitoring Officer's decision, the Monitoring Officer shall arrange for a special meeting of the Scrutiny Panel to be held as soon as reasonably practicable, taking into account the existing calendar of Council meetings.
- 5.3 A report for the Scrutiny Panel shall be prepared, which shall include a copy of the decision called-in and a copy of the call-in request form.
- 5.4 The Scrutiny Panel will hear from the lead requestor, the Councillor of Cabinet within whose portfolio the decision rests and, in the case of a delegated officer decision, the officer who took the decision. The Chair of the Scrutiny Panel has the discretion to enable other persons to be heard at the meeting.

### **Outcomes of call-in**

- 6.1 When considering the call-in, the Scrutiny Panel has the following options:
- a) Uphold the original decision: In this case, the original decision stands and can be implemented.
  - b) Uphold the call-in: In this case, the decision will be referred to either:
    - (i) The original decision maker for reconsideration.
    - (ii) The Cabinet for its consideration (where the original decision was taken by an officer under delegation).
    - (iii) Full Council, if the Scrutiny Panel concludes that the decision was contrary to the Council's Policy Framework or contrary to (or not wholly in accordance with) the approved Budget.

*NB: In relation to (i) and (ii) above, the matter may not be called-in a second time.*

## **Protection from call-in**

- 7.1 The call-in procedure shall not apply where the decision being taken has been protected from call-in by the Chief Executive. A decision may only be protected if any delay likely to be caused by the call-in process, would seriously prejudice the interests of the Council or the public interest.
- 7.2 The Chair of the Scrutiny Panel must be consulted before any decision to protect is taken. In the absence of the Chair of the Scrutiny Panel, the Speaker is to be consulted.
- 7.3 To allow the protection to take place the Chief Executive must indicate their reasons for the decision to protect, this should be published online alongside the decision in question.
- 7.4 Any protection from call-in decision must be reported to the next meeting of the Full Council, including the rationale.
- 7.5 The operation of the protection provisions shall be monitored annually and a report submitted to Full Council if it is considered that any review of the provisions is necessary.

## **Referral of decisions contrary to the Policy Framework or the Budget**

- 8.1 Where the Scrutiny Panel concludes that the decision called-in is, or if made would be, contrary to the Policy Framework or contrary to, or not wholly in accordance with, the Budget then as indicated above, the decision will be referred to Full Council.
- 8.2 The Monitoring Officer will prepare a report for Full Council, consulting with the s151 Officer in cases where the Scrutiny Panel concludes that the decision is contrary to or not wholly in accordance with the Budget. That report will include the original decision, the call-in request form and the minutes of the Scrutiny Panel. The Monitoring Officer, and s151 Officer as required, will include their findings as to whether the decision is or is not contrary to the Policy Framework or contrary to, or not wholly in accordance with, the Budget.
- 8.3 The Monitoring Officer's report will be submitted to the next available meeting of Cabinet for their consideration and to determine what action it wishes to take having regard to the Monitoring Officer's findings.
- 8.4 At that meeting, Cabinet must decide upon the action it wishes to take, if any, having regard to the Monitoring Officer's findings and will prepare and submit its own report to Full Council.

### **Part Four - Procedure Rules**

#### **Section E - Call In Procedure Rules**

8.5 When Full Council considers the Call-In and associated reports on the matter it has the following options:

- a) Endorse that the decision falls within the existing Policy Framework or the Budget. In this case no further action is required, and the decision of the Full Council will be recorded in its minutes and circulated to all Councillors in the normal way.
- b) Amend the existing Policy Framework or the Budget to encompass the decision of the body or individual responsible for that “Executive” function, and agree to the decision with immediate effect. In this case, no further action is required, and that decision of the Full Council will be recorded in its minutes and circulated to all Councillors in the normal way.
- c) Uphold the view that the decision is contrary to a Policy Framework Document or the Budget and choose not to amend policy to accommodate it, requiring the Cabinet to reconsider the matter further in accordance with the advice of the Monitoring Officer.

## **Part Five - Finance and Contract Rules**

### **Section A - Financial Procedure Rules**

### **Section B - Contract Standing Orders**

## **Part Five - Finance and Contract Rules**

### **Section A - Financial Procedure Rules**

#### **Definitions of Terms within these Financial Procedure Rules**

##### **Assets**

Includes land, buildings, vehicles, furniture and equipment, computer systems, stocks and materials, money and investments, data and information.

##### **Budget**

A statement of the Council's plans for revenue and capital expenditure and income over a specified period of time.

##### **Budget holder**

The person responsible for the day to day control of income and expenditure against a set budget for a cost centre or group of cost centres. The budget holder will also be responsible for budgetary monitoring of their cost centres, including preparation of regular monitoring reports as required.

##### **Business Case**

A written document, setting out the reasons for a project, including analysis of options, risks and resources needed.

##### **Capital Expenditure**

All expenditure (from whatever source financed or to be financed) on the acquisition of land and buildings, the erection of buildings, the execution of works of a permanent nature and the purchase of vehicles, plant, machinery, equipment or furniture, or payments to third parties for such purposes.

##### **Capital Programme**

The Council's financial plan covering capital schemes and expenditure proposals for the current year and a number of future years. It also includes estimates of the capital resources available to finance the programme.

##### **Chartered Institute of Public Finance and Accountancy (CIPFA)**

The Chartered Institute of Public Finance and Accountancy is responsible for interpreting accounting standards and recommending working practices to be followed by all local authorities.

##### **Financial Year**

The Council's financial year runs from 1 April to 31 March.



**Government Grants**

Sums paid by central government towards either specific services or in aid of services generally.

**Group Director**

An Officer reporting to the Chief Executive and defined as Tier 1 within the General Scheme of Delegation.

**Housing Revenue Account**

The account which records expenditure and income for running the Council's own housing stock and closely related services or facilities.

**Imprest**

A sum of money to be used as petty cash.

**International Financial Reporting Standards**

A set of accounting standards that govern how particular types of transactions and events should be reported in financial statements.

**Public Sector Internal Audit Standards**

Rules based on the International Professional Practices Framework (IPPF), intended to promote improvement in the professionalism, quality, consistency and effectiveness of internal audit across the public sector.

**Revenue Budget**

A budget which is set every year and from which the day to day running costs of the Council are met.

**Treasury Management**

Management of the Council's cash balances on a daily basis, to obtain the best return while maintaining an acceptable level of risk.

**Treasury Management Strategy**

A document stating how the Council plans to borrow and optimise its return on its cash and investments in the coming financial year whilst ensuring the over-riding criterion of security of public money.

**Value Added Tax (VAT)**

A tax added to most products and services sold by VAT-registered businesses.. The standard rate of VAT is currently 20%.

**Variation**

A variation is an increase or decrease in a budget after the budget has been approved at the start of the year.

## **Virement**

A Revenue virement is a transfer of amounts from one budget heading to another within, or between, Heads of Service. Capital virements cover any changes to Capital budgets funded from within the existing Capital programme.

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## **Introduction**

In these Rules, reference to the Group Director, Finance and Corporate Resources includes any person authorised by them to act on their behalf.

The Officer designated by the Council as having the statutory responsibility set out in Section 151 of the 1972 Act shall be the Group Director, Finance and Corporate Resources.

Financial Procedure Rules (FPR) provide the framework for the financial administration of the Council with a view to ensuring that the Council's financial affairs are conducted in a sound and proper manner, constitute value for money and minimise the risk of legal challenge to the Council. Financial Procedure Rules are not intended to constitute a set of detailed rules to respond to every contingency.

All financial decisions and decisions with financial implications shall have regard to proper financial control. Any doubt as to the appropriateness of a financial proposal or correctness of a financial action shall be clarified in advance of the decision or action with the Group Director, Finance and Corporate Resources.

Detailed Financial Guidance, Codes of Practice and other financial instructions (e.g. Financial Management System Business Process Procedures) may be issued from time to time by the Group Director, Finance and Corporate Resources, where assistance is needed with the interpretation of Financial Procedure Rules.

Failure to observe Financial Procedure Rules, Financial Procedure Notes, Codes of Practice and financial instructions issued under Financial Procedure Rules, may result in action under the Council's disciplinary procedures.

## **FPR1 - Responsibilities**

### Responsibilities to the Council

- 1.1 All elected Councillors and employees of the Council shall be responsible for ensuring that they use the resources and assets entrusted to them in a responsible and lawful manner. They shall strive to achieve value for money and avoid legal challenge to the Council. These responsibilities shall apply

equally to Councillors and employees when representing the Council on outside bodies.

### Personal Responsibilities

- 1.2 Any person charged with the use or care of the Council's resources and assets shall inform themselves of the Council's requirements under Financial Procedure Rules. If anyone is in any doubt as to their obligations, then they shall seek advice. Unresolved questions of interpretation shall be referred to Internal Audit.
- 1.3 An employee shall report immediately to their manager, or other responsible Officer any suspected illegality, impropriety, serious breach of procedure or serious deficiency in the provision of service. Employees are able to do this without fear or recrimination providing they act in good faith via the Council's Whistleblowing policy. In such circumstances, managers shall record and investigate such reports and take appropriate action. Compliance with the Council's Anti-Fraud and Corruption policy and Code of Conduct for officers shall be mandatory for all officers.

### Group Director, Finance and Corporate Resources

- 1.4 The Group Director, Finance and Corporate Resources shall maintain on behalf of the Council an adequate and effective system of internal audit of the accounting records and internal control systems of the Council.
- 1.5 The Group Director, Finance and Corporate Resources shall be responsible for maintaining a continuous review of the Financial Procedure Rules and financial schemes of delegation and submitting any additions or changes necessary to the full Council for approval.
- 1.6 The Group Director, Finance and Corporate Resources shall also be responsible for reporting, where appropriate breaches of the Financial Procedure Rules to the Council and/or to Cabinet Councillors.
- 1.7 The Group Director, Finance and Corporate Resources shall be authorised to temporarily suspend Financial Procedure Rules in exceptional circumstances, and where such suspension is authorised, a written record shall be kept for this.
- 1.8 Section 114 of the Local Government Finance Act 1988 requires the Group Director, Finance and Corporate Resources to report to Full Council or the Cabinet (as appropriate) and the external auditor if the authority or one of its officers:

- (a) Has made, or is about to make, a decision which involves incurring unlawful expenditure;
- (b) Has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the authority;
- (c) Is about to make an unlawful entry in the authority's accounts.

Section 114 of the 1988 Act also requires the authority to provide the Group Director, Finance and Corporate Resources with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under Section 114.

### Group Directors

- 1.9 Group Directors shall ensure that any financial procedures/guidelines produced by their Directorate in support of financial control are fully compliant with these Financial Procedure Rules and that Internal Audit have been consulted in the development of such procedures.
- 1.10 Group Directors shall be responsible for ensuring that all staff in their Directorates are aware of the existence and content of the authority's Financial Procedure Rules and other internal regulatory documents and that they comply with them.
- 1.11 Group Directors shall be responsible for ensuring that Financial Procedure Rules are observed throughout all areas under their control and shall:
  - (a) Provide the Group Director, Finance and Corporate Resources with such information and explanations as the Group Director, Finance and Corporate Resources feels is necessary to meet their obligations under Financial Procedure Rules;
  - (b) Consult with the Group Director, Finance and Corporate Resources and seek approval to any matter liable to affect the Council's finances materially, before any commitments are incurred;
  - (c) Ensure that Cabinet Councillors are advised of the financial implications of all significant proposals and that the financial implications have been agreed by the Group Director, Finance and Corporate Resources;
  - (d) Inform the Group Director, Finance and Corporate Resources of failures of financial control resulting in additional expenditure or liability, or loss of income or assets;

- (e) Wherever any matter arises which may involve irregularities in financial transactions consult with the Group Director, Finance and Corporate Resources and, if a serious irregularity is confirmed, the matter shall be reported to the Chief Executive, appropriate Cabinet Councillor and the Head of Human Resources and Organisational Development;
- (f) Ensure the legality of the Directorate's or service's actions.

## **FPR2 - Financial Planning and Annual Estimates**

- 2.1 The Group Director, Finance and Corporate Resources shall, each year, recommend to Cabinet a timetable for consideration of revenue and capital estimates by Directorates, the Cabinet and the Council. The programme shall include adequate time for such discussions to take place. The form of the annual estimates shall be agreed by the Cabinet upon the recommendation of the Group Director, Finance and Corporate Resources.
- 2.2 Detailed estimates of revenue income and expenditure, capital and receipts and payments shall be prepared by Group Directors in the form required by the Cabinet. The Estimates shall align with the Council's Corporate & Business Plans and follow the guidelines issued annually by the Group Director, Finance and Corporate Resources. A copy of the estimates shall be forwarded to the Group Director, Finance and Corporate Resources by each Chief Officer in accordance with the agreed Programme in order that they can be examined and submitted to the Cabinet.
- 2.3 The Cabinet shall review the estimates and submit them to the Council together with such summaries, statements and reports as are considered desirable and shall recommend the Council Tax to be levied for the ensuing year.
- 2.4 Council shall:
  - (a) Approve the Council's annual Council Tax Base;
  - b) Approve the Council's revenue budget and capital programme and set the level of Council Tax for each year within statutory deadlines and requirements;
  - (c) Approve forecast Business Rates Income.

### Revenue Budget Preparation

- 2.5 The Cabinet shall keep under review the medium-term financial position of the Council taking into account the Council's performance, plans and anticipated future levels of capital and revenue resources.
- 2.6 Group Directors shall be responsible for preparing directorate financial plans and ensuring they are clearly aligned with relevant service plans; and for ensuring that prior approval is given by the full Council or the Cabinet (as appropriate) for any measures that are likely to extend or reduce the Council's services or policy objectives, and for new commitments for which there would otherwise be no agreed budget.

### Revenue Budgetary Control

- 2.7 In accordance with the Council's Scheme of Delegation, Group Directors, and their budget holders, shall have powers to incur revenue expenditure in carrying out the functions allocated to them provided:
- (a) The expenditure is lawful and there is sufficient budget provision;
  - (b) Procurement Rules have been complied with;
  - (c) Expenditure is within the approved revenue budget or capital programme provision;
  - (d) Expenditure is in respect of Council policy;
  - (e) Consultations have taken place with the appropriate Group Director and with Councillors of the Cabinet/Committee
- 2.8 Nothing in these Rules shall prevent a Group Director incurring expenditure to meet the needs of an emergency or which is referable to Section 138 of the Local Government Act 1972, subject to their action being reported at the earliest opportunity to the Cabinet and where appropriate the Council.
- 2.9 Each Group Director in charge of a revenue budget shall:
- (a) Monitor and control Directorate expenditure within their approved budget;
  - (b) Report progress against their budget through the Overall Financial Position (OFP) Report to Cabinet in consultation with the Group Director, Finance and Corporate Resources;

- (c) Keep the Group Director, Finance and Corporate Resources informed of any actual or likely changes which will/may have a significant impact on current or future budgets.
- 2.10 The Group Director, Finance and Corporate Resources shall also provide guidance on and co-ordinate the budget monitoring process and the form, basis, supporting information and timetable for the preparation thereof.
- 2.11 Virement (or transfers) between Budgets. Chief Officers must fulfil the following requirements to exercise virements within the financial limits of these Rules:
  - (a) Virement should only apply to the transfer of funds within the delegated budget of the Chief Officer;
  - (b) The proposals should be consistent with approved Council policy;
  - (c) Virement should only involve the transfer of funds between Services;
  - (d) Virement should only be allowed where the total net delegated budget is still within the delegated costs limit;
  - (e) There should be no consequential revenue effects in later years;
  - (f) There are some restrictions on the type of budgets that can be vired i.e. you are not allowed to vire central recharge budgets, insurance or salary budgets;
  - (g) Virements for less than £100,000 require the specific approval of relevant Heads of Service and Heads of Finance.
  - (h) Virements for £100,000 or more require the specific approval of the relevant Service Directors and Directors of Finance.
- 2.12 Should a virement be requested which is contrary to one of the above conditions, it is necessary to seek the prior approval of the Group Director, Finance and Corporate Resources.
- 2.13 Transfers from contingencies to revenue budgets shall require the approval of the Group Director, Finance and Corporate Resources, the appropriate Cabinet Member and the Cabinet.

### Capital Programme Preparation

- 2.15 The Council shall determine a strategic approach to Capital, which takes due account of Asset Management Plans, and shall include the process for setting the Council's investment priorities and the principles upon which directorate and corporate Capital Programmes will operate.
- 2.16 In order to gain budget and spend approval Group Directors shall ensure that: for all major capital schemes an option appraisal is completed outlining the business case and the full financial implications, including those relating to whole life costing and component accounting, to ensure that all schemes are fully evaluated and disclosed. This shall be submitted to the Capital and Asset Steering Board prior to submission to Cabinet for approval.
- 2.14 Each year, each Group Director, supported by their Director of Finance and budget holders, shall draw up proposals for capital expenditure for their directorate, taking into account:
- (a) Statutory requirements;
  - (b) Performance and service plans;
  - (c) Supported capital expenditure guidelines issued by Central Government including available resources;
  - (d) Government capital grants and specific borrowing approvals, availability of capital receipts, other resources;
  - (e) Level of existing capital commitments.
- 2.15 The Council shall determine a strategic approach to Capital, which takes due account of Asset Management Plans, and shall include the process for setting the Council's investment priorities and the principles upon which directorate and corporate Capital Programmes will operate.
- 2.16 In order to gain budget and spend approval Group Directors shall ensure that for all major capital schemes an option appraisal is completed outlining the business case and the full financial implications, including those relating to whole life costing and component accounting, to ensure that all schemes are fully evaluated and disclosed. This shall be submitted to the Capital and Asset Steering Board prior to submission to Cabinet for approval.
- 2.17 The proposals for capital spending, together with financial implications shall then be submitted to the Cabinet for determination of the Capital Programme to be recommended to Council.



### Capital Programme Monitoring and Budgetary Control Arrangements

- 2.18 The Cabinet shall exercise control over capital spending and resources and may authorise variations to the Council's Capital Programme provided such variations:
- (a) Are within available resources;
  - (b) Are consistent with Council policy.
- 2.19 Where projects in the Capital Programme are included on the assumption of resources becoming available, no financial commitments shall be entered into on these projects unless resources are confirmed as being available to the satisfaction of the Group Director, Finance and Corporate Resources. In the case where joint schemes are entered into by one Chief Officer that will impact on another Chief Officer's Directorate then a full consultation process shall be completed before expenditure is incurred.
- 2.20 Group Directors shall:
- (a) Make arrangements for the implementation of the agreed Capital Programme in accordance with Procurement Procedure Rules;
  - (b) Monitor progress against established milestones and spending against the Capital Programme and report accurately the position at least quarterly through the Overall Financial Position (OFP);
  - (c) Review and update costings and phasing of projects and programmes as appropriate.
- 2.21 In the event that project costs are at variance with programme, either in terms of cash flow or in total, the Chief Officer shall seek to bring the scheme in line with programme or, if that should not prove possible, shall attempt to contain variances within the overall programme for which the Chief Officer is responsible.
- 2.22 The Group Director, Finance and Corporate Resources shall be consulted where significant variances to the Capital Programme are in prospect. Should the Chief Officer be unable to accommodate variations in expenditure within the approved capital programme, the approval of Cabinet shall be required to a variation in the Capital Programme subject to resources being available.

### **FPR3 - Accounting**

3.1 The Group Director, Finance and Corporate Resources shall:

- (a) Determine accounting systems and procedures and the form of financial records and statements;
- (b) Provide guidance and advice on all accounting matters;
- (c) Monitor accounting performance to ensure an adequate standard for all services; and
- (d) Certify all financial returns, grant funding applications and claims and other periodic financial reports required of the Council.

3.2 Each Group Director shall:

- (a) Implement accounting procedures and adopt the form of financial records and statements as determined by the Group Director, Finance and Corporate Resources.
- (b) Obtain the approval of the Group Director, Finance and Corporate Resources prior to introducing or changing the form or method of existing accounting systems and procedures, financial records or statements. Approval shall be requested from the Group Director, Finance and Corporate Resources in writing. The request shall give details of the proposed change and the anticipated benefit from the change, an estimate of the costs involved and the proposed implementation date. Internal Audit advice shall be sought for all proposed changes at as early a stage as possible;
- (c) Complete and pass to the Group Director, Finance and Corporate Resources financial returns and other financial reports requiring certification in good time; and
- (d) Keep a proper segregation of duties for staff with financial responsibilities.

3.3 The following principles shall be observed in connection with accounting systems:

- (a) The duties of providing information regarding sums due or from the Council and of calculating, checking and recording these sums shall be separated as completely as possible from the duty of collecting or disbursing them; and

- (b) Officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.

#### **FPR4 - Internal Audit**

- 4.1 Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.
- 4.2 Internal Audit is established by the Council under the requirements of the Accounts & Audit Regulations 2011 that requires the Council to undertake an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control.
- 4.3 The prime objective of Internal Audit is to provide assurance to the Council in relation to its internal control environment and assist management in delivering the objectives of the Council and its associated bodies through assessing exposure to risk and recommending, where appropriate, practical improvements to the control environment. To this end it shall be the responsibility of Internal Audit to review, appraise and report to management upon:
  - (a) Whether operations are being carried out as planned and objectives and goals are being met.
  - (b) The adequacy of systems established to ensure compliance with policies, plans, procedures, laws and regulations, i.e. rules established by the management of the organisation, or externally;
  - (c) The completeness, reliability and integrity of information, both financial and operational;
  - (d) The extent to which the Council's assets, data and interests are properly accounted for and safeguarded from losses of all kinds, including fraud and corruption, waste, extravagance, abuse, ineffective management and poor value for money; and
  - (e) The economy, efficiency and effectiveness with which resources are employed.

- 4.4 A continuous internal audit, under the independent control and direction of the Group Director, Finance and Corporate Resources, shall be arranged to carry out an examination of accounting, financial and other operations of the Council.
- 4.5 Internal Audit shall be required to provide an objective audit service in line with the Public Sector Internal Audit Standards and professional auditing standards. To this end Internal Audit shall have no Cabinet responsibilities and the Corporate Head of Audit, Anti-Fraud and Risk Management shall report directly to the Group Director, Finance and Corporate Resources, and shall have direct access to, and freedom to report to, all senior management including the Group Director, Finance and Corporate Resources, Chief Executive and Members.
- 4.6 Internal Audit will produce a Strategic Internal Audit Plan, subject to the agreement of the Group Director, Finance and Corporate Resources, and ratification of the Audit Committee. In producing the strategic plan the Corporate Head of Audit, Anti-Fraud and Risk Management will have the freedom to determine the priorities for Internal Audit in consultation with the Group Director, Finance and Corporate Resources and other Group Directors, and shall have an unrestricted range of coverage of the Council's operations. In general, but not exclusively, the priorities for Internal Audit will be determined by a risk assessment process.
- 4.7 All material findings will be communicated to the relevant departmental management and once agreed a final report will be issued and where appropriate, copied to the relevant Group Director and the Group Director, Finance and Corporate Resources. Management are expected to implement all agreed audit recommendations within a reasonable timeframe. Internal Audit will undertake appropriate follow up work in this regard.
- 4.8 An annual report will be produced and presented to the Audit Committee which will include a view on the effectiveness of the Council's system of internal control based on the work carried out by Internal Audit.
- 4.9 The Group Director, Finance and Corporate Resources will:
- (a) Report material failures of financial control to the Chief Executive, the Chair of the Audit Committee and the appropriate Councillor of the Cabinet and relevant Chief Officer; and
  - (b) Decide upon the relevant course of action where evidence of fraud, misappropriation or theft is suspected or identified, (e.g. referral to police).

4.10 Each Group Director will:

- (a) Respond without undue delay to any enquiries or recommendations made by the Corporate Head of Audit, Anti-Fraud and Risk Management and their representatives; and
- (b) Inform the Corporate Head of Audit, Anti-Fraud and Risk Management as soon as possible of failures of financial control, including matters which involve, or may involve, fraud/financial irregularity.

4.11 All issues of potential fraud/financial irregularity will be investigated in accordance with the Council's Anti-Fraud and Corruption Policy. Concerns should be reported at the earliest opportunity to the Corporate Head of Audit, Anti-Fraud and Risk Management who will have lead responsibility for any subsequent investigation, in certain circumstances investigations may be carried out in collaboration with individual Group Directors.

- (a) Supported capital expenditure guidelines issued by Central Government including available resources;
- (b) Government capital grants and specific borrowing approvals, availability of capital receipts, other resources;
- (c) Level of existing capital commitments.

4.12 If serious irregularity is suspected or confirmed the Corporate Head of Audit, Anti-Fraud and Risk Management will report the matter to appropriate officers which may include the Group Director, Finance and Corporate Resources, the Chief Executive, the Cabinet Member, the Chair of the Audit Committee, the appropriate Chief Officer and, where staff are involved, the Head of Human Resources and Organisational Development.

4.13 It shall be the responsibility of all Council officers to provide, upon the request of the Group Director, Finance and Corporate Resources or a person nominated by them for this purpose, a full explanation and any information or document under the control of the Officer concerned or access to any premises, facilities or systems, which is required for the purposes of or in connection with an Internal Audit inquiry, project, or investigation. This applies to not only the Council, but also associated bodies and partners including: -

- (a) Organisations to which the Council has given grants;
- (b) Organisations with whom the Council contracts; and

- (c) Partner organisations in any scheme for which the Council has responsibility as lead body.

4.14 Group Directors shall ensure that such rights of access are written into appropriate agreements with these organisations.

## **FPR5 - Procurement Arrangements**

### Procurement Procedure Rules

5.1 The rules for procurement shall be embodied in the Council's Procurement Procedure Rules which shall cover the process of acquiring supplies, works and services from third parties, including:

- (a) The purchase of goods, materials and related services;
- (b) All contracting including the execution of works;
- (c) Commercial partnering; and
- (d) Commissioning of supplies, works or services

## **FPR6 - Income**

6.1 The objective of this Financial Procedure Rule is to ensure that all income due to the Council is collected, banked and properly accounted for. This includes sums received by electronic means such as debit/credit cards, internet, telephone and direct debits. Further detailed guidance on collecting debtor income can be found in "Collecting the Council's Money".

6.2 The collection of all sums due to the Council shall be under the supervision of the Group Director, Finance and Corporate Resources. In conjunction with the Chief Officer concerned or the appropriate Officer of any third party collecting sums on behalf of the Council, the Group Director, Finance and Corporate Resources shall make and maintain adequate arrangements for prompt and proper accounting for all cash, cheques, standing orders, direct debits, and debit/credit card payments. The arrangements shall include the collection and deposit of sums received.

6.3 Particulars of all charges to be made for work done, services rendered, or goods supplied by the various Directorates of the Council, and all other amounts due, shall be promptly notified to the Group Director, Finance and Corporate Resources in a form approved by them and all income due to the Council shall be collected by the Group Director, Finance and Corporate Resources, subject to any other arrangements made by them.

- 6.4 The Council's Financial Management Systems (CedAr/PARIS) shall be used as the Billing, Account Maintenance and Collection system unless there are very good reasons otherwise.
- 6.5 Chief Officers shall put in place additional controls if some of the income is to be collected as cash. These arrangements shall provide that:
- (a) Officers are appropriately trained in income collection, accounting and cash handling arrangements;
  - (b) Sufficient separation of duties is in place, in particular between raising invoices and receiving payments;
  - (c) Official receipts are always given;
  - (d) Proper records are kept;
  - (e) All money received is banked as soon as practicable. All insurance limits on safes shall be adhered to and all cash/cheques shall be banked no later than one week after receipt;
  - (f) VAT is properly accounted for in accordance with the VAT Guidance Manual for Directorate Staff;
  - (g) Where it is necessary for cash to be held prior to it being paid into the Council's bank account, it shall be recorded and kept in an appropriate secure environment; and
  - (h) Security of staff shall be maintained when cash collections are involved.
- 6.6 Directorate records and forms used in collecting income shall be approved by the relevant Director of Finance on behalf of the Group Director, Finance and Corporate Resources. All invoices shall clearly state that cheques or any other payment shall be made payable to the 'London Borough of Hackney'.
- 6.7 All sums received by either:
- (a) A cashier; or
  - (b) Another person authorised by a Chief Officer to collect sums due to the Council shall be immediately acknowledged, by the issue of a receipt or ticket or by other method agreed by the Group Director, Finance and Corporate Resources.

- 6.8 Every transfer of official money from one member of staff to another shall be immediately evidenced in the records by the signature of the receiving officer.
- 6.9 Where an invoice is raised, officers shall observe guidelines issued by the Group Director, Finance and Corporate Resources. These shall be covered in detail in Collecting the Council's Money and shall include:
- (a) A debtor account shall be opened, and the debtor details verified. For trading organisations, a credit check shall normally be carried out;
  - (b) Invoices raised shall be accurate, stating what the invoice is for and when the goods/services were provided;
  - (c) Invoices shall be raised promptly (normally within 14 days of the service being provided);
  - (d) If the invoice remains unpaid after 28 days, the formal escalation process shall begin, and this shall be progressed quickly;
  - (e) If the debtor disputes the invoice, it shall be recorded as in dispute and referred to the operational area for resolution. Disputes shall be resolved quickly and where necessary credit notes shall be raised without delay;
  - (f) Where the invoice remains unpaid after the escalation process and there is no dispute or ongoing dialogue, a decision shall be made as to whether to refer the debt for legal action or write to it off;
- 6.10 The approval of the Group Director, Finance and Corporate Resources or the Director, Financial Management is required to write-off a debt.
- 6.11 Each Officer who pays in money on behalf of the Council shall enter on the paying in slip and duplicate or counterfoil, particulars of such payment, including in the case of each cheque paid in:
- (a) The amount of the cheque;
  - (b) The account/invoice number if one exists;
  - (c) If an account/invoice number does not exist then a reference (such as the number of the receipt given, or the name and/or address of the debtor), which will connect the cheque with the debt for which it was received;
  - (d) Their name and contact number.



- 6.12 The Group Director, Finance and Corporate Resources may advance such sums as may be necessary for the purpose of change money and the existence of these sums shall be periodically verified by an independent officer.
- 6.13 Changes in all fees and charges and the introduction of new fees and charges including proposals affecting rents and associated charges for Council dwellings shall require Cabinet approval. The Cabinet shall review the fees and charges on the advice of the Group Director, Finance and Corporate Resources, at least annually.
- 6.14 Chief Officers shall ensure that levels of income received are compared to budget figures of income due on a regular basis and differences promptly investigated. This shall mean that responsible officers carry out regular reconciliations between monies sent to the bank and monies credited to the bank account.
- 6.15 The advice of the Group Director, Finance and Corporate Resources shall be sought on agreements which provide for variable income.
- 6.16 Wherever possible/practical, income shall be collected in advance of service, or where not possible, by an official invoice.
- 6.17 Agreements for payment by instalment shall be authorised by the Group Director, Finance and Corporate Resources.
- 6.18 When receiving payment by debit or credit card, under no circumstances shall the card details be recorded other than when keyed directly into the payments system, which shall normally be PARIS. Similarly, card details shall not be retrieved from systems on which they are taken. Failure to adhere to this risks a substantial fine for breaching the payment card industry's security rules.
- 6.19 Unused manual receipts, tickets or vouchers shall be held securely at all times. A record of stocks held shall be kept and blank receipt books/unused tickets and shall only be issued to staff on receipt of their signature in the stock record. Individual receipt books held by staff shall be kept in a secure manner. Chief Officers shall ensure that a regular independent reconciliation is carried out of stock records to physical stocks held.
- 6.20 Security and retention of safe keys shall be in accordance with the dictates of the Council's Insurers. Advice on the matter shall be sought from the Council's Insurance Section.

- 6.21 Authorisation of the Group Director, Finance and Corporate Resources shall be obtained before uncollected income due is written off.
- 6.22 Grant claims or certificates requiring certification in the name of the Group Director, Finance and Corporate Resources shall be submitted for approval in a timely manner.
- 6.23 Personal cheques shall not be cashed out of money held on behalf of the Council unless they are cheques drawn on the Council's bank account and express authority of the Group Director, Finance and Corporate Resources has been given to such action.

### **FPR7 - Banking Arrangements**

- 7.1 The Council's banking arrangements shall be the responsibility of the Group Director, Finance and Corporate Resources. Bank accounts shall only be opened in consultation with the Banking Team within the Directorate of Finance and Corporate Resources and shall be approved by the Group Director, Finance and Corporate Resources. All bank accounts shall include London Borough of Hackney in their title.
- 7.2 The Group Director, Finance and Corporate Resources shall approve the signing arrangements for each bank account including the names of officers authorised to sign cheques and issue instructions to the bank and the limits of their authority.
- 7.3 The Group Director, Finance and Corporate Resources shall issue guidance on how bank accounts shall be operated, controlled and reconciled.
- 7.4 Directors of Finance shall be responsible for ensuring that all bank accounts within their directorate area are operated in accordance with guidance issued by the Group Director, Finance and Corporate Resources and that they are reconciled at least once a month in accordance with guidance issued by the Group Director, Finance and Corporate Resources.
- 7.5 Group Directors shall also ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Cabinet or the Council, following consultation with the Group Director, Finance and Corporate Resources.
- 7.6 Group Directors/Directors of Finance shall be responsible for ensuring that all monies collected are banked promptly and properly accounted for in accordance with guidance issued by the Group Director, Finance and Corporate Resources.

## **FRP8 - Orders for Goods and Services**

- 8.1 The objective of this Financial Procedure Rule is to ensure that work, goods and services are only ordered for the purpose of Council business and the resulting expenditure is within budget and properly approved. Further details of how the ordering process works are contained in “Spending the Council’s Money”.
- 8.2 Group Directors shall be responsible for ensuring an authorised and appropriate Scheme of Financial Delegation has been established within their directorate and is operating effectively. The scheme shall identify staff authorised to act on the Group Director’s behalf regarding orders and payments for works and goods and services.
- 8.3 Other than for agreed exceptions as defined in “Spending the Council’s Money”, orders shall be raised, using the Council’s Financial System (CedAr) for the supply of all goods and services.
- 8.4 Group Directors, supported by their budget holders, shall be responsible for orders issued from their directorates. Each order shall conform to the directions of the Council with respect to corporate purchasing and the standardisation of supplies and materials. Each employee responsible for purchasing shall comply with the Council’s Corporate Procurement Framework.
- 8.5 Orders shall be raised and authorised through the Council’s Financial Management System (CedAr). Verbal and manual orders are not acceptable, except in emergencies. In those cases, orders shall be confirmed by an authorised Purchase Order in CedAr within two working days. Officers who do not have access to raise orders in CedAr shall ask their line manager or cost centre manager how to get an order raised.
- 8.6 Before orders are made, the authorising Officer shall ensure that there is adequate budget provision to cover the cost of the order.
- 8.7 Every Officer raising an order shall be responsible for making sure they have complied with the Council’s rules about tenders and quotations. In any case, officers shall make every effort to secure the best terms for the Council.
- 8.8 All officers shall check with the Director of Legal, Democratic and Electoral Services before accepting unusual terms and conditions as part of their order.
- 8.9 The Group Director, Finance and Corporate Resources shall be responsible for approving the operation of ordering and payment systems across the

Council. No system may be established without the explicit agreement of the Group Director, Finance and Corporate Resources. These rules shall apply to all existing payment systems across the Council which have been approved by the Group Director, Finance and Corporate Resources.

- 8.10 Group Directors shall be responsible for payments made by their directorate. They shall make sure there are secure systems in place so that:
- (a) Only officers approved by them can initiate or certify payments;
  - (b) Those officers are appropriately trained, and adequate written instructions are available;
  - (c) There are effective financial controls including separation of duties; and
  - (d) VAT is calculated, recorded and treated appropriately in all cases and supported by a valid VAT invoice in accordance with the VAT Guidance Manual for Directorate Staff.
- 8.11 The duties of ordering, receiving goods and certifying the respective invoices for payment shall not be performed by one officer. Every Officer receiving works or goods or services of satisfactory quality shall ensure this receipt is promptly recorded. This shall usually be by a goods receipt note in the CedAr system, or by authorising a timesheet in the electronic timesheet system for temporary staff. If the Officer does not input the receipt themselves, they shall supply evidence of satisfactory receipt to the Officer who does so.
- 8.12 Every Officer receiving works or goods or services of unsatisfactory quality shall notify the supplier promptly and ensure suitable corrections are made.
- 8.13 Areas of spending where CedAr purchase orders are not mandatory shall be specified in the document 'Spending the Council's Money as Agreed Exceptions'. These shall include spending managed by specialist systems, payments initiated by the Council from its own records and contracts paid by direct debit.

### **FPR9 - Payment of Accounts**

- 9.1 The purpose of this Financial Procedure Rule is to ensure that all payments made by the Council are:
- (a) Lawful;
  - (b) Properly authorised by an appropriate officer; and

- (c) Within the amount provided by the Council's budget.
- 9.2 Officers shall not process or certify payments to themselves or to anyone to whom they are related or with whom they have a close personal or domestic relationship outside work.
- 9.3 Invoice-related payments shall only be made through the Council's on-line payment system (CedAr) and officers shall use this official payment system, unless the Group Director, Finance and Corporate Resources has given their explicit agreement to make other arrangements.
- 9.4 The Group Director or authorised Officer shall be responsible for examining, verifying and certifying accounts for payment and certification shall mean that:
- (a) The goods have been received, the work done, or the services rendered and that they are satisfactory as to quality and correct as to quantity;
  - (b) The goods or services have not been paid for previously;
  - (c) Prices are in accordance with the agreement, quotation or current market rate, whichever is applicable and that all trade or cash discounts have been applied;
  - (d) Any special authority needed has been obtained;
  - (e) The payment is lawful and is in accordance with the Council's policy and instructions and complies with the Council's procurement rules;
  - (f) The expenditure is within the amount provided by annual estimates or approved supplementary estimate; that it has been charged in the financial year in which the work is done or the goods received, irrespective of the years in which provision has been made in annual estimates;
  - (g) The amount/invoice is correctly coded;
  - (h) VAT is properly accounted for and evidenced by a valid VAT invoice;
  - (i) Appropriate entries have been made in inventories or stock or stores records; and
  - (j) The account is arithmetically correct or subject to a sample test agreed by Directorate's Directors of Finance.

- 9.5 The Central Payments Team shall be responsible for receiving and paying invoices by matching them to purchase orders and Goods Receipt Notes (GRNs). The Group Director shall be responsible for ensuring that purchase orders have been raised and GRNs entered before the invoice is received so that payment can be made promptly.
- 9.6 It shall be the buying officer's responsibility to raise a GRN in CedAr as soon as the goods or services have been received unless the quantity is unknown, in which case the GRN shall be raised as soon as the invoice is received.
- 9.7 The buying Officer shall be responsible for resolving price and quantity mismatches between invoices and Goods Receipt Notes as soon they are notified, so that the invoice can be paid within terms.
- 9.8 Payments shall only be made against valid invoices unless the Group Director, Finance and Corporate Resources has given their explicit agreement to make the payment. Inaccurate, unclear or incomplete invoices, or those written in pencil or invoices not addressed to the London Borough of Hackney, are not valid. They shall be returned to the supplier who shall submit a valid one. Officers shall not amend or alter invoices.
- 9.9 Payments shall not normally be made in advance. Officers shall check with their Director of Finance if they are considering making advance payments.
- 9.10 Payments which are not CedAr PoP related shall be certified by an authorised officer. Certifying officers shall make adequate checks to satisfy themselves that:
- (a) The goods and/or services have been received and are satisfactory;
  - (b) The expenditure is covered by a budget; (c) the prices, arithmetic and cost allocations are correct; and
  - (c) VAT is correctly identified and supported by a valid VAT invoice.
- 9.11 Officers shall follow the Council's payments policy, which requires that valid payments shall be processed promptly and paid in good time to take account of early settlement discounts. Invoices shall be paid in accordance with the terms agreed with the supplier or in the absence of such terms, 30 days from the receipt of a correct invoice or the goods and/or services (whichever is the later). In exceptional circumstances earlier payment may be effected where there are valid reasons to do so.
- 9.12 The requirements of the Late Payment of Commercial Debts (Interest) Act 1988 and the policies and procedures adopted by the Group Director, Finance

and Corporate Resources in relation to the Act shall be fully adhered to by all Chief Officers.

- 9.13 Accounts duly certified shall be processed daily in the manner prescribed by the Group Director, Finance and Corporate Resources, who shall examine them as they see necessary.
- 9.14 Certificates for contract payments shall be submitted together with a valid VAT invoice to the appropriate Group Director or authorised officer, who shall authorise the certificate and VAT invoice for payment after examining it to see that it is within the contract sum, subject to any agreed variations, and is reasonable. Certificates shall include details of the value of the work, retention money, amounts previously certified and amounts now certified.
- 9.15 All invoices shall be retained for at least six years by each Group Director. The Group Director, Finance and Corporate Resources shall be consulted before any disposal takes place. This shall be in line with the Council's legal obligations to keep all original invoices, and paid and copy debtor accounts, for six years from the date they were paid or raised, for VAT purposes.

#### **FPR10 - Payment of Employee Related Expenses**

- 10.1 The objective of this Financial Procedure Rule is to ensure that staff are appointed in accordance with the Hackney Recruitment Policy, shall be paid in accordance with their Contract of Employment and to ensure leavers are removed from the payroll.
- 10.2 All staff shall be appointed in accordance with the Hackney Recruitment Policy and there shall be written evidence to support this kept on file.
- 10.3 The Director, Human Resources and Organisational Development is responsible for the operation of the Council's payroll services. This shall include making sure that there are appropriate arrangements in place so that staff pay and deductions are made accurately and promptly, and that statutory records are properly maintained.
- 10.4 The Group Director, Finance and Corporate Resources shall be responsible for the accurate accounting for all payroll transactions. Each Group Director shall keep a personal record file for each employee within their approved establishment, containing a copy of the employee's contract of employment together with sufficient information to identify service, salary scale and current amount payable, sickness leave taken and annual leave taken and due.

- 10.5 Group Directors shall be responsible for notifying the Director, Human Resources and Organisation Development of any changes in employees' circumstances which would affect their payments or deductions. Where employees submit timesheets, they shall accurately record the hours they worked.
- 10.6 On a regular basis, and at least annually, each Director of Finance shall be provided by the Director, Human Resources and Organisational Development with a list of staff currently paid within their directorate and the rate at which they are currently being paid. The Director, Financial Management shall certify that every name on the list is a bona fide employee of their directorate and that the rate of payment to the employee is correct.
- 10.7 Any prime records shall be checked and certified by an approved Officer before being passed to the Director, Human Resources and Organisational Development in time for them to meet their established deadlines.
- 10.8 The Group Director, Finance and Corporate Resources shall be responsible for the calculation of pension and retirement benefits as well as making appropriate arrangements for their payment.
- 10.9 Officers can claim reimbursement of costs they incur on Council business, including car mileage and subsistence, as long as they follow the correct procedures including seeking their line manager's approval before incurring significant expenditure. All claims shall be made on standard forms with the receipts attached. Claims shall be authorised by the employee's line manager or a more senior Officer and then certified before being passed for payment.
- 10.10 Expenses claims shall be submitted within one month of incurring the expenditure. All officers shall take reasonable steps to minimise costs when spending the Council's money. Officers who deliberately claim expenses to which they are not entitled may be guilty of gross misconduct and may be dismissed.

#### **FPR11 - Imprest and Petty Cash Accounts**

- 11.1 The Group Director, Finance and Corporate Resources shall provide petty cash accounts of such amounts as may from time to time be required for the purpose of paying minor items of equipment and postage stamps and other such urgent payments as he may determine.
- 11.2 Directors of Finance shall be responsible for determining the petty cash arrangements in their directorate, subject to authorisation and procedures issued by the Group Director Finance and Corporate Resources



- 11.3 Directors of Finance shall issue detailed guidance to officers holding cash floats setting out how they expect them to be operated and what security arrangements they require to be maintained.
- 11.4 A petty cash slip shall be completed for every reimbursement that is made, signed by the claimant, authorised by their manager and signed by the person making the payment. Receipts shall be obtained to back up all expenditure made and reclaimed through the petty cash account and attached to the petty cash payment slip in line with an agreed HMRC prerequisite.
- 11.5 Proper VAT invoices shall be obtained when VAT is applicable.
- 11.6 Petty cash accounts shall not in any circumstance be used to cash personal cheques or make personal loans.
- 11.7 On leaving the Council's employment or otherwise ceasing to be entitled to hold a petty cash advance, an employee shall account to the Group Director, Finance and Corporate Resources for the amount advanced to them.

## **FPR12 - Risk Management and Insurance**

- 12.1 The objective of this Financial Procedure Rule is to ensure that the Council manages all potential risks and liabilities and to limit the authority for arranging insurance cover to the Group Director, Finance and Corporate Resources.
- 12.2 The Group Director, Finance and Corporate Resources shall be responsible for the development, monitoring and review of the Council's risk management policy, which shall be approved by the Audit Committee.
- 12.3 The Group Director, Finance and Corporate Resources shall be the Council's principal risk management adviser and co-ordinator.
- 12.4 The Group Director, Finance and Corporate Resources shall assess the Council's overall insurance requirements and shall be responsible for arranging all insurance cover. The Group Director, Finance and Corporate Resources shall review insurance cover on an annual basis.
- 12.5 Each Chief Officer shall be responsible for identifying, assessing and controlling risks within their Directorate and shall undertake an annual review of Directorate risk in consultation with the Group Director, Finance and Corporate Resources.
- 12.6 Group Directors shall submit an Annual Risk Register in respect of their Directorate to the Group Director, Finance and Corporate Resources and shall report quarterly on its implementation.

- 12.7 All line managers shall ensure that they are familiar with the extent of their insurance cover.
- 12.8 Group Directors shall inform the Head of Insurance of any new risks they take on and of any alterations, which affect insurable risks in their department as soon as is practically possible.
- 12.9 All employees shall provide information required by the Head of Insurance, which shall be relevant to the Council's risk exposure or relate to an insurance claim within specified timescales.
- 12.10 Group Directors shall be responsible for ensuring that anyone covered by the Council's insurance is aware that they shall not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.
- 12.11 All employees concerned with the receipt, custody and/or disbursement of the monies and property of the Council shall be included in a suitable fidelity guarantee insurance. Group Directors shall ensure that the Insurance Section is notified of such persons.
- 12.12 An annual insurance review shall be carried out which will take the form of a declaration of existing covers and values provided by all Group Directors; and any changes in covers, activities, changes to assets, major projects or contracts shall be notified to the Group Director, Finance and Corporate Resources in the review (or within 14 days if mid-year).
- 12.13 Group Directors shall notify the Head of Insurance in writing of any loss or damage to property or goods in their department, whether insured or not. If the loss arose as a result of theft, the relevant Group Director shall notify the Corporate Head of Audit, Anti-Fraud and Risk Management. They shall also inform the Head of Insurance of all claims made or of incidents that may give rise to a claim against the Council.
- 12.14 The Group Director, Finance and Corporate Resources shall be consulted about any insurance policies that Group Directors may wish to arrange on behalf of other parties.

### **FPR13 - Treasury Management**

- 13.1 All investments and borrowing shall be made by the Group Director, Finance and Corporate Resources and shall be in the name of the London Borough of Hackney.
- 13.2 All securities which are the property of, or are in the name of, the Council shall be recorded, managed and monitored by the Group Director, Finance and Corporate Resources.
- 13.3 The Group Director, Finance and Corporate Resources shall:
- (a) Produce a Treasury Management Policy Statement and Annual Strategy Report and submit them to Cabinet and then to Council each year;
  - (b) Report on Treasury Management activity during the year, at least mid-year, and revise the Treasury Management Strategy as appropriate and submit to Cabinet for approval, as and where appropriate to Council; and
  - (c) Produce an outturn report for the previous year's activity against the agreed strategy and also a report on the treasury management activity for the first half of the current financial year.
- 13.4 All Treasury Management activities shall be conducted by the Group Director, Finance and Corporate Resources in line with the relevant Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice for Treasury Management in the Public Services and the CIPFA Prudential Code for Capital Finance in Local Authorities.
- 13.5 Adequate division of duties shall exist between arranging and settling of transactions. Additional segregation shall exist between arranging and recording of transactions.
- 13.6 Arrangements shall exist which provide for someone other than the Treasury Officer to monitor investment levels, which shall be periodically reviewed. Investment levels shall be monitored by the Treasury & Pensions Manager reviewing the weekly strategy reports produced by the Treasury Officer.

## **FPR14 - Reimbursement of Expenses and Payment of Allowances**

- 14.1 The objective of this Financial Procedure Rule is to ensure that the reimbursement of allowances and expenses to staff and members is in accordance with the appropriate agreements and legislation.
- 14.2 All claims by employees for payment of car allowances shall be submitted at monthly intervals to the Group Director, Finance and Corporate Resources in an approved form, duly certified by the Group Director or other nominated officer. Payment of other travelling expenses, subsistence allowances and incidental expenses shall be made upon receipt of the appropriate form duly certified, in line with the Council's expenses policy and guidance issued by the Human Resources section of the Council.
- 14.3 Receipts shall be provided for all expenditure claimed wherever possible in line with HMRC requirement. A valid VAT invoice shall also be obtained where appropriate.
- 14.4 All claims for a financial year shall be submitted not later than one month following 31st March in any year, except with the express approval of the Group Director, Finance and Corporate Resources.
- 14.5 Certification of a claim shall be taken to mean that the journeys were authorised and the expenses properly and necessarily incurred, and that the allowances are properly payable by the Council in accordance with the rates approved by Cabinet. Claims submitted shall provide sufficient information to allow such certification to take place.

## **FPR15 - Security and Control of Assets**

- 15.1 The objective of this Financial Procedure Rule is to ensure the proper use and safeguarding of assets owned by the Council or for which the Council has responsibility. This Rule applies to all assets, including stocks, stores, furniture, equipment, vehicles, cash, land and buildings, software and information that are owned by, or are in the possession of the Council and for which the Council is responsible.
- 15.2 The use of assets shall be restricted to authorised Council business. Surplus assets shall be disposed of in accordance with Council procedures.
- 15.3 It shall be the responsibility of the Group Director, Finance and Corporate Resources to ensure the Council's Corporate Asset Management Plan support the strategic approach to Capital as well as complying with best practice and guidance issued by the Government.

- 15.4 Group Directors shall be responsible for other Asset Management plans prepared for the Council's key assets such as Highways, Maintenance, Vehicles, and ICT. In some instances, these may be encompassed within the appropriate strategy e.g. ICT.
- 15.5 The Director of Legal, Democratic and Electoral Services shall have custody of all title deeds of properties owned by the Council and be responsible for their security, and the Group Director, Finance and Corporate Resources shall maintain a register of all land and properties owned by the Council recording the location, extent, plan, reference, purchase details, nature of the interests, tenancies granted, rents payable and purpose for which held.
- 15.6 It shall be the responsibility of Group Directors to ensure compliance with the measures, processes and policies outlined in the Asset Management Plans and to ensure the maintenance and annual review of an inventory of their directorate's assets including those leased or loaned to the Council. The directorate review shall be undertaken in accordance with directions and guidance issued by the Group Director, Finance and Corporate Resources.
- 15.7 Group Directors shall be responsible for the land and properties in their directorate. They shall take all reasonable steps to safeguard them. Properties shall be adequately insured, and appropriate procedures put in place to ensure their security and safety.
- 15.8 An independent register of land and properties held by the Council and shall be reconciled to the Council's asset register held by the Group Director, Finance and Corporate Resources.
- 15.9 Group Directors shall inform the Group Director, Finance and Corporate Resources if they propose to acquire, lease or dispose of land and properties by lease or freehold. They shall also inform the Insurance Section within the Directorate of Finance and Corporate Resources for insurance purposes and ensure that their actions are in accordance with Council rules and procedures.
- 15.10 Group Directors shall obtain the written prior approval of the Group Director, Finance and Corporate Resources for all transactions involving land and properties which involve the Council in taking or granting an interest.
- 15.11 The Group Director, Finance and Corporate Resources shall be responsible for making sure that land and property is sold for the best consideration possible with exceptions of Right-to-Buy sales.

- 15.12 Right-to-Buy sales shall be the responsibility of the Group Director, Climate, Homes and Economy and the scheme shall be administered by the Council's Housing Service.
- 15.13 The Group Director, Climate, Homes and Economy shall be responsible for ensuring that the Council obtains best consideration for Right-to-Buy properties and these shall comply with the rules approved by Cabinet.
- 15.14 Appropriations shall require approval by Cabinet.
- 15.15 To appropriate land and property held for one purpose to another under s122 of the Local Government Act, 1972, the asset shall first be declared surplus and appropriated by the Group Director, Finance and Corporate Resources after consultation with the relevant Group Director. The Group Directors and the Group Director, Finance and Corporate Resources shall ensure the Asset Register and other records are updated and the necessary ministerial consents obtained.
- 15.16 Disposals shall be made in accordance with Council rules and procedures; and in the case of disposals of property all disposal requires Cabinet approval. In relation to all disposals the same rules as those covering tendering contracts shall apply. The disposal of all property shall be reported to the Group Director, Finance and Corporate Resources to be reflected in the resources available to the Capital Programme and reported to Cabinet.
- 15.17 Group Directors shall arrange for an end of year check to make sure the assets are still there, and their inventories are accurate. They shall send a copy of their inventory to the Head of Insurance who shall use it to make sure adequate insurance arrangements are in place.
- 15.18 No property of the Council shall be removed otherwise than in the ordinary course of business or used otherwise than for the Council's purposes.
- 15.19 Group Directors shall have power to dispose of assets with a sale value of between £500 and £5,000 with the agreement of their Director of Finance. This limit shall apply to single items or the aggregate value of identical items within the financial year. Other assets can only be disposed of with the approval of Cabinet. Assets shall be sold at the best consideration obtainable. Under no circumstances shall Council assets be sold to employees of the Council.
- 15.20 The Group Director, Finance and Corporate Resources shall be responsible for issuing rules on the purchase and disposal of ICT related equipment.

- 15.21 Inventories shall be maintained by all Directorates and kept up to date. They shall contain an adequate description (including serial numbers where appropriate) of furnishings, fittings, equipment, plant, machinery, vehicles and other property of the Council with an individual value exceeding £250.
- 15.22 Portable items such as computers, cameras and video recorders shall be identified with security markings as belonging to the Council.
- 15.23 Each Chief Officer shall be responsible for making checks of such inventories not less than once per year and certifying within the inventory documentation that the check has taken place.
- 15.24 The Group Director, Finance and Corporate Resources shall be responsible for maintaining the lists of assets of community value in compliance with the Council's protocol and discharge the requirements of Chapter 3 of Part 5 of the Localism Act 2011.

#### **FPR16 - Payment of Grants and Benefits**

- 16.1 The objective of this Financial Procedure Rule is to ensure that only properly authorised grant and benefit payments are made and where discretionary, to ensure that the purpose of the payment is achieved.
- 16.2 All claims shall be correctly certified and submitted only if all conditions are met. The Group Director or designated Officer shall be responsible for examining, verifying and certifying grant/benefit payments and certification shall mean that:
- (a) The grant/benefit payment has not been paid previously;
  - (b) The payment is lawful and in accordance with the Council's policy;
  - (c) The payment is arithmetically correct; and
  - (d) The grant is within budget provision.
- 16.3 When making payments for which external funding can be claimed, Group Directors shall be aware of any conditions/obligations laid down by the external funder that the Council shall meet (e.g. monitoring of spending) and be satisfied that these conditions/obligations are being met.
- 16.4 Where funding is dependent on the achievement of outputs, such outputs shall be evidenced and monitored accordingly.

- 16.5 The approval of the Cabinet shall be sought before a Group Director provides assistance to industry by way of loan, grant or guarantee over £50,000 to any one body in any one financial year.
- 16.6 Each Group Director shall provide a record justifying the award of the grant.

#### **FPR17 - Record of Contracts for Capital Works**

- 17.1 Each Group Director shall be responsible for maintaining proper records for all contracts and for informing the Group Director, Finance and Corporate Resources and appropriate Councillor of the Cabinet when the final cost is likely to exceed the financial provision.
- 17.2 In every case, before a Group Director or consultant issues or certifies a final certificate of payment under a contract, the Group Director, Finance and Corporate Resources shall examine the contractor's final account together with such relevant documents and information as may be required.
- 17.3 These requirements shall be set out in Contract Standing Orders and shall be applicable to all contracts.

#### **FPR18 - Grants from External Bodies**

- 18.1 The purpose of this Financial Procedure Rule is to ensure that all grant claims submitted to external funders in respect of specific projects are:
- (a) Lawful and in line with statutory obligations;
  - (b) Accurate;
  - (c) Complete;
  - (d) Timely;
  - (e) Within the approved grant allocation;
  - (f) In accordance with each funder's eligibility criteria;
  - (g) Submitted with due regard to the Council's continuing commitment to the project; and
  - (h) In accordance with Council priorities.



18.2 The Group Director, Finance and Corporate Resources shall be responsible for:

- (a) Building in any agreed financial implications (e.g. matched funding) into the budget strategy; and
- (b) Accounting for non-specific Government Grants received and receivable.

18.3 Group Directors shall be responsible for:

- (a) Ensuring that all external funding agreed with external bodies is received and is properly recorded in the Council's accounts; liaising with the Grants Team in Financial Management;
- (b) Maintaining a Directorate Grant Register and reconciling this with the Central Grants Register held by the Grants Team in Financial Management;
- (c) Ensuring that the Director of Finance is aware of and agrees all bids for external funding;
- (d) Ensuring that external funding which is sought supports the Council's service priorities;
- (e) Ensuring that any matched funding requirements relating to external funding agreements are provided for in the budget prior to any external funding agreement being concluded;
- (f) Ensuring that necessary approvals are obtained before external funding agreements are concluded; and
- (g) Investigating ways of maximising income.

18.4 Where the use of external funding for projects requires a financial commitment from the Council for which budget provision is not available, or where the acceptance of external funding would lead to a financial commitment beyond the current year, the relevant Group Director, in conjunction with the Group Director, Finance and Corporate Resources, shall provide a written report to Cabinet giving a full appraisal of the financial implications for the Council of the scheme both in the current year and beyond. This report shall also set out the ways that the external funding sought supports the Council's service priorities.

- 18.5 The applicant Directorate shall nominate a named responsible (senior) Officer to be accountable for the performance and financial monitoring of each project. The named responsible Officer shall agree deadlines for the preparation of claims and returns with the Grants Team in Financial Management and adhere to the “How to Guidance on Grants” issued by them.
- 18.6 Written approval shall be obtained from the funder which clearly shows the approved allocation, the purpose of the grant and the financial period to which it relates.
- 18.7 The responsible Officer shall ensure, prior to submission of a grant claim, that all expenditure declared is eligible in accordance with the relevant funder’s criteria, including purposes and deadlines.
- 18.8 Should there be any uncertainty as to the purpose of such funding the responsible Officer shall make such enquiries as necessary, to the funder, to ensure proper use of grant.
- 18.9 Grant claims and monitoring returns working paper files shall include an internal authorising form approved by the Directorate Director of Finance prior to submission to the Group Director, Finance and Corporate Resources, and be submitted within the funder’s timescales.
- 18.10 Where receipt of funds from a third party (i.e. matched funding) is part of any grant submission, Group Directors shall adhere to the guidance which has been provided by the Group Director, Finance and Corporate Resources.
- 18.11 The manner in which external funding is managed shall be in accordance with Council policy, Contracts Procedure Rules and Financial Procedure Rules, in addition to the funder’s own requirements.
- 18.12 Grant claim working papers shall be maintained in a form agreed by the Group Director, Finance and Corporate Resources.

### **FPR19 - Partnerships**

- 19.1 A partnership shall be defined as “*a relationship between two or more independent legal bodies, organisations or individuals working together to achieve a common vision with clear aims and objectives*”.
- 19.2 All Councillors and Officers currently involved in or considering partnership working shall have regard to the Council’s Partnership Code of Practice and ensure compliance with it.

- 19.3 The selection of partners shall be underpinned by a procurement process as set out in Contract Standing Orders except for the following circumstances:
- (a) Where there is no exchange of funds (e.g. information sharing only);
  - (b) Where the Council is providing grant (e.g. this would not apply where funding depends upon detailed specified requirements);
  - (c) Where it is permitted, required or encouraged by law (e.g. joint committee, pooled budgets and integrated services with Health Trusts).
- 19.4 The view of the Group Director, Finance and Corporate Resources and Chief Executive shall be sought before any discussions are held with potential partners.
- 19.5 Any financial relationship with a partner shall be fully documented and legally binding.
- 19.6 Where the entering into a partnership requires a financial commitment from the Council, either immediate or potential, for which the budget provision is not available, or where the acceptance of external funding would lead to a financial commitment beyond the current year, the relevant Group Director in conjunction with the Group Director, Finance and Corporate Resources shall provide a written report to Cabinet giving a full appraisal of the financial implications for the Council of the scheme both in the current year and beyond.
- 19.7 The approval of Cabinet shall be secured before the Group Director commits the Council to any partnership agreement. In addition, a clear exit strategy shall be in place prior to entering into any partnership agreement.
- 19.8 The Group Director of the applicant Directorate shall be responsible and accountable for the performance and financial monitoring of each partnership. A risk assessment shall be maintained in relation to the Council being a party to each Partnership.
- 19.9 Where receipt of funds from a partner or third party (i.e. matched funding) is part of any grant submission, Group Directors shall adhere to the guidance which has been provided by the Group Director, Finance and Corporate Resources
- 19.10 Internal Audit's rights of access to all officers, buildings and information, explanations and documentation required to discharge the audit and

investigation role shall be written into the appropriate agreements with these organisations. This shall be the responsibility of Group Directors.

### **FPR20 - Acquisition and Disposal of Land and Buildings**

- 20.1 Proposals for the acquisition and disposal of land or buildings, whether freehold or leasehold, shall be referred to the Group Director, Finance and Corporate Resources for recommendation to Cabinet.
- 20.2 The acquisition and disposal of land or buildings by the Council which shall have due consideration to the Council's strategic approach to capital and be executed as part of the Revenue Budget or Capital Programme as appropriate.
- 20.3 The Group Director, Finance and Corporate Resources shall have responsibility for advising on land and building issues and as such:
- (a) The Group Director, Finance and Corporate Resources shall maintain a detailed record of all land and buildings owned by the Council; and
  - (b) Chief Officers shall be responsible for providing information in a form specified by the Group Director, Finance and Corporate Resources to ensure that this record is accurate, complete and up to date.
- 20.4 The acquisition or lease of land or disposal of land shall be agreed by Cabinet.
- 20.5 All proposed new lease arrangements (whether as a lessee or a lessor) shall be referred to the Group Director, Finance and Corporate Resources for a technical assessment of the International Financial Reporting Standards (IFRS implications), prior to any further action taking place.

### **FPR21 - Demolition of Council Owned Property**

- 21.1 The Group Director, Finance and Corporate Resources may, after consultation with the lead Councillor of the Cabinet, authorise the demolition of a Council owned property valued at £500,000 or less. Any property valued over £500,001 shall be approved by the Chief Executive up to the value of £1 million. Properties requiring demolition valued at over £1 million shall be referred to Cabinet for a decision.
- 21.2 The Director of Housing/Director of Regeneration may, after consultation with the lead Councillor of the Cabinet, authorise the demolition of Housing Revenue Account (HRA) property valued at £100,000 or less. Any property valued £100,001 and over shall be approved by the Group Director of Climate,

Homes and Economy, up to the value of £500,000. Properties requiring demolition valued at £500,001 and over shall be approved by the Chief Executive up to the value of £1 million. Properties requiring demolition valued at over £1million shall be referred to Cabinet for a decision.

## Part 5 - Finance and Contract Rules

### Section B - Contract Standing Orders

#### Definitions of Terms within these Standing Orders

##### **Agent**

A person or organisation authorised to represent the Council's interests and act on its behalf.

##### **Business Case**

A document used to obtain management commitment and approval for investment in business change, which alters the way that suppliers are selected and goods and services are purchased, or how the Council delivers a service. It provides a framework for planning and management of this change and ongoing identification of risks. The viability of the resulting project will be judged on the contents of the Business Case.

##### **Category Lead**

A procurement specialist responsible for a category of services or works. Formerly designated as a Directorate Procurement Manager.

##### **Consultant**

A person or organisation providing professional advice or services to the Council.

##### **Contract Manager**

An Officer or Agent of the Council authorised by the responsible Director to exercise the functions of the Council as an employer and/or client.

##### **Contracting Officer**

An Officer or Agent of the Council authorised by the responsible Director, to undertake the design, competition and evaluation process leading to the award of a contract.

##### **Contractor**

A person or organisation undertaking works or delivering services on behalf of the Council or to the Council.

##### **Director**

An Officer reporting to a Group Director and defined as Tier 2 within the General Scheme of Delegation.

**Dynamic Purchasing System or DPS**

An electronic purchasing system for Contracts for works, services and goods commonly available in the market as described in Regulation 34 of the Public Contracts Regulations 2015.

**External Framework**

A framework contract let by an external organisation (such as Crown Commercial Services) which is compliant with the Public Contracts Regulations 2015 and can be accessed by the Council.

**Find a Tender Service (FTS)**

The UK e-notification service where notices for new procurements are published. It replaces the Official Journal of the European Union (OJEU) and applies to goods, services and works that must be procured in accordance with Procurement Legislation.

**Group Director**

An Officer reporting to the Chief Executive and defined as Tier 1 within the General Scheme of Delegation.

**Novation**

The transfer of rights and obligations from one party to another in an existing contract, with the consent of all parties involved. It allows for the substitution of a new party who assumes all contractual responsibilities and liabilities.

**Parent Company Guarantee**

A guarantee which binds the parent of a subsidiary company as follows: If the subsidiary company fails to deliver its contractual obligations, the Council, under the terms of the guarantee, can require the parent company to do so instead or pay money in lieu.

**Procurement Instruction**

Procedural advice, codes of practice or best practice guidance which explain but not override any provision in these Contract Standing Orders.

**Procurement Legislation**

The relevant (where applicable) UK Regulations as amended or replaced from time to time including The Public Contracts Regulations 2015 and The Concession Contracts Regulations 2016.

### **State Aid**

Financial or other forms of assistance provided by the government to businesses or organisations. It includes the allocation of public resources such as grants, subsidies, tax breaks, or loans to support specific industries, regions, or economic activities.

### **Threshold(s)**

The financial threshold (inclusive of VAT) at which the Procurement Legislation is applicable. The current thresholds for the following types of contracts are:

- in the case of contracts for Works, £4,733,252;
- in the case of contracts for services or supplies, £189,330;
- in the case of contracts for Schedule 3 Services, £663,540; and
- in the case of contracts for public works or services concession contracts, £4,733,252.

### **Value for Money**

The optimum combination of whole-life costs and quality to meet the Council's defined requirements.

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## **1. General Provisions**

1.1 All Officers of the Council and agents, consultants and contractors of the Council who carry out procurements are subject to these Contract Standing Orders.

### Regulatory and Legislative context

1.2 Every contract made by or on behalf of the Council must comply with World Trade Organisation agreements, the Local Government Act 1999 and all relevant domestic legislation, regulations or legally binding guidance, the Council's Constitution and these Standing Orders.

1.3 "Brexit": The EU Public Procurement Directives are enacted in domestic legislation, for example The Public Contracts Regulations 2015 and The Concession Contracts Regulations 2016. Having left the European Union, this legislation remains in force unless amended or repealed by new domestic legislation, at which point these Contract Standing Orders will be updated accordingly.



- 1.4 All procurement activity must be carried out, not only in accordance with these Standing Orders, but also in compliance with the Council's Constitution including the General Scheme of Delegation to Officers, Best Practice Guides and other relevant guidance, as published by the Group Director, Finance and Corporate Resources, or designated deputy.
- 1.5 The Group Director, Finance and Corporate Resources or designated deputy may from time to time issue Procurement Instructions on matters concerning procedural advice, codes of practice and best practice guidance, which will explain but not override any provision in these Contract Standing Orders, unless authorisation in writing has been given by the Chief Executive or the Elected Mayor and Cabinet. Failure to follow a Procurement Instruction issued in accordance with this Standing Order will be considered a breach and subject to Standing Order 1.7.
- 1.6 Group Directors are responsible for ensuring compliance with these procedural instructions and with the detailed processes set out in the Council's Procurement intranet pages, within their Directorate and within the timescales specified in the instructions. If no timescale is specified, the instruction is to be implemented with immediate effect.
- 1.7 It is the responsibility of all Officers to report any breach of Contract Standing Orders of which they become aware, to their Director and the Director of Legal, Democratic and Electoral Services. The Director is required to report any breach to the Director of Legal, Democratic and Electoral Services and to the Group Director, Finance and Corporate Resources, or designated deputy. A breach of these Standing Orders may result in the application of the Council's disciplinary procedures.

#### Conduct of Officers and Members

- 1.8 All Councillors and Officers must carry out their duties having regard to relevant current Codes of Conduct in force in the Council and all appropriate legislation such as the Bribery Act 2010.
- 1.9 All Councillors and Officers involved in the letting of contracts are expected to seek best value for money and continuous improvement, and to behave in a demonstrably fair and even-handed manner, whatever the contract value.
- 1.10 All Councillors and Officers who may have, or may appear to have, a conflict of interest in the award or management of a contract, shall declare this to the Director of Legal, Democratic and Electoral Services and to the Group Director, Finance and Corporate Resources, or designated deputy, and must

take no part in any decision making or other process with regard to that contract.

- 1.11 No Member, employee or agent of the Council shall improperly use their position to obtain any personal or private benefit from any Contract entered into by the Council. This includes the accepting of gifts or hospitality of any nature and/or value either pre, during or post the contracting activity, unless this is pre-approved and entered onto the Gifts and Hospitality Register. Guidance can be found within the Councillor Code of Conduct and Officers' Code of Conduct and on the Council intranet.

#### Effective Period and Reviews

- 1.12 These Contract Standing Orders shall be effective from the date of adoption by Full Council and will be reviewed periodically as required but, in their entirety, once every five years by the Group Director, Finance and Corporate Resources and the Director of Legal, Democratic and Electoral Services Services.

#### Partnering Agreements and Partnering Arrangements

- 1.13 The Contracting Officer must seek advice from the appropriate Category Lead when considering the development of a Collaborative or Partnering approach to a contract. Unless the terms and conditions are drawn up specifically for the purpose of a Collaborative or Partnering contract, this approach will have no legal status and will only define the behaviour and approach within the formal Contract rather than to supersede or add to any legal responsibilities inherent within the Contract.
- 1.14 No arrangement which is stated as being "Partnering" or "Partnership" should have the legal status this implies under the Partnership Act 1890 unless this has been considered in writing as set out in Standing Order 1.15 below. This is to say the Council's default position is that there is no intention to create a new partnership entity from any arrangement or to incur joint liability for its debts and obligations.
- 1.15 For any Partnering Arrangement where the Council is the accountable body for expenditure, the Council's Contract Standing Orders normally apply. Any exception or class of exception to this principle must be agreed by Cabinet or Cabinet Procurement and Insourcing Committee. Where the Council is not the accountable body, to ensure proper use of funds paid from the Council Officers must be satisfied that the procurement framework of the partnership is broadly comparable with the Council's. The proposed arrangements must

be agreed with the Group Director, Finance and Corporate Resources or designated deputy.

- 1.16 Where the Council proposes to enter into a Partnering Agreement with a Contractor, the Gateway Process shall be applied to the selection process.
- 1.17 Where the Council proposes to participate as a Partner in an arrangement that may generate revenue or incur financial or operational liability, this proposal must be considered through the Gateway Process, and the written advice of the Director of Legal, Democratic and Electoral Services and the Group Director, Finance and Corporate Resources obtained, regarding the legal and financial ability of the Council to trade or to provide the services required. The resulting agreement will be considered a Partnering Agreement.

#### Tender and Contract Documents

- 1.18 Where procurements are above the relevant threshold, all procurement documents, including the draft contract, must be available at the time the contract opportunity is advertised via a Find a Tender (FTS) advert. All Tender Documents including Conditions of Contract, or (where Standard Forms of Contract are used) associated contractual documents must include certain clauses to protect the Council. These are that:
  - (a) The Council may terminate a Contract on the grounds of:
    - Insolvency of the Contractor;
    - Corruption;
    - Collusive tendering;
    - Breach of Contract Conditions;
    - Breach of any part of the Procurement Legislation.
  - (b) The consequences of any termination are provided for.
  - (c) Equalities and diversity matters are as set out in the Council's 'Equality and Diversity Policy' and the Council's 'Corporate Equality Plan' and its responsibilities under the Equality Act 2010, the Race Relations (Amendment) Act 2000, the Sex Discrimination (Gender Reassignment) Regulations 2003, the Equal Pay (Amendment) Regulations 1983, the Pensions Act 1995, the Employment Equality (Age) Regulations 2006, the Human Rights Act 1998, the Statutory Code of Practice on Racial Equality in Employment 2006 and all other relevant legislation and any statutory modification or re-enactment of such legislation during the life of these Standing Orders.

- (d) The Council will have due regard to the Public Services (Social Value) Act 2012 and the Modern Slavery Act 2015, as amended from time to time, when procuring Contracts. The Council will also always have regard to payment of the London Living Wage for contractors' staff engaged on its contracts for services or works.
- (e) There is provision for the recovery of sums due to the Council.
- (f) The Contractor's rights to assign and sub-contract are properly controlled e.g. if it is permissible in our contract with Entity A for Entity B or C to do all or some of the work and if so, what authorisation must first be sought from the Council by Entity A for this to happen.
- (g) The arrangements for payments are properly defined. Any contractual payment due from the Council to a Contractor must be paid no later than 30 days from the date of a valid and undisputed invoice. Such contract payment terms shall be replicated in any sub-contract entered into by the main Contractor and any further sub-contracts.
- (h) The Council reserves its right not to accept the lowest, or any, tender or to award a contract.
- (i) Insurance and indemnity provisions including professional indemnity where applicable. (This should be agreed on a project basis with the Head of Insurance to ensure the appropriate level of cover is identified for the contract – to facilitate this, the Risk Assessment, completed at the Business Case stage, must be sent to the Head of Insurance as soon as possible).
- (j) In respect of all other clauses, Contracting Officers are responsible for considering all aspects of the intended contract and ensuring that clauses are incorporated in their documentation to cover all appropriate matters. Standard contract conditions are published on the procurement pages of the Council's intranet and must be used where relevant. The advice of Category Lead or the Director of Legal, Democratic and Electoral Services must be sought.
  - (i) In the event of any query concerning the applicability of standard contract conditions; or
  - (ii) Regarding the guidance published under Contract Standing Order 1.5.2 below; or

(iii) If amendments of the Council's standard documents or drafting of bespoke contract specific clauses are contemplated.

1.19 The Director of Legal, Democratic and Electoral Services, after consultation with the Group Director, Finance and Corporate Resources, or designated deputy, may approve standard procurement documents for use by the Council and to issue instructions on the precise form of contract to be used for a procurement.

### Financial Parameters

1.20 Where monetary figures are specified in these Standing Orders:

- (a) The Group Director, Finance and Corporate Resources shall review them at least as frequently as once in every financial year.
- (b) They shall be without prejudice to the financial thresholds of the relevant Procurement Legislation which shall take precedence.

1.21 Where monetary figures refer to Contract values against which an estimate of Contract expenditure is made, the requirements shall not be artificially split to avoid competition, neither shall:

- (a) Any other form of disaggregating be accepted for similar purposes.
- (b) A department or section of the Council be permitted to regard itself as a 'discrete operational unit' within the terms of Procurement Legislation, unless specifically approved by the Council.

1.22 These Standing Orders relate to the estimated value over the term of a Contract (or over four years, if the term is four years or longer) and, in estimating the Contract value, the Contracting Officer shall take account of historic cost and an assessment of future trends, or, where the requirement is new, the best estimate of value available at the time.

1.23 All monetary values referred to within this document are total contract values, including all proposed extensions, not annual values, and exclude Value Added Tax unless otherwise stated.

1.24 Contracts must be packaged appropriately to achieve maximum value for the Council. They must never be split in order to avoid quotation or tendering limits in these Standing Orders or relevant Thresholds or any other requirements of these Standing Orders or packaged in any way to reduce the potential for fair and open competition.

- 1.25 The value of a contract should be estimated in good faith and with due care and attention. Where the estimated value is within 10% of either the thresholds within Contract Standing Orders or the relevant Thresholds, advice must be sought from the Category Lead.
- 1.26 If it becomes evident during the procurement process that the likely value of the contract will either exceed one of the Thresholds or will exceed the original estimate by more than 10%, advice must be sought from the Category Lead.
- 1.27 The Council may decide to advertise a contract in the form of separate lots and may determine the size and subject matter of such lots. The Council shall provide an indication of the main reasons for any decision not to subdivide into lots, which shall be included in the procurement documents for any contract above the relevant Threshold.

#### Budgetary Provision

- 1.28 No order shall be placed or tender invited unless there is sufficient budgetary provision for the minimum term of the contract intended to be entered into. Any report must clearly identify a cost estimate and whether the funding is from Capital, Revenue or from another source.

#### Performance Guarantee Bond or Parent Company Guarantees

- 1.29 The Council may require a Performance Guarantee Bond or Parent Company Guarantee included in the contract having considered the Council's exposure to risks. The Contracting Officer shall seek advice from the Category Lead on whether there is a need for a bond and/or Parent Company Guarantee.
- 1.30 Where a Contract is expected to exceed £1,000,000 then the Contracting Officer shall consult with the Group Director, Finance and Corporate Resources, or designated deputy, as to whether a bond or guarantee is required.

#### Electronic Auctions (E-Tendering)

- 1.31 Where goods, services or works are purchased by use of electronic means that require the successful contractor to be notified immediately at the termination of the electronic process and in receipt of a signed contract within a significantly reduced time period, Contracting Authority and Gateway exemption must be obtained in advance.
- 1.33 Where an electronic auction is permitted, activities for post-tender assessment shall be carried out prior to the closing of the auction i.e. the evaluation of

“quality” must have been concluded on a pass-or-fail basis for every bidder, prior to closing prices being submitted in an electronic auction. All closing prices for remaining bidders will, therefore, be equally capable of acceptance, and contract award will be on the basis of lowest price alone.

- 1.34 A retrospective Contract Award report must be submitted to the next available Cabinet Procurement and Insourcing Committee or Hackney Procurement Board, depending on the applicable contracting process.

#### Grant Funded Expenditure

- 1.35 Where the Council is the Accountable Body for expenditure under Grant Funded Initiatives and the timescale for the Grant expenditure precludes adherence to the Gateway Process and these Standing Orders, the Chief Executive and the Group Director, Finance and Corporate Resources, or designated deputy, shall solely have the authority to authorise necessary contract expenditure, provided always that:

- (a) Authorisation is granted in relation to specific contracts and specified amounts;
- (b) The best practicable observance of the Gateway procedure has been adopted;
- (c) The action is permissible in law;
- (d) UK requirements prohibiting State Aid are observed (see Contract Standing Order 1.36 below); and
- (e) The matter is reported to the next available meeting of the Hackney Procurement Board or Cabinet Procurement and Insourcing Committee or Cabinet as appropriate.

- 1.36 State Aid is a complex area and legal advice must always be sought if it is considered that State Aid may be an issue. Breaching State Aid rules can lead to the requirement to repay, with interest, all monies that comprise the aid.

- 1.37 Where a project is to be funded as a grant from the Council, the Council will not apply the procurement processes, except for the fact that as part of the grant agreement, the Council would oblige money expended by the project from the grant sum to be spent, in accordance with appropriate Procurement Legislation and the conditions of the grant.

- 1.38 Where the Council proposes to undertake procurement following receipt of a grant or as part of Pooled Funding Arrangements, these Contract Standing Orders apply unless superseded by the specific conditions of that grant, in which case such conditions take precedence.

#### Application of the Procurement Legislation

- 1.39 A main factor affecting the application of Procurement Legislation is the value of the supplies, services, or works that are provided or undertaken for the organisation. In valuing a contract or transaction, it is also necessary to consider whether the “aggregation” rules apply. In principle, the relevant value for threshold purposes is the value of each individual contract. However, in certain circumstances it is necessary to add together the value of purchases made under a number of similar contracts. In essence this means that the value to be used is the greater of:
- (a) The individual contract value;
  - (b) The total value of a series of similar contracts; and
  - (c) The total value of the contract if it is renewed in accordance with the terms of the contract.
- 1.40 The highest value must always be used and “estimates” must be genuine. Contracts must not be subdivided or split to try and avoid the application of the rules. Note that dividing the work among two or more suppliers/contractors/service providers does not avoid application of the rules.
- 1.41 In estimating the contact value, the aggregation rules of the Procurement Legislation should be used. Where the estimated value is within 10% of the relevant Thresholds, advice must be sought from the Category Lead. Deliberate disaggregation of any development scheme or procurement to avoid the application of the Public Procurement Directives will be treated as a disciplinary offence.
- 1.42 All Services are regulated by Procurement Legislation but certain Services such as Health, Social Care and Legal Services are subject to a “light touch” regime. Advice from the Category Lead should be sought with regards to the procurement of any such Services.



### Consortia Procurement

- 1.43 Where the Council is acting as the lead authority in a consortium for the procurement of goods, works or services, these Contract Standing Orders will be applicable.
- 1.44 Where the Council is participating in a consortium for the procurement of goods, services or works, the Group Director, Finance and Corporate Resources, or designated deputy, and the Director of Legal, Democratic and Electoral Services, or designated deputy, shall satisfy themselves that the procurement process being followed provides at least the same level of comfort and security to the Council as its own Contract Standing Orders and that a proper process has been followed in respect of Procurement Legislation where the value of the contract is above the threshold.
- 1.45 Where goods, services or works are purchased by another public body on behalf of the Council or by the Council through a contract properly let by another such organisation in accordance with Standing Order 2, then this shall be deemed as having satisfied the requirement or competition.

### Disposal of Assets

- 1.46 Subject to compliance with Financial Procedure Rules and any instructions of the Group Director, Finance and Corporate Resources, Directors have authority to dispose of all materials, plant, machinery, fittings, equipment, stocks or stores which because of damage, wear or obsolescence are no longer serviceable for the purposes for which they are held or are surplus to the Council's requirements. Any salvageable or useable items or parts must be sold in the best available market and at the best price reasonably obtainable:
- (a) Where the outcome from the disposal of an asset exceeds £6,000, the disposal must be reported to the Group Director, Finance and Corporate Resources or designated deputy for accounting purposes and accounted for as a capital receipt;
  - (b) Where the likely income from any disposal exceeds £10,000, then the arrangements for such disposal must be approved by the Group Director, Finance and Corporate Resources, prior to any negotiations commencing;
  - (c) Assets acquired under operational leasing arrangements must not be disposed of during the period of the lease; any subsequent disposal of

obsolete equipment will need to be subject to negotiation between the Group Director, Finance and Corporate Resources and the leasing company; and

- (d) In all cases, records must be maintained of disposals to ensure assets can be properly accounted for.

1.47 The off-hire and disposal of vehicles must be undertaken by the Group Director, Finance and Corporate Resources or designated deputy.

1.48 The disposal of property, land or interests in land is dealt with under separate provision determined by the Group Director, Finance and Corporate Resources.

### Responsibilities

1.49 The Chief Executive, Group Directors, Directors and Service Heads (referred to collectively in these Standing Orders as “Service Managers”) and all other Managers and Supervisors must ensure that their staff are aware of and have access to these Standing Orders and other issued Procurement Instructions at all times.

1.50 There shall always be a Director responsible for a Contract throughout the Contract term as well as during its formation.

1.51 No Officer may carry the responsibility of both the Director and the Contracting Officer for the same contract. Any suitable officer may be the Contracting Officer providing that the responsibility has been delegated to them within the duties of their Job Description or in writing by the Director.

1.52 Any Officer may discharge both the duties of a Contracting Officer and a Contract Manager for the same Contract at the discretion of the Director, the Director having first considered the desirability of any separation of duties.

### Duties

1.53 The duties that fall under the responsibility of a Group Director, Director, Contracting Officer, Contract Manager and other Officers with defined responsibilities are set out under these Contract Standing Orders and the Council’s Constitution.

### Procurement of Vehicles (Fleet)

- 1.54 The procurement of all Council Vehicles (through purchase, hire or lease) must be undertaken by the Group Director, Finance and Corporate Resources or designated deputy, or other Group Director having responsibility for Corporate Fleet Management, or nominated deputy.

## **2. Procurement Procedures**

- 2.1 These Standing Orders outline 6 procurement routes to be followed for all procurement activities within the London Borough of Hackney:
- (a) Single Tender
  - (b) De minimis
  - (c) Request for Quotation (RFQ)
  - (d) Low Risk Contract
  - (e) Medium Risk Contract; and
  - (f) High Risk Contract

### Single Tender Action (STA)

- 2.2 Procurement by virtue of a single tender action may only be permitted if any of the following applies:
- (a) By reason of regulation or legislation only one supplier of the Product or Service exists;
  - (b) Only a Proprietary Product or Service is suitable, or is justifiably acceptable to external customers, or the Product or Service consists of repairs or works to an existing Proprietary Product or Service, where, by reason of intellectual property rights, there is only one supplier;
  - (c) The value of the Contract is below the relevant Threshold and the Contracting Officer can demonstrate to the Group Director, Finance and Corporate Resources, or designated deputy, why a single tender action affords the Council Best Value; and
  - (d) In exceptional cases of such extreme urgency that a Tender process cannot be undertaken.

And, in all cases, there is not a suitable existing contract or framework agreement (See Section 5 below).

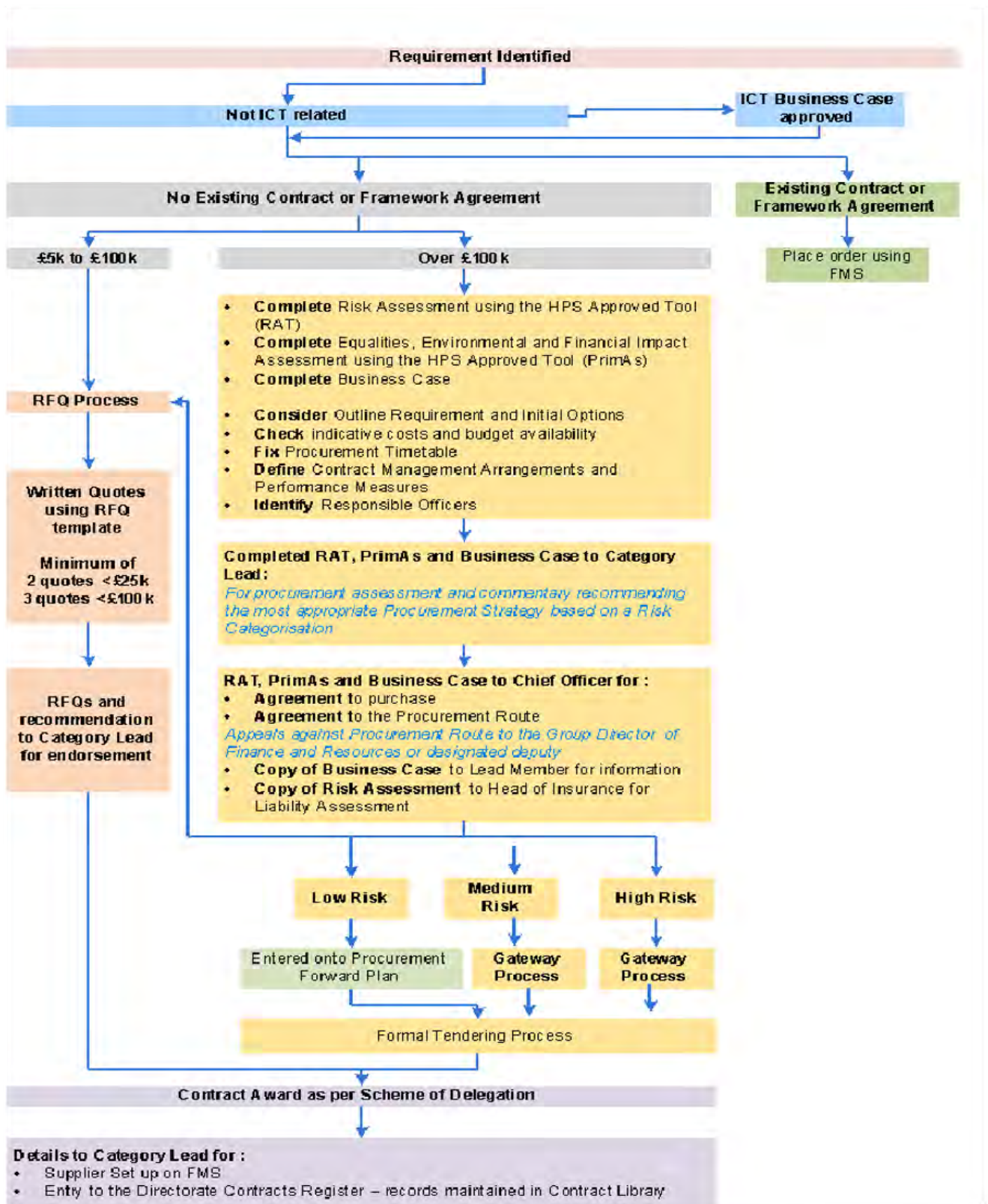
- 2.3 In all the above cases, where the value of the proposed procurement is below £100K, the Contracting Officer must submit a written case to the Director, including comments from the Category Lead and, subject to acceptance of the case, retain a copy of the written agreement with the contract documents. The Director must always have regard to Standing Orders 1.8 to 1.11 and 2.2 when considering the request and shall retain a written record of their consideration. The Director will submit a list of all single tenders authorised by them, showing contract value, contract description, contractor and duration, to their Group Director, and each Group Director shall on a quarterly basis submit a single list for their department to the Group Director Finance and Corporate Resources or nominated deputy. These decisions shall be regularly reported to Cabinet by the Group Director, Finance and Corporate Resources in the Overall Financial Position Report.
- 2.4 In all the above cases, where the value of the proposed procurement is £100,000 or more, the Director and the Contracting Officer must submit a written case to the Group Director, Finance and Corporate Resources, or designated deputy, and, subject to acceptance of the case, retain a copy of the written agreement with the contract documents. The Group Director, Finance and Corporate Resources must always have regard to Standing Orders 1.8 to 1.11 and 2.2 when considering each request and shall retain a written record of their consideration. These shall be regularly reported to Cabinet by the Group Director, Finance and Corporate Resources in the Overall Financial Position Report.
- 2.5 In all such cases above, the Contract Officer must:
- (a) Specify the Product or Service in writing;
  - (b) Where only one Tenderer is identified, ensure the best price and conditions are negotiated and that these are recorded;
  - (c) Ensure that provisions for the adjustment in price, volumes or other variable factors have been agreed and recorded in writing;
  - (d) Ensure there are provisions for effective performance management and termination; and
  - (e) Be mindful of Standing Orders 1.18 and 1.19.

### De Minimis Procurement

2.6 De Minimis Procurements or “Contracts on a price” are instances where there is no, or limited, requirement for competition. Contracts with an estimated value of up to £5,000 do not require competition, although an oral quotation must always be sought and all transactions must be fully recorded.

### Contracts with a value greater than £5,000

2.7 Contracts with a value greater than £5,000 will follow the Hackney Procurement Framework. Where the total value is less than £25,000, quotations should be obtained as set out in the flowchart below:



Total Value	Number of Quotes	Procedure (minimum requirement)	Award Process
£0- £5,000	1	Minimum 1 verbal quote must be sought - competition not required however evidence of value for money must be demonstrated and all transactions must be fully recorded.	Budget holder
£5,000- £25,000	2	Quotations obtained via the e-Tendering system (ProContract)	Budget holder/Service Director
£25,000 -£100,000	3	Quotations obtained, against a formal specification, via the e-Tendering system (ProContract)	Service Director

2.7.1 The relevant Head of Service must keep a record of:

- (a) Invitations to quote and quotations;
- (b) Any waivers to the procurement process and the reasons for them;
- (c) The reason if the lowest price is not accepted;
- (d) Written communications with the successful contractor or an electronic record if a written record of the transaction would normally not be produced;

Copies of the quotes received must be appended to the relevant requisition.

#### Contracts with a value greater than £100,000

2.8 All proposed procurements with a value in excess of £100,000 must follow the “over £100K” flow on the flowchart above. The Contracting Officer must complete a procurement impact assessment (PRIMAS) and a risk assessment, utilising the Risk Assessment Tool (RAT). Where the value is more than £100,000, a written Business Case must also be completed.

2.9 The completed RAT and PRIMAS and Business Case must be forwarded by the Contracting Officer to the Category Lead who will advise on the proposals

and will confirm the risk rating of the RAT. For procurements over £100K, the Category Lead will also provide comments on the Business Case. The RAT and PRIMAS and the Business Case shall then be submitted for approval by the Director. The Category Lead's commentary will provide any relevant procurement comments that the Director needs to be aware of and will include a professional view on the risk categorisation. This will, therefore, determine the Procurement Strategy to be adopted.

2.10 The Risk Assessment will categorise each procurement activity as:

#### Low Risk

Procurement to be managed by the Contracting Officer and the Category Lead and must consist of the following components.

- (a) Entry on to the Procurement Pipeline where the contract is to be awarded by Hackney Procurement Board (HPB) or Cabinet Procurement and Insourcing Committee (CPIC);
- (b) Specification;
- (c) Simple Invitation to Tender (ITT) document;
- (d) Minimum of three (3) external tenderers (CSO 3.1 refers to advertising requirements);
- (e) Evaluation and Award Criteria;
- (f) Contract Management Arrangements; and
- (g) Recording of the contract on the Corporate Register.

For the award of contract, the Contracting Officer must complete the required template report. This report is approved by the Group Director or Director but cannot be further delegated in line with the financial Scheme of Delegation approval levels.

If the value of the Contract is above the delegated authority of the Group Director within the Scheme of Delegation, then the report is approved by the Chair of Hackney Procurement Board, if less than £2m, or by Cabinet Procurement and Insourcing Committee, if more than £2m.



### Medium Risk

Procurement to follow the Gateway Process through the Hackney Procurement Board.

### High Risk

Procurement to follow the Gateway Process through the Cabinet Procurement and Insourcing Committee.

See Table 1 below for a summary of approval required at each review point depending on risk and value.

Risk Category	Contract Value	Business Case Approval	Business Case Report template	Contract Award Approval	Contract Award Report template
<b>LOW</b>	Up to £500k	Director	Low risk report	Director	Simple CA report
	£500k - £1M	Director		Group Director	
	£1m - £2m	Director		HPB	HPB low risk report
	£2m +	Director		CPIC	CPIC report
<b>MEDIUM</b>	Up to £2m	HPB	HPB report	HPB	HPB report
	£2m +	HPB		CPIC	CPIC report
<b>HIGH</b>	Regardless of the value	CPIC	CPIC report	CPIC	

\* Please note that Regeneration and Hackney Education have higher thresholds for delegated authority to approve reports. Speak to the relevant Procurement Category Lead if unsure.

2.11 Where the Director does not agree with the procurement strategy being recommended by the Category Lead, the Director should present a written appeal to the Group Director, Finance and Corporate Resources or a designated deputy.

#### For Contracts where there are fewer than the required minimum invitations to Quote or Tender

2.12 In cases where the Contracting Officer wishes to proceed with competitive Quotation or Tender, but to invite fewer than the minimum number set out in Standing Orders 2.7 and 2.10, the Director and the Contracting Officer must certify the reason and obtain the written agreement of the Group Director, Finance and Corporate Resources or designated deputy, this correspondence to be retained with the procurement records for the contract.

#### Gateway Procurement Framework

2.13 Contracts with a risk assessment of Low (if by virtue of their value to be awarded at Hackney Procurement Board or Cabinet Procurement and Insourcing Committee), Medium or High shall be entered onto the Procurement Pipeline.

2.14 A procurement activity shall be placed on to the Procurement Pipeline once the proposal has been agreed by the Director and the risk-based procurement route endorsed by the Category Lead.

2.15 The procurement of ICT related goods and services (including procurements which have implications for the Council's information assets) must be agreed and approved by the Director of ICT, or designated deputy, before acceptance on to the Procurement Pipeline. Early consultation with ICT is advised to avoid any delay to the delivery of projects.

2.16 Business Cases that relate to the procurement of vehicles must be approved by the Corporate Fleet Manager before acceptance on to the Procurement Pipeline.

2.17 Cabinet Procurement and Insourcing Committee and Corporate Leadership Team will review the progress of all contracting activities on the Procurement Pipeline.

- 2.18 All procurements with a risk assessment of “High Risk” will be overseen by the Cabinet Procurement and Insourcing Committee.
- 2.19 All procurements with a risk assessment of “Medium Risk” will be overseen by the Hackney Procurement Board at the Business Case stage and at Contract Award up to a value of £2m. Cabinet Procurement and Insourcing Committee will determine the award of contracts above £2m.
- 2.20 A Group Director, having considered the Procurement Pipeline may require that authority generally delegated to a Director in their department is instead reserved to them in respect of a particular procurement or specified class or group of procurements. This discretion will normally be exercised when an item is placed on the Procurement Pipeline and will be given in writing to the relevant Director.
- 2.21 Under no circumstances is a procurement to be de-classified from High Risk to Medium Risk or lower or removed from the Gateway Programme without the consent of the relevant approving body.
- 2.22 For High Risk procurement the approval to progress to market or award a contract following Gateway Reviews at Business Case and Contract Award will be with Cabinet Procurement and Insourcing Committee. Nevertheless, the Chair of Cabinet Procurement and Insourcing Committee has discretion to refer any Gateway Business Case or Contract Award review for decision by Cabinet if they deem it appropriate. This discretion will normally be exercised when the item is placed on the Procurement Pipeline.
- 2.23 For Medium Risk procurements, the approval of a Gateway Review Business Case will rest with the Chair of Hackney Procurement Board. The approval to award a contract following Gateway Contract Award will rest with the Chair of Hackney Procurement Board, up to a maximum contract value of £2m. Above £2m the Contract Award will be referred to the Cabinet Procurement and Insourcing Committee for award. The Chair of Hackney Procurement Board has discretion to refer any Gateway Business Case or Contract Award for decision by Cabinet Procurement and Insourcing Committee, if they deem it appropriate. This discretion will normally be exercised when the item is placed on the Procurement Pipeline.

#### Review Point 2 – Business case

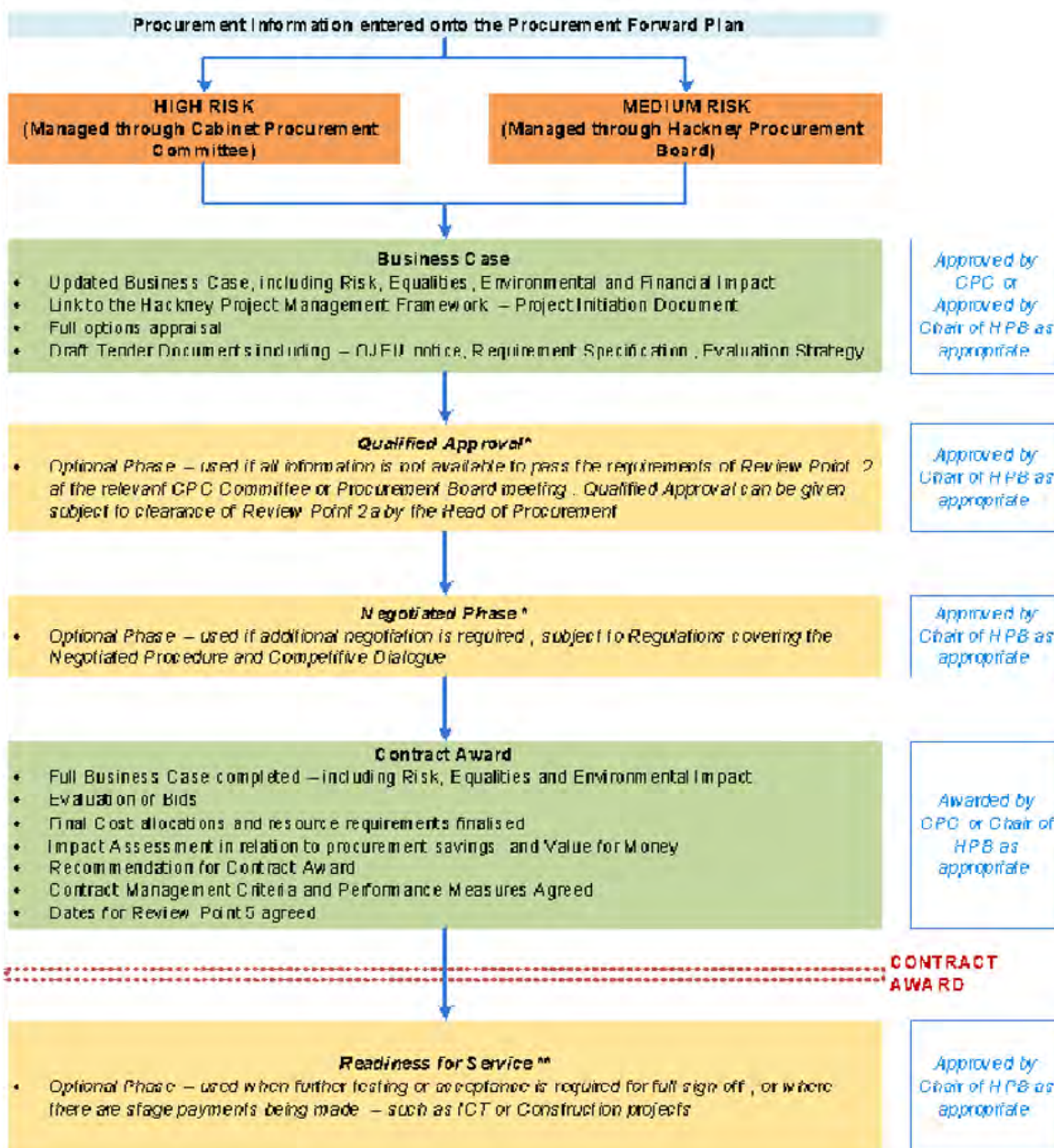
- 2.24 Contracting Officers are required to complete a Business Case paper. For Low Risk Procurements this will normally be considered by the Director. For Medium Risk procurements, if time scales permit, this will be considered at

the next available Hackney Procurement Board Meeting, but, if this is impractical due to time constraints, the paper may be submitted to the Group Director, Finance and Corporate Resources or nominated deputy for approval and then subsequently submitted to the next available Hackney Procurement Board or for High Risk Procurements the next available Cabinet Procurement and Insourcing Committee (as appropriate) as an Information Paper.

#### Review Point 4 – Contract Award

- 2.25 Following an appropriate competitive process, with oversight by the relevant Category Lead, a Contract Award paper must be produced and submitted to the Director, Group Director, Hackney Procurement Board or Cabinet Procurement and Insourcing Committee (as relevant).
- 2.26 The flowchart below outlines the component parts of the Gateway Procurement Process which applies to all Medium and High-Risk procurement within the Hackney Procurement Framework.

## Hackney Gateway Procurement Process



\* To be decided at Business Case

\*\* Not always required to be decided at entry onto the Forward Plan

### 3. Procedural Requirements

#### Advertising your requirements

- 3.1 For contracts below £100,000, the Council must take all reasonable steps to obtain Best Value in selecting its bidders from which competitive quotations are sought. This must be done always having reference to the requirements of Contract Standing Orders 1.8 to 1.11, although advertising is not mandatory for such value contracts. Where the estimated value of the contract exceeds £100,000 subject to Standing Order 5 on the use of Framework Agreements and Approved Lists, the following methods must be used to identify potential suppliers. If the Council identifies a requirement to advertise for any contracts with a value above £25,000 (net of VAT) then this opportunity must be advertised on Contracts Finder:
- (a) If the value is between £100,000 and the relevant Threshold, subject to 3.2 below – an invitation to tender shall be sent to at least four suitable persons or organisations, unless there is only one supplier, following advertisements in appropriate publications, the Council's website and Contracts Finder;
  - (b) If the value is at the relevant Threshold or above, officers must apply the competitive process in accordance with the Procurement Legislation Current levels are given on the Procurement pages on the Council intranet.
- 3.2 Specifically, for works contracts with an estimated value between £100,000 and the relevant Threshold, Officers may use, as approved by the Group Director, Finance and Corporate Resources, a nationally recognised pre-qualification system such as Constructionline, subject to current advice from the Category Lead. The use of Constructionline does not replace competitive tendering.

#### Evaluation of Suppliers

- 3.3 Officers shall apply criteria in addition to price when evaluating potential suppliers. All contracts awarded under the Procurement Legislation, shall be awarded using the Most Economically Advantageous Tender approach.
- 3.4 Where the contract is risk assessed as either Medium or High Risk, a bidder's financial viability shall be assessed in all instances prior to making an award of contract. This must be a pass or fail test and should be assessed in relation to the likely severity of the consequences of a contractor's financial failure

during the contract term. Lower value and shorter-term contracts and contracts with multiple suppliers will carry lower risk. External credit reports can be taken into account but must not be relied upon in isolation. A supplier should ordinarily be required to satisfy certain financial metrics or ratios. These metrics ratios must be published as part of the selection criteria. The assessment of financial viability must never be used to arbitrarily restrict a potential field of bidders. The impact on SMEs and start-up businesses may, in particular, be disproportionate. A bidder should always be given the opportunity to comment on a negative assessment of their financial viability and their comments should be taken into account when reaching an award decision.

- 3.5 Where a contract is valued below the relevant threshold for works, services and supplies, a single stage process shall be used without a supplier questionnaire (SQ) unless this is agreed by the Group Director, Finance and Corporate Resources or their designated deputy. Any procurements above the relevant threshold must use SQs, on the basis of Central Government Guidance, in accordance with the relevant Procurement Legislation, as prescribed by the Category Lead.
- 3.6 Where a procurement activity is following the Gateway Procurement Process, sustainability policies must be assessed in accordance with statutory requirements and Council policy as part of the evaluation of the tender response.
- 3.7 If a tender is received with an abnormally low price in proportion to the tender requirements, the Council Officer leading the procurement, in consultation with the Category Lead, shall require the tenderer to explain the price or costs proposed in the tender. If after consulting the tenderer, the Officer is not satisfied that the evidence or explanation provided can satisfactorily account for the low price or costs proposed, the Officer in liaison with the Category Lead will decide whether to reject the tender or not.

#### Late Tenders and Quotations

- 3.8 The time limits for the receipt of tenders shall be fixed in accordance with Regulation 47 of the Public Contracts Regulations 2015.
- 3.9 Tenders or quotations which are received by the Council after the specified time and date will not be considered.

### Tender Opening

- 3.10 All tenders shall be returned to a deputy designated by the Group Director, Finance and Corporate Resources who shall be responsible for the safekeeping of tenders, including tenders received electronically until opening. All tenders, other than those received electronically, shall be opened by two Tender Opening Officers, at least one of whom shall be from the Directorate of Finance and Corporate Resources. Tenders received electronically may be opened by one Tender Opening Officer from the Directorate of Finance and Corporate Resources, or two where the tender relates to the Directorate of Finance and Corporate Resources, where one officer is not employed within the tender letting area.
- 3.11 The Group Director, Finance and Corporate Resources or designated deputy shall ensure that sufficient persons designated as Tender Opening Officers to enable at least two persons to open and record all Tenders received in connection with each contract, who have had, or will have, no material involvement in the procurement.

### 'Request for Quotation' (RFQ) Process

- 3.12 Directors are responsible for ensuring that quotations are received, opened and stored in their service area so that they are available for future reference, and Group Directors must be satisfied that their Directors have made satisfactory arrangements to discharge this responsibility.

### Post Tender Appraisal to Award

- 3.13 Providing clarification of an invitation to tender to bidders or seeking clarification of a tender is permitted subject to this Standing Order 3.13 Officers may clarify mistakes or errors in the tender submitted, or apparent inconsistencies in the tender documentation. Where there are post tender clarifications, all tenderers involved should be notified and all information documented by the Officers conducting the clarification.
- 3.14 Discussion with tenderers, after submission of a tender and before the award of a contract, with a view to obtaining variations to scope, price or specification is generally not permitted and is always subject to the Procurement Legislation.
- 3.15 Where post-tender clarification results in a significant material change to the specification or scope of the procurement, then the contract must not be awarded but re-tendered.



### Contract Award

- 3.16 Contracts will only be awarded in accordance with these Contract Standing Orders and the Schemes of Delegation.
- 3.17 Contracts subject to the full Procurement Legislation must be awarded in accordance with the “Mandatory Standstill Period”. There must be a minimum of 10 calendar days between the dispatch of the notification of the award decision and contract conclusion (‘Day 1’ is the day after the award decision is issued by fax or email and in writing to all tenderers. If the standstill period ends on a UK non-working day, it must be extended to the end of the next working day). The standstill period need not apply following application of the urgency provision under the negotiated procedure where single tendering takes place.
- 3.18 All contracts awarded by Cabinet Procurement and Insourcing Committee may be subject to the Council’s Call-in procedure. Subject to Standing Order 3.17, contracts can be awarded 5 days after the publication of the decision unless it is Called-in.

### Signing and Sealing Of Contracts

- 3.19 All contracts, whatever the value, will be in writing and entered into at the appropriate level set out below taking account of value in accordance with these Contract Standing Orders and the Schemes of Delegation.
- 3.20 Contracts shall be awarded on the terms and conditions as approved by the Group Director, Finance and Corporate Resources, or designated deputy, and the Director of Legal, Democratic and Electoral Services and may be signed on behalf of the Council “under hand” by the relevant Director or Group Director or the Director of Legal, Democratic and Electoral Services or designated deputy.
- 3.21 Subject to 3.22 below, contracts valued at less than £500,000 may be entered into “under hand” by Council Officers in accordance with the financial thresholds set out in the Schemes of Delegation.
- 3.22 For Low and Medium Risk contracts valued at £500,000 or more and all High Risk contracts, and Civic Agreements or where there is no price or other tangible consideration or as may be recognised in Law, the Director of Legal, Democratic and Electoral Services or designated deputy will affix the Council’s seal in order to execute such contracts as deeds unless authority is given by

the said Officer whether generally or specifically that a contract can be entered into “under hand” by the Chief Officer without affixing the seal.

- 3.23 No works or delivery of supplies or services of any value, or payment for those, shall be allowed prior to the relevant contracts having been awarded. In cases of unavoidable urgency, the Director of Legal, Democratic and Electoral Services may issue guidance generally or for specific procurements on committing to contractual arrangements through an initial exchange of correspondence, as provided in Contract Standing Orders (above) to written contracts being formalised and entered into as quickly as possible.

#### Archiving of Data

- 3.24 Contract documentation shall be retained by the relevant Director as well as details of the decision-making process for all contracts including documented evidence of the justification for award of contract, the evaluation criteria used, and the results of applying these criteria. Group Directors must satisfy themselves that suitable arrangements are in place.
- 3.25 Contract documents shall be retained for 12 years after the period of obligation if the Contract was awarded under seal and for six years if it was awarded “under hand”. Contract final accounts shall also be retained for 12 years. Quotations and unsuccessful tenders shall be retained for two years.
- 3.26 The Contracts Registers (see 3.29 to 3.31 below) shall be permanently retained.
- 3.27 The Contracting Officer shall make an electronic copy of every signed or sealed contract over £100,000 in Portable Document Format (PDF) and shall send this to the Group Director, Finance and Corporate Resources ([contract.library@hackney.gov.uk](mailto:contract.library@hackney.gov.uk)) within 10 working days of signing or sealing.
- 3.28 The Legal and Governance Services Division shall also make an electronic copy of all sealed contracts in PDF. It shall be retained on the Legal Services document management system.

#### Contracts Register

- 3.29 In accordance with the Local Government Transparency Code 2015, once a contract over £5,000 in value has been awarded, the Central Procurement Team ([Procurement.Admin@Hackney.gov.uk](mailto:Procurement.Admin@Hackney.gov.uk)) must be notified of the following information by the Contracting Officer so that the Contract Register can be updated and details of the contract published:

- (a) Contract title;
- (b) Supplier name, details of company and, where relevant, registered company number;
- (c) Contract term including details of start and end date;
- (d) Whether or not the contract was the result of an invitation to quote or a published invitation to tender;
- (e) Estimated total contract value;
- (f) Description of goods and / or services being provided;
- (g) Name of Contract Manager;
- (h) Department responsible for contract; and
- (i) Any VAT that cannot be recovered.

3.30 In addition, the Contracting Officer must ensure the following records must be available:

- (a) Details of any pre-qualification process and the results;
- (b) How suppliers were selected for a bidding list;
- (c) The Business case for a single tender action;
- (d) Copies of tenders;
- (e) Notes of the evaluation process, award procedure and any post-tender negotiations; and
- (f) Copies of final orders or Contracts.

3.31 Where appropriate, the Contract Manager will maintain records to show:

- (a) Maintenance of bonds and appropriate insurances;
- (b) Any variations;
- (c) Disputes and their outcomes;
- (d) Stage payments;
- (e) Acceptance of deliveries;

(f) Copies of guarantee, warranties etc and other appropriate records;  
and

(g) Supplier performance.

#### **4. Variations Including Contract Extensions, Assignment and Novations**

4.1 As approved at Contract Award stage, variation provisions allowed for in a contract should be included in the contract documents and be exercised in line with the provisions detailed under this section of the Contract Standing Orders.

4.2 Directors are responsible for ensuring that sound financial controls and contract management are applied to all contracts to ensure that the number of variations to requirements is minimised. Agreement and management of any necessary variations must be with due regard to paragraphs 1.8 to 1.11 of these Standing Orders.

4.3 For the avoidance of doubt, the total cost of a contract for this purpose is always the cost of the original contract plus the cumulative cost of all previous and proposed variations.

4.4 In all cases, contract variations, regardless of value, are subject to:

(a) The responsible Director or Group Director having the budget provision to allow the variation; and

(b) Where the proposed variation is not provided for within the contract, and the total cost of the contract exceeds the relevant Threshold, the Director or Group Director shall obtain written authorisation from the Director of Legal, Democratic and Electoral Services to proceed with the variation in accordance with Regulation 72 of the Public Contracts Regulations 2015.

4.5 If the proposed variation is authorised by the Director of Legal, Democratic and Electoral Services, the Director or Group Director may proceed. The Contract Officer or Contract Manager must then complete a Record of Contract Variation Form to be included as an addendum to the contract on the e-Tendering system. Where a variation is not authorised any recommendations on how to proceed must be followed including the requirement to retender.

- 4.6 Contract Managers or Contracting Officers may authorise the following variations, provided they are satisfied that the variation is in the best interests of the Council and there is an approved budget available:
- (a) The contract has provision for a negotiated variation; or
  - (b) Minor operational changes to the Specification or delivery of the Contract that have minimal, or no effect, on the overall costs of the Contract, subject to them not exceeding 20% of the original total contract value or £25,000 whichever is the lower value.
- 4.7 Where the contract does not permit the proposed variation, or it is outside the financial limits stated in paragraphs 4.5 above, the Director may authorise the variation or additional costs, if the total cost of the variation is within the approved budget and their authorisation limit under the Scheme of Delegation. Where neither paragraphs 4.4 nor 4.5 apply, the Group Director may authorise the variation or additional costs, if the total cost of the variation is within their budget and authorisation limit under the Scheme of Delegation.
- 4.8 For the purposes of paragraphs 4.5-4.6, all variations must be considered in consultation with the Group Director, Finance and Corporate Resources or their designated deputy.
- 4.9 If none of paragraphs 4.4 to 4.7 applies, the Group Director may authorise a variation, subject to consultation with the Group Director, Finance and Corporate Resources, submitting a written report setting out the justification for the variation. If the total cost of the contract, inclusive of the proposed variation is under £2m, approval must be sought from the Hackney Procurement Board or Cabinet Procurement and Insourcing Committee, if the total cost of the contract is above £2m.
- 4.10 All variations shall be priced and confirmed in writing at the earliest opportunity. All variations shall be appended to the contract documents and recorded on the Council's eProcurement system.
- 4.11 In circumstances permitted in Regulation 72 of the Public Contract Regulations 2015 or Regulation 43 of the Concession Contracts Regulations 2016, or where the value of a contract is below the relevant Threshold in accordance with the Public Contracts Regulations 2015, the Council may agree to the novation or assignment of a contract. Where the value of the contract is above the relevant threshold, the Director or Group Director shall obtain written authorisation from the Director of Legal, Democratic and Electoral Services to novate or assign the contract.

## 5. Framework Agreements and Approved Lists

### Framework Agreements

- 5.1 Framework Agreements or Dynamic Purchasing Systems (DPS) shall be set up in accordance with the Contract procedures appropriate to the risk assessment, as set out in these Standing Orders. Directors must ensure that, where it is intended that a Framework Agreement be set up within their service, the Group Director, Finance and Corporate Resources, or their designated deputy, is notified at the earliest opportunity and it is recorded on the Procurement Pipeline as a Framework Agreement or DPS.
- 5.2 Officers must ensure that orders under a Framework Agreement or DPS are placed using procedures set out in the Framework Agreement.
- 5.3 The maximum duration of a Framework Agreement, including any provision for extension shall be four years.
- 5.4 Where a Framework Agreement or DPS has been established by the Council for the supply of goods, works or services, Officers shall only procure those goods, works or services regardless of value, through this route unless the written consent of the Group Director, Finance and Corporate Resources, or their designated deputy is obtained. Such procurements shall be carried out in accordance with these Contract Standing Orders having regard to the Directorate's Procurement Plan and to the need to achieve value for money.
- 5.5 A register of approved Framework Agreements shall be maintained by the Group Director, Finance and Corporate Resources, or their designated deputy. The register will be updated regularly and reissued at least annually.
- 5.6 Officers may also use a Framework Agreement or DPS, set up by other Central or Local Government organisations and/or other public bodies ("External Framework Agreements") as instructed or agreed by the Group Director, Finance and Corporate Resources, or designated deputy. For the avoidance of doubt:
  - (a) The first use of an External Framework Agreement is regarded as a procurement by these Standing Orders and the Hackney Procurement Framework applies in full, except as set out in Standing Order 5.7 below;

- (b) Subsequent use of the approved External Framework Agreement shall be limited to the scope of the business case presented and approved. Intended use of an approved External Framework Agreement in excess of this authorisation must be subject to fresh consideration.

5.7 Where it is proposed to use an External Framework Agreement for a project and prices and terms are certain at the point the Business Case is formulated, because there is only one contractor (or exceptionally where it is permissible under the framework to use a single contractor) within a relevant category, or where selection from contractors within a relevant category is solely based on the lowest price (i.e. the quality for all bidders within a category is equal and prices have already been obtained), a single stage combined Business Case and Contract Award report may be presented where otherwise two separate reports would be required.

5.8 G-Cloud (Digital Marketplace) is a set of specialist ICT frameworks let by Crown Commercial Services and comprise:

- Infrastructure as a Service (IaaS), e.g. content delivery networks or hosting;
- Platform as a Service (PaaS), e.g. platforms that provide a basis for building other services and applications;
- Software as a Service (SaaS), e.g. accounting tools or customer service management software; or
- Specialist Cloud Services (SCS), e.g. IT health checks or data migrations.

G-Cloud is an External Framework and must be used in accordance with Standing Orders 2.15 and 5.2–5.7. Its procedures for use are, however, quite different from most other External Frameworks and users must give particular attention to following this [guidance](#).

### Approved Lists

5.9 A Director may decide whether or not to keep Approved Lists of suppliers willing and able to supply products or services of any particular type or description. Where a decision is taken to keep such an Approved List, this shall be established and maintained in accordance with Sections 17 to 22 of the Local Government Act 1988.

- 5.10 Permission must be sought from the Group Director, Finance and Corporate Resources, or designated deputy, justifying why an Approved List is required as opposed to a Framework Agreement.
- 5.11 Directors must adhere to Standing Orders in the creation and use of Approved Lists, including use of the Council's pre-qualification procedures.
- 5.12 Approved Lists cannot solely be used for the exclusive selection of Tenderers for any Contract above the value thresholds set out in Procurement legislation.
- 5.13 A review of an Approved List shall be carried out by the Director every two years with the Group Director, Finance and Corporate Resources, or designated deputy.
- 5.14 A Framework or "call off" contract will not be considered an Approved List.
- 5.15 A Director may use a nationally recognised Approved List such as Constructionline subject to any guidance issued under these Standing Orders, or by the Government or the Category Lead.

## **6. Exemptions**

- 6.1 Exemptions from these Standing Orders shall only be awarded in exceptional circumstances and no exemption shall be awarded that would contravene Procurement Legislation or any other legislation.
- 6.2 In no circumstances shall a Director or Group Director requesting an exemption from these Standing Orders have the authority to award that exemption.

### Medium and High-Risk Procurements – Contract Award

- 6.3 Where a procurement has been assessed as a Medium or High-Risk Procurement, an exemption from these Standing Orders shall not be applied without prior endorsement by Cabinet Procurement and Insourcing Committee. The request for exemption, the reasons for it, the estimated value of the contract and the potential risks shall be set out in writing for the Elected Mayor and Cabinet to consider.
- 6.4 In a situation of genuine emergency, where the Group Director has robust evidence that the proposed exemption must be exceptionally applied, the Chief Executive alone has delegated authority to award an emergency exemption.



- 6.5 An emergency may include situations where e.g. delivery of a significant service to the public is threatened in the short-term, where the Council is required to do something immediately by the Courts or where there is significant risk to personal safety or the protection of property. Applications for emergency exemption will be considered on their individual merits but should only be made in exceptional circumstances.
- 6.6 Where an emergency exemption is granted, the Group Director shall ensure that the request for exemption, the justification for it and the decision is reported to the next meeting of Cabinet Procurement and Insourcing Committee.

#### Low Risk Procedure – Contract Award

- 6.7 Where a procurement has been risk assessed as Low Risk and where a Director has robust evidence that the application of these Standing Orders would not offer the Council an improved balance of quality and price or where they have tried and failed to award the contract by applying these Standing Orders, an exemption may be agreed by the Group Director in writing, in consultation with the Group Director, Finance and Corporate Resources or designated deputy; and where a breach of 6.2 above might result, additionally the Director of Legal, Democratic and Electoral Services.

#### Procurements for Personal Social Care

- 6.8 The Group Directors or Director having responsibility for the provision of personal social care services to adults or children (“the Director”) shall not be required to competitively tender contracts for social care where the purchase is required in order that the Council may meet its statutory obligations, and the application of the Hackney Procurement Framework contained within these Standing Orders would prevent the discharge of those statutory obligations.
- 6.9 The Group Director or Director shall, nevertheless, make arrangements to ensure that evidence exists to show that all such purchases are systematically reviewed to ensure that they appropriately meet the needs of the user and that they provide value for money in relation to national and local cost indicators.
- 6.10 All personal social care contracts (including the provision of nursing care, residential care, supported living) shall be made in writing, or, where this has not been possible due to urgency, confirmed in writing at the earliest opportunity and in any event within one calendar month of contract commencement. Any subsequent amendment of the contracted services shall

similarly be made or confirmed in writing within one calendar month of the change.

- 6.11 This exemption shall not apply to block, framework or term contracts for social care or to contracts for other types of goods, services or works; these shall be let in accordance with the general provisions of these Standing Orders. The Director shall also take all reasonable steps to ensure that the use of collaborative procurement arrangements and the use of block, framework and term contracts for social care are maximised.

## **Part Six - Public Participation**

### **Section A - Attendance at Meetings**

### **Section B - Public Speaking**

### **Section C - Access to Information Procedure Rules**

### **Section D - Petitions**

### **Section E - Deputations**

### **Section F - Protocol for Recording / Livestreaming of Council meetings**

**Part Six - Public Participation**  
**Section A - Attendance at Meetings of Council, Cabinet and Committee Meetings**

- 1.1 Members of the public are actively encouraged to attend meetings of Full Council, Cabinet and their Committees/Sub-Committees.
- 1.2 Members of the public may ask questions at Full Council and Cabinet. Members of the public may also ask questions at Committee meetings where this is permitted under their specific terms of reference. More information about asking questions at Council and Cabinet can be found in Part 4, Section A (rule 9) and Part 4, Section B (rule 7) of this Constitution respectively. Information about the terms of reference of the various Committees can be found in Appendix 3 of this Constitution.
- 1.3 Members of the public are only able to speak at certain meetings, but all our meetings are open to the public. All meetings are livestreamed on the Council's YouTube channel and will remain on that channel for 2 years.
- 1.4 Members of the public can find out when and where meetings of the Council will be held on the Council's [website](#).
- 1.5 Members of the public can view the meeting agendas and reports on the Council's [website](#), where they will be published at least five clear working days before the date of the meeting.
- 1.6 Occasionally meetings of the Council may need to exclude the public and the press to consider confidential business. This will be clearly signposted on the agenda for the meeting and during the meeting itself. Meetings will only move into 'private' session when absolutely necessary and where legally justified. When this happens, the livestream will stop.

## Part Six - Public Participation

### Section B - Protocol for Public Speaking at Public Meetings of the Council

Some meetings of the Council actively promote the attendance of the public to contribute to items on the agenda, for example, Licensing Sub-Committees and the Planning Sub-Committee. However, when participating in these meetings, the following rules apply:

- 1.1 Members of the public who wish to speak at a meeting must notify the Governance Officer named on the agenda in writing of their request. Members of the public may only speak on items that are on the published agenda.
  - (a) In the case of the Planning Sub-Committee, any person may speak on an application provided they have informed the Governance Officer of their wish to speak no later than 4pm on the day before the meeting.
  - (b) In the case of the Licensing Sub-Committee, only those persons who have submitted valid representations during the application's consultation period are permitted to speak.
- 1.2 The Council is not able to rearrange Sub-Committee meetings if a speaker is unable to attend on the date of the meeting. However, the speaker can nominate someone to speak on their behalf.
- 1.3 Planning Sub-Committee meetings are conducted in person and anyone wishing to speak can either attend the meeting in person or can do so remotely.
- 1.4 All Licensing Sub-Committees are held remotely and therefore anyone wishing to speak are required to make their representations remotely. If for any reason this is not possible, you should contact the Governance Officer concerned who will endeavour to make arrangements for you to access the meeting at the Town Hall.
- 1.5 Those attending remotely should ensure that they familiarise themselves with the Council's Protocol Concerning Remote Attendance at Meetings.
- 1.6 Speakers are not permitted to present any additional information that had not already been submitted prior to the meeting.
- 1.7 In the case of the Planning Sub-Committee, the total time allowed for public speaking will be 5 minutes.

- 1.8 After a member of the public has spoken, Councillors will be permitted to ask questions for clarification only; there is no opportunity for debate.
- 1.9 The minutes will record a summary of the representations made by any person exercising their public speaking rights. However, libellous, offensive and discriminatory comments will be disregarded and will not be minuted.
- 1.10 Members of the public must not disrupt the meeting and must respect the rulings of the Chair. The Chair has the right to exclude a disorderly person at any time or to adjourn the meeting to allow a serious disorder to be diffused.

## Part Six - Public Participation

### Section C - Access to Information Procedure Rules

#### Introduction

- 1.1 The Council is committed to the principles of openness and transparency as laid down in access to information legislation, such as the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.
- 1.2 These procedure rules detail the specific rights that members of the public have to access information relating to the Council's decision making processes. These rules do not affect any of the additional rights that the public has set out elsewhere in this Constitution or the law.
- 1.3 In these rules the term "clear working day" excludes the date on which the notice of a meeting is published and the date on which the meeting is to be held and also excludes any weekends and public/bank holidays.
- 1.4 In these rules the term 'the public' includes members of the press.
- 1.5 The additional rights that Elected Mayor and Councillors have are set out in Part 7, Section D of this Constitution.

#### Scope

- 2.1 These rules apply to all meetings of the Council, including meetings of the Cabinet, any committees, sub-committees, panels and commissions which the Council may establish.

#### Right to attend meetings

- 3.1 The public may attend all meetings subject only to those exceptions specified in these rules.
- 3.2 Details of the rights of the public to record meetings of the Council are contained in the Protocol on Live Streaming/Recording Meetings as set out in Part 6, Section F of this Constitution.

#### Notice of meetings

- 4.1 Unless a meeting is called at shorter notice, the Council will give at least five clear working days' notice of any meeting by publishing details of the time and place of the meeting on its website and displaying a notice at Hackney Town Hall.

## **Access to agendas and reports before a meeting**

- 5.1 Subject to any exception specified in these rules, the Council will make copies of the agenda and reports open to the public available for inspection at Hackney Town Hall and on the Council website at least five clear working days before the meeting.
- 5.2 Where the meeting is convened at shorter notice, copies of the agenda and reports shall be made available to the public from the time the meeting is called.
- 5.3 Where a report is not open to inspection by members of the public for five clear working days before the meeting, it can only be considered at the meeting if the Chair is of the opinion that it should be considered as a matter of urgency by reason of special circumstances. Those circumstances shall be specified in the minutes of the meeting.

## **Supply of copies**

- 6.1 The Council will supply copies of:
  - (a) Any agenda and reports which are open to public inspection;
  - (b) Any further statements or particulars necessary to indicate the nature of the items in the agenda; and
  - (c) If the Proper Officer thinks fit, copies of any other documents supplied to the Elected Mayor and Councillors in connection with an item.

to any member of the public on payment of the Council's reasonable charges for copying and postage.

## **Background papers**

- 7.1 Every report will contain a list of those documents (called background papers) relating to the subject matter of the report which in the opinion of the report author and Proper Officer:
  - (a) Disclose any facts or matters on which the report or an important part of the report is based; and
  - (b) Which have been relied on to a material extent in preparing the report
- 7.2 This does not include published works or documents which disclose exempt or confidential information or the advice of a political advisor or assistant.



7.3 Any background papers will be retained by the Council and made available for inspection by the public for a period of four years beginning with the date of the meeting, or the date of the decision.

**Exclusion of access by the public to meetings**

Confidential information – requirement to exclude public

8.1 The public must be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that confidential information would be disclosed.

8.2 “Confidential information” means information given to the Council by a Government Department on terms which forbid its disclosure or information which cannot be publicly disclosed by Court Order.

Exempt information – discretion to exclude public

8.3 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Information is only exempt if, and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

8.4 Meaning of exempt information

“Exempt information” means information falling within one of following categories, subject to any condition:

CATEGORY	CONDITION
1. Information relating to an individual	<p>Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular living individual in the roles indicated.</p> <p>Information is only exempt:                      (a) where disclosure is prohibited by statute; or                      (b) where disclosure might involve providing personal information about individuals; or</p>

CATEGORY	CONDITION
	<p>(c) where disclosure might breach a duty of confidentiality; and</p> <p>(d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
<p>2. Information which is likely to reveal the identity of an individual</p>	<p>Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular living individual in the roles indicated.</p> <p>Information is only exempt:</p> <p>(a) where disclosure is prohibited by statute; or</p> <p>(b) where disclosure might involve providing personal information about individuals; or</p> <p>(c) where disclosure might breach a duty of confidentiality; and</p> <p>(d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding the information)</p> <p><i>'financial or business affairs' includes contemplated, as well as past or current, activities.</i></p> <p><i>This category will include commercial and contractual interests</i></p>	<p>Information is not exempt if it is required to be registered by law e.g. Companies Act 1985, the Charities Act 1993 etc</p> <p>Information is only exempt if and for so long as:</p> <p>(a) disclosure of the amount involved would be likely to give advantage to a person entering into or seeking to enter into a contract with the Council in respect of property, goods or services whether the advantage would arise as against the Council or as against other</p>

CATEGORY	CONDITION
	<p>persons; or</p> <p>(b) disclosure would prejudice the efficiency and effectiveness of the use of Council resources; or</p> <p>(c) disclosure of trade secrets and other information would, or would likely, prejudice the commercial interests of any person, including the Council; and</p> <p>(d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
<p>4. Information relating to any consultations or negotiations or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a minister of the crown and employees of, or office-holders under, the authority</p> <p><i>'Labour relations matters' are as specified in paragraphs (a) to (g) of Section 29(1) of the Trade Unions and Labour Relations Act 1974</i></p> <p><i>i.e. matters which may be the subject of a trade dispute</i></p> <p><i>'employee' means a person employed under a contract of service</i></p> <p><i>'office-holder' means the holder of any paid office appointments which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any</i></p>	<p>Information is only exempt if and for so long as its disclosure to the public:</p> <p>(a) would prejudice the Council in those or any other consultations or negotiations in connection with a labour relations matter; and</p> <p>(b) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>

CATEGORY	CONDITION
<i>person who holds any such office or is an employee of the authority</i>	
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	Information is only exempt: (a) where a claim of legal professional privilege could be maintained in legal proceedings e.g. correspondence such as legal advice and assistance between the Council's Legal Services and its client; (b) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.
6. Information which reveals that the authority proposes – (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person, or (b) to make an order or direction under any enactment	Information is exempt only if and so long as: (a) disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice order or direction is to be given or made; and (b) in all circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	Information is only exempt if its disclosure would, or would be likely to, prejudice- (a) criminal investigations and proceedings; or (b) the apprehension or prosecution of offenders; or (c) the administration of justice; or (d) the assessment or collection of any tax or duty or of any imposition of a similar nature; or (e) regulatory enforcement; or

CATEGORY	CONDITION
	(f) any civil proceedings; or (g) Health and safety; or (h) information obtained from confidential sources; and (i) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.

Information which would be exempt under any of the categories listed above is not exempt if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.

### **Exclusion of access by the public to reports**

9.1 The Monitoring Officer may exclude access to a report which in their opinion relates to items which will be considered when a meeting is likely not open to the public or was not open to the public. Such reports will be marked “not for publication” and the reason why this is the case.

### **Application of rules to the executive**

10.1 The above rules apply to the Elected Mayor and Cabinet, its committees and individuals. In addition, where a key decision is to be made then the following procedure applies.

### **Procedure before making a key decision**

11.1 A key decision is an Elected Mayor and Cabinet decision which is likely to:

- (a) Result in the Council incurring expenditure or the making of savings that is significant having regard to the Council’s budget for the service or function to which the decisions relates, or
- (b) Be significant in terms of its effects on communities living or working in a ward comprising two or more wards in the area of the Council.

11.2 Every month the Council will publish a document that sets out each Key Decision that will be made on behalf of the Council. This document is known as the Forward Plan and will be kept updated on the Council’s website and will also be available for inspection by request at Hackney Town Hall.

11.3 The Forward Plan shall include:

- (a) The matter is in respect of which a decision is to be made;
- (b) The date on which, or the period within which, the decision is to be made;
- (c) Where the decision maker is an individual, their name and title, if any;
- (d) Where the decision maker is a decision-making body, its name and details of its membership;
- (e) Where the decision relates to confidential or exempt information, as defined above, a statement that the decision will be made in private;
- (f) A list of the documents submitted to the decision maker for consideration in respect of their decision;
- (g) The address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (h) That other documents relevant to those matters may be submitted to the decision maker;
- (i) The procedure for requesting details of those documents (if any) as they become available.

11.4 In addition, it will contain the following:

- (a) A unique reference number;
- (b) A brief summary of the need for the decision and the impact of its implementation;
- (c) Details of the Wards affected by the decision.

11.5 A key decision will not normally be made unless:

- (a) Notice of the decision has been published on the Forward Plan;
- (b) At least twenty eight clear days have elapsed since the publication of the Forward Plan;

- (c) Where the decision is to be made at a meeting of the Elected Mayor and Cabinet or its committees, notice of the meeting has been given in accordance with Rule 5 (notice of meetings).

### General Exception

- 11.6 If it is not possible to provide twenty eight clear days' notice of a decision on the Forward Plan because the decision must be made by such a date that it would be impractical to defer it, then the decision may still be made if:
- (a) The Monitoring Officer has been informed of the reasons for urgency and is satisfied that the reasons meet the criteria for an urgent decision;
  - (b) The Monitoring Officer has informed the Chair of the Scrutiny Panel, or, if there is no such person or if the Chair is unable to act, the Speaker of the proposed decision and the reasons for urgency;
  - (c) The Monitoring Officer has arranged for a notice of the date and nature of the forthcoming decision and the reasons for urgency on the Council's website and made a copy available for inspection at Hackney Town Hall; and
  - (d) At least five clear days have elapsed since the Monitoring Officer has complied with the requirement to inform and place a notification.
- 11.7 If the Monitoring Officer is not available to act, then the Deputy Monitoring Officer shall act in their place. If both the Monitoring Officer and Deputy Monitoring Officer are not available to act, then the Chief Executive or s151 Officer shall act in their places.

### Special Urgency

- 11.8 Where an urgent key decision is required, but compliance with the general exception rules is impractical, then the decision shall only be made where the decision maker obtains the agreement of the Chair of the Scrutiny Panel that the making of the decision is urgent and cannot reasonably be deferred.
- 11.9 If there is no Chair of the relevant Scrutiny Panel, or if the Chair is unable to act, then the agreement of the Speaker or in their absence the Deputy Speaker must be sought.
- 11.10 As soon as it is reasonably practicable after the decision maker has obtained the necessary agreement, the Monitoring Officer must arrange for a notice of the date and nature of the forthcoming decision and the reasons for special

urgency on the Council's website and make a copy available for inspection at Hackney Town Hall.

11.11 The Elected Mayor will submit a twice-yearly report to Full Council on any executive decisions which have been made under the special urgency provisions. This report will include the number of decisions made and a summary of the matters in respect of which each decision was made.

11.12 The Monitoring Officer will submit a twice-yearly report to Full Council on non-executive decisions made under the special urgency provisions. This report will include the number of decisions so made and a summary of the matters in respect of which each decision was made.

#### Private meetings of the Cabinet or its Committees

11.13 A private meeting of the Cabinet or one of its Committees is a meeting, or part of a meeting, during which the public are excluded during an item of business relating to confidential or exempt information.

11.14 A private meeting is also a meeting where a Councillor(s), or members, of the public have been excluded in order to maintain orderly conduct or prevent misbehaviour.

11.15 Prior to a private meeting being held and in the case of a key decision, the Forward Plan will identify which items are likely to be considered by the Cabinet or one of its Committees, and shall include a statement of the reasons for the meeting being held in private. This will not apply where a meeting is required to exclude persons in order to maintain orderly conduct or prevent misbehaviour.

11.16 At least 5 clear working days before a private meeting takes place, a notice will be published on the Council website and made available at Hackney Town Hall. This notice shall include:

(a) A statement of the reasons for the meeting to be held in private;

(b) Details of any representations received concerning why the meeting should be held in public, and a statement of the response to any such representations.

11.17 This notice will be included as part of the published agenda for the meeting.

11.18 If it is not practicable to comply with the above rules, the Monitoring Officer may seek the agreement of the Chair of the relevant Scrutiny Commission Panel to that part of the meeting being held in private.



11.19 If there is no Chair of the relevant Scrutiny Commission, or if the Chair is unable to act, then the agreement of the Speaker or in their absence the Deputy Speaker will suffice.

11.20 If the Chair of the Scrutiny Commission agrees that the decision is urgent and cannot reasonably be deferred and ought to be considered in private, the Monitoring Officer will make available at Hackney Town Hall and on the Council's website a notice setting out this decision and the reasons for it.

#### Recording of Executive Decisions

11.21 As soon as is reasonably practicable after a meeting of Cabinet or one of its Committees, the Monitoring Officer shall ensure that a written statement is produced in respect of every executive decision made at that meeting which includes:

- (a) A record of the decision including the date it was made;
- (b) A record of the reasons for the decision;
- (c) Details of any alternative options considered and rejected at the meeting by the decision-making body at the meeting when the decision was made;
- (d) A record of any conflict of interest declared by any Councillor of the decision-making body which made the decision; and
- (e) In respect of any declared conflict of interest, a note of any relevant dispensation granted by the Chief Executive or Monitoring Officer.

11.22 Where the Mayor's Scheme of Delegation permits, a decision may not be made by an individual Councillor of the Cabinet unless a written report has been prepared. Such individual decisions may only be made in the presence of the Chief Executive, Chief Finance Officer or Monitoring Officer or their nominee (unless they waive that requirement) and the Officer whose responsibility it is to record the decision. As soon as is reasonably practicable after an individual Councillor of the Cabinet has made a decision, the Monitoring Officer shall ensure that a written statement is produced which includes the same matters as referred to above.

11.23 Where an Officer acts under the Scheme of Delegation to make an executive decision, then as soon as is reasonably practicable after the Officer has made a decision they shall notify the Monitoring Officer and produce a written statement which includes the same matters as referred to above.

## Recording of Non-Executive Decisions

11.24 As soon as is reasonably practicable after a meeting of non-executive Committee etc, the Monitoring Officer shall ensure that a written statement is produced in respect of every executive decision made at that meeting which includes:

- (a) A record of the decision including the date it was made;
- (b) A record of the reasons for the non executive decision;
- (c) Details of any alternative options considered and rejected at the meeting by the decision-making body at the meeting when the decision was made;
- (d) A record of any conflict of interest declared by any Councillor of the decision-making body which made the decision; and
- (e) In respect of any declared conflict of interest, a note of any relevant dispensation granted by the Chief Executive or Monitoring Officer.

11.25 Where an Officer acts under the Scheme of Delegation to make a non-executive decision, then as soon as is reasonably practicable after the Officer has made a decision they shall notify the Monitoring Officer and produce a written statement which includes the same matters as referred to above.

11.26 The requirement to produce a written record of any decision, including those taken under delegated powers, shall comply with the Openness of Local Government Bodies Regulations 2014.

**Part Six - Public Participation**  
**Section D - Petitions**

**Introduction**

- 1.1 The Council welcomes petitions and recognises that petitions are one way in which people can let the Council know their concerns and participate in the democratic process.
- 1.2 Petitions are not the only way in which to make your views known. You could also:
- (a) Contact the relevant service or Officer directly;
  - (b) Contact your local ward Councillor;
  - (c) Participate in a deputation to Full Council;
  - (d) Participate in a Ward Forum;
  - (e) Respond to a consultation
  - (f) Contact the Elected Mayor or relevant Cabinet Member;
  - (g) Ask the Scrutiny Panel / Scrutiny Commissions to look into a matter;  
or
  - (h) Make a complaint to the Council.
- 1.2 Petitions submitted to the Council must comply with the guidelines and requirements set out below.

**What is a Petition?**

- 2.1 A petition is any communication which is signed by or sent on behalf of a number of people; for practical purposes there is a requirement that it contains at least 10 signatures before it is treated as a petition.

## **Guidelines for submitting a petition**

3.1 Petitions submitted to the Council must include:

- (a) A clear and concise statement covering the subject of the petition. It should state in clear and unambiguous terms what action the petitioners want the Council to take.
- (b) The name, address and signature of any person supporting the petition.
- (c) The name and contact details of the petition organiser (including email address or telephone number). This is the person the Council will contact to explain how the petition will be responded to. These contact details of the petition organiser will not be placed on the website.

3.2 The Council will take into account identifiable signatures of people who provide valid addresses providing they live, work or study within the London Borough of Hackney.

3.3. The majority of petitions will be accepted, but there are some circumstances where we will not be able to deal with a petition under this scheme. Petitions that fall outside of this scheme include:

- (a) Any matter that the Council is not directly responsible for, or has no influence over.
- (b) Any matter relating to a planning decision, including development plan documents - see section 12 below.
- (c) Any matter relating to a licensing decision - see section 12 below.
- (d) A statutory petition, such as a request for a referendum.
- (e) Any specific issues that the Council is carrying out formal consultation on - see section 13 below.
- (f) Any matter over which there is already an existing right of appeal or separate complaints process; these will be dealt with using these existing rights.
- (g) Where the Council has received another petition on the same issue within the last year (starting from the date of receipt of the petition) In

these circumstances the Council will refer the petitioner to the response to the first petition.

- (h) Any petition which is considered to be vexatious, abusive or otherwise inappropriate.
- (i) Any petitions which include potentially libellous, false or defamatory statements.
- (j) A petition that asks the Council to do something that is unlawful or which makes criminal accusations.
- (k) A petition relating to something which is the subject of any contemplated, actual or concluded legal proceedings in which the Council is involved either as a claimant, defendant or interested party. This also includes any matters which are the subject of mediation.
- (l) A petition which could require the disclosure of confidential or exempt information or commercially sensitive information in order for the Council to properly consider the petition.
- (m) A petition which contains advertising or marketing statements.
- (n) A petition which relates to the day to day operation of any local authority controlled school.
- (o) A petition which relates to a safeguarding matter.
- (p) A petition which names individuals or provides information where they may be easily identified, other than Officers where the petition is seeking to hold them to account.

3.4 If the Monitoring Officer considers that the petition falls within one of the categories listed above, they will write to the petition organiser to explain why the petition cannot be considered. The Monitoring Officer's decision is final.

3.5 In the period immediately before an election or referendum, the Council may need to deal with your petition differently. If this applies the Council will explain the reasons.

## How do I submit a petition?

- 4.1 Paper petitions (hard copies) can be sent to: Governance Services, 1 Reading Lane, London E8 1GQ.
- 4.2 Petitions can also be created, signed and submitted through the Council's website by following this link [INSERT LINK]. Petitions created through the Council's website will be open for a period of 3 months for the acceptance of signatures.
- 4.3 Petitions created also on 3rd party websites provided that they comply with the requirements of the petition scheme as to what they must include and the petition organiser emails [governance@hackney.gov.uk](mailto:governance@hackney.gov.uk).

## What happens after I submit my petition?

- 5.1 The Council will send an acknowledgement within 10 clear working days of receipt of the petition. The acknowledgement will say as much as we can about what we plan to do with the petition.
- 5.2 To ensure that people know what the Council is doing in response to the petitions received, the details of petitions will be published on the Council website, except in cases where this would be inappropriate. All personal details will be removed or redacted.

## How will the Council respond to my petition?

- 6.1 The response to the petition will depend on what it asks for and how many people have signed it, but it may include the following actions:
  - (a) Taking the action requested in the petition.
  - (b) Writing to the petition organiser setting out our views about the request in the petition;
  - (c) Considering the petition at a meeting of the Council or one of its Committees or Sub-Committees;
  - (d) Holding a meeting with the petition organisers;
  - (e) Commissioning research;
  - (f) Writing to the petition organiser setting out the Council's views on the request in the petition; or

- (g) Referring the petition to a Scrutiny Panel for review.

### **Petitions requiring debate at Full Council / Cabinet**

- 7.1 A petition of more than 750 valid signatures will, unless it is a petition to Hold an Officer to Account, trigger a right to be debated at Full Council or Cabinet depending upon whether the subject matter of the petition is a council or executive function.
- 7.2 Every effort will be made to consider petitions at the next ordinary meeting of the relevant body, although this may not always be possible depending upon the volume of business to be transacted at that meeting. In addition, no petition debates will take place at budget setting meetings (usually in February/March each year) or at the Annual Meeting.
- 7.3 At the meeting, the petition organiser, or their appointed representative, will be given up to 5 minutes to present the petition.
- 7.4 The petition will then be considered by Councillors for a maximum of 15 minutes following the usual rules of debate.
- 7.5 The lead Cabinet Member or relevant Committee Chair, as appropriate, will have the opportunity to respond to the petition for a period of up to 5 minutes.
- 7.6 Following the debate, a decision will be made as to what action should be taken. A decision does not need to be made in circumstances where the proposed action is not something which is within the gift of the Council/Cabinet to do. In such circumstances the minutes of the meeting will stand as the Council's/Cabinet's response.
- 7.7 Following the meeting, the Council will write to the petition organiser to let them know the outcome of the debate.

### **Petitions to Hold an Officer to Account**

- 8.1 A petition may ask for a senior Officer to give evidence at a public meeting of the Scrutiny Panel or one of its commissions. Senior Officers include the Chief Executive and Group Directors. Such petitions must contain at least 500 Signatures.
- 8.2 The relevant Scrutiny Panel or Commission may decide that it is more appropriate for another senior Officer to give evidence rather than the Officer named in the petition.

- 8.3 At the meeting, the petition organiser will be given 5 minutes to present the petition. The relevant Officer or Councillor of the Cabinet will then be given 5 minutes to outline the Council's response to the petition. The meeting will then discuss the petition for a maximum of 25 minutes, before making appropriate recommendations about how to respond to the petition. Any deviation from this format will be at the discretion of the committee.
- 8.4 The petition organiser will be given a copy of the minutes containing the recommendations and any follow up responses.

### **General Petitions**

- 9.1 A general petition is one signed by between 10 and 750 persons and which contains a specific request.
- 9.2 Once received, Governance Services will arrange for the petition to be reported either to the senior Officer in the service area concerned or to the next relevant meeting of the Committee or Sub-Committee with the power to make the decision sought by the petition.
- 9.3 In the case of the petition being reported to a senior Officer, they will be asked to respond to the petition organiser within six weeks of the date of the acknowledgement letter to set out what action they have taken to respond to the request in the petition. If more time is required, that senior Officer must write to the petition organiser to advise them that more time is needed and the date when they will provide a response to you.
- 9.4 In the case of a Committee or Sub-Committee, the petition will be reported to the next ordinary meeting of that body.

### **Can I challenge how my petition has been dealt with?**

- 10.1 Other than the Monitoring Officer's decision whether to accept a petition or not for the reasons set out in paragraphs 3.3 and 3.4 above, if the petition organiser feels that the Council has not dealt with your petition properly, then they have the right to request that the Council's Scrutiny Panel review the steps that the Council or Cabinet has taken in response to the petition. A request cannot be made for a review on the grounds that the petition organiser does not agree with the outcome or Council's decision. The petition organiser must give a short explanation of the reasons why the Council's response is not considered to be adequate.



- 10.2 The Scrutiny Panel will endeavour to consider the request at its next meeting. In instances where this is not possible, consideration of your petition will take place at the following meeting. If the Panel determines that the Council has not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Cabinet and arranging for the matter to be considered at a meeting of the Full Council. Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on the Council's website.

### **How will the Council respond to petitions outside of this scheme?**

- 11.1 The Council often receives correspondence that is intended to be a petition but which does not necessarily meet the criteria set out in this scheme.
- 11.2 Petitions that fall outside the criteria of the scheme will be treated as correspondence and sent to the relevant service area for a response. The Head of Service will have discretion and flexibility to decide how to reply to this correspondence so that they are able to take appropriate action to respond to the request.

### **Petitions relating to Planning and / or Licensing matters**

- 12.1 Petitions received in response to planning (development management and planning policy) and licensing matters will be taken into consideration either as part of any delegated or Committee decision depending upon the identity of the decision-maker for the matter in question.

### **Petitions relating to matters upon which the Council is undertaking formal consultation**

- 13.1 All petitions received that concern a matter upon which the Council is undertaking formal consultation (whether statutory or not) will automatically be incorporated into that consultation process at the earliest stage possible. Petition organisers will be informed of this and the petition will be submitted to the service area managing the consultation for them to respond in accordance with the Council's policy.
- 13.2 This approach will also be taken for petitions that are received relating to any issue about the Council's budget during the Council's annual budget setting process. In addition to being incorporated into the formal consultation process, all petitions relating to budget issues will be made available for inspection at

the budget meeting of the Council so that they can properly inform the Council's budget decisions.

- 13.3 Sometimes we receive petitions after the consultation deadline has passed but before the final decision has been made. In these circumstances, if the specific issue is being discussed at one of the Council's meetings, you will be invited to the meeting to make representations about your petition.
- 13.4 Petitions received after a decision has been made will not be considered under the scheme but will be passed to the relevant senior Officer to respond.

## Part Six - Public Participation Section E - Deputations

### Introduction

- 1.1 Any organisation or group may make a written request to address Council/Cabinet about a specific issue which relates to the borough or a specific function or responsibility of the Council/Cabinet. This is known as a deputation.
- 1.2 A deputation provides an opportunity to lobby the Council about a shared concern.

### Notice of Deputations

- 2.1 In accordance with Part 4, Section A of the London Borough of Hackney's Constitution, notice of a deputation must be received by the Monitoring Officer no later than 12:00 noon eight clear working days before the meeting of Full Council/Cabinet. This is to ensure that the deputation appears on the agenda papers for the meeting. Deputations should be sent to [governance@hackney.gov.uk](mailto:governance@hackney.gov.uk)
- 2.2 A clear working day means a complete period of 24 hours (excluding weekends and Bank Holidays) excluding the day when notice is given or deemed to be given and the day for which it is to take effect.
- 2.3 The deputation must be signed by 10 or more residents of the borough, must clearly set out its purpose and must also be signed by the Councillor who is to introduce the deputation at the Council meeting.
- 2.4 The deputation should clearly state what action(s) the Council is being asked to take and should not be more than 200 words long.
- 2.5 A deputation may be rejected where the Monitoring Officer considers that it:
  - (a) Is not about a matter for which the local authority has a responsibility, or which affects the Borough.
  - (b) Is defamatory, frivolous, offensive or vexatious.
  - (c) Is substantially the same as a question, motion, petition or deputation which has been put to a Council meeting in the past six months.
  - (d) Requires the disclosure of confidential or exempt information or relates to a safeguarding matter.
  - (e) Relates to an individual planning or licensing application.

- (f) Relates to something which is the subject of any actual or contemplated legal proceedings in which the Council is involved either as a claimant, defendant or interested party; this also includes any matters which are the subject of mediation.
  - (g) Is submitted by or on behalf of a political party, or it is submitted on paper bearing the name, insignia or other identifier of a political party.
- 2.6 Where the agenda for Full Council/Cabinet does not contain an item relating to the same subject matter as the deputation, the Monitoring Officer will consult with the Elected Mayor and/or relevant Councillor of the Cabinet r as to whether it could be heard.
- 2.7 No more than two deputations will be taken at each meeting of Full Council. No more than one deputation will be taken at each meeting of Cabinet.
- 2.8 The Council will let you know once it has received the deputation, how the request is being dealt with and, if accepted, will send you details of what happens before, during and after the meeting.
- 2.9 Deputation requests that are accepted will be published on the Council's website.

**Part Six - Public Participation**  
**Section F - Protocol for Livestreaming/Recording Council Meetings**

**Livestreaming**

- 1.1 At the start of each meeting to be livestreamed, an announcement will be made to the effect that the meeting is being livestreamed.
- 1.2 Livestreaming will commence at the beginning of a meeting when the Chair opens the meeting and it will finish when the meeting is closed. No exempt or confidential agenda items shall be livestreamed. No part of any meeting will be live streamed after the Council has voted to exclude the press and public.
- 1.3 The Chair has the discretion to terminate or suspend the livestream if, in their opinion, continuing with it would prejudice the proceedings of the meeting. Circumstances that could lead to suspension or termination of the livestream include public disturbance or the potential infringement of the rights of any individual.
- 1.4 The content of livestreamed meetings will not be edited unless:
  - (a) There is a legal reason to do so, for instance, confidential personal information is inadvertently disclosed or defamatory comments are made.
  - (b) There are exceptional circumstances, such as an attendee being taken ill on screen.

No editing will take place unless the Monitoring Officer has first given their consent. A log will be maintained of webcasts where content has been edited and the reasons for this.

- 1.5 Should the livestream be halted for any reason, a note will be placed on the Council's YouTube channel as soon as practicable to advise of the reasons for this.
- 1.6 Recordings of livestreamed meetings will be available for playback on the Council's YouTube channel for 2 years from the date of the meeting.

**Recording of Meetings by the Public**

- 2.1 The Openness of Local Government Bodies Regulations 2014 gives the public the right to film, record audio, take photographs, and use social media and the internet at any Council meeting that is open to the public.

2.2 In order to ensure the effective conduct and management of Council meetings, the following guidelines and requirements apply:

- (a) Anyone planning to record meetings of the Council and its public meetings through any audio, visual or written methods they find appropriate must not disturb the conduct of the meeting;
- (b) Anyone can attend a public meeting to report on proceedings, either in 'real time' or after the conclusion of the meeting, on a blog, social networking site, news forum or other online media;
- (c) A laptop, tablet device, smartphone or portable camera can be used to record a written or audio transcript of proceedings during the meeting;
- (d) Facilities within the Town Hall and Council Chamber are limited, so recording equipment must be of a reasonable size and nature to be easily accommodated.
- (e) Anyone intending to bring large or complex recording equipment must contact the Governance Officer whose name appears on the Agenda papers to see whether this can be accommodated.
- (f) Proceedings must not be interrupted so digital equipment must be set to 'silent' mode.
- (g) Recording equipment should be focused on Councillors, Officers and the public who are directly involved in the conduct of the meeting. The Chair of the meeting will ask any members of the public present if they have objections to being visually recorded. Those visually recording a meeting are asked to respect the wishes of those who do not wish to be filmed or photographed. Failure to respect the wishes of those who do not want to be filmed and photographed may result in the Chair instructing that reporting or recording cease and a failure to comply with that instruction may lead to the person responsible being excluded from the meeting.
- (h) Any person whose behaviour threatens to disrupt orderly conduct will be asked to leave.
- (i) Recorded images must not be edited in a way in which there is a clear aim to distort the truth or misrepresent those taking part in the proceedings.

2.3 Failure to comply with the above requirements may result in the support and assistance of the Council in the recording of proceedings being withdrawn.

- 2.4 The Council regards violation of any of the points above as a risk to the orderly conduct of a meeting. The Council therefore reserves the right to exclude any person who disregards the protocol on recording meetings from the meeting in question and refuse entry to any further council meetings.
- 2.5 A copy of the protocol on recording meetings will appear on every meeting agenda published by the Council.

## **Part Seven - Elected Mayor and Councillors**

### **Section A - Councillor Code of Conduct**

### **Section B - Standing Orders relating to the Holding of Office**

### **Section C - Members' Allowances Scheme**

### **Section D - Members' Access to Information**



## **Part Seven - Elected Mayor and Councillors**

### **Section A - Councillor Code of Conduct**

*Adopted by Full Council on 26 January 2022*

*Monitoring Officer amendments to Mandatory Training Requirements on 16 February 2023*

*Effective date: 17 February 2023*

#### **Introduction**

The role of Councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that Councillors can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual Councillor affects the reputation of all Councillors. We want the role of Councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become Councillors.

As Councillors we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly, and transparently. We have both individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a Councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

#### **Definitions**

For the purposes of this Code of Conduct:

A "Councillor" includes the directly Elected Mayor, elected Councillors or co-opted members of the London Borough of Hackney.

A "co-opted member" is defined in section 27(4) of the Localism Act 2011 as "a person who is not a member of the authority but who

- a. is a member of any committee sub-committee the authority, or;
- b. is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

In addition to Councillors and voting co-optees, the London Borough of Hackney also requires non-voting co-optees to comply with this Code of Conduct.

A “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

### **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a Councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Councillors, local authority Officers and the reputation of local government. It sets out general principles of conduct expected of all Councillors and your specific obligations in relation to standards of conduct. The fundamental aim of the Code is to create and maintain public confidence in the role of Councillor and local government.

### **General principles of Councillor Conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, Councillors and local authority Officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles. These seven principles are set out in full in Appendix A.

Building on these principles, the following general principles have been developed specifically for the role of Councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty;
- I act lawfully;
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of Councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community;

- I do not improperly seek to confer an advantage, or disadvantage, on any person;
- I avoid conflicts of interest;
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

### **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a Councillor.

This Code of Conduct applies to you when you are acting in your capacity as a Councillor which may include when:

- you misuse your position as a Councillor; and
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Councillor.

The Code applies to all forms of communication and interaction, including:

- face-to-face meetings;
- online or telephone meetings;
- written communication;
- verbal communication;
- non-verbal communication; and
- electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct.

### **Standards of Councillor Conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

## General Conduct

### **1. Respect**

#### **As a Councillor:**

- 1.1 I treat other Councillors and members of the public with respect.**
- 1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow Councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's Councillor - Officer protocol.

### **2. Bullying, harassment and discrimination**

#### **As a Councillor:**

- 2.1 I do not bully any person.**
- 2.2 I do not harass any person.**
- 2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. Impartiality of Officers Of The Council**

#### **As a Councillor:**

**3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question Officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

#### **4. Confidentiality And Access To Information**

**As a Councillor:**

**4.1 I do not disclose information:**

- a. given to me in confidence by anyone;
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless
  - i. I have received the consent of a person authorised to give it;
  - ii. I am required by law to do so;
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
  - iv. the disclosure is:
    1. reasonable and in the public interest; and
    2. made in good faith and in compliance with the reasonable requirements of the local authority; and
    3. I have consulted the Monitoring Officer prior to its Release; or
- c. which is exempt information within the meaning of Section 100F and Part 1 of Schedule 12A of the Local Government Act 1972

**4.2 I do not improperly use knowledge gained solely as a result of my role as a Councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

**4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

### **As a Councillor**

#### **5.1 I do not bring my role or local authority into disrepute**

As a Councillor you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/it's functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow Councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

### **As a Councillor:**

#### **6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

### **As a Councillor:**

#### **7.1 I do not misuse council resources.**

#### **7.2 I will, when using the resources of the local authority or authorising their use by others:**

- **act in accordance with the local authority's requirements; and**

- **ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a Councillor.

Examples include:

- office support;
- stationery;
- equipment such as phones and computers;
- transport; and
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a Councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

**As a Councillor:**

**8.1 I undertake Code of Conduct training provided by my local authority.**

**8.2 I cooperate with any Code of Conduct investigation and/or determination.**

**8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a Councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with the Monitoring Officer.



## Protecting your reputation and the reputation of the local authority

### 9. Interests

#### As a Councillor:

#### 9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow Councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other Councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011. If convicted you may be subject to an unlimited fine or disqualified from being a Councillor for up to five years.

**Appendix B** sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from the Monitoring Officer.

## **10. Gifts and hospitality**

**As a Councillor:**

**10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**

**10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.**

**10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept within 28 days of the offer being made.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Councillor. The presumption should always be not to accept significant gifts or hospitality.

However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. You do not need to register gifts and hospitality which are not related to your role as a Councillor, such as Christmas gifts from your friends and family.

It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Councillor.

If you are unsure, contact the Monitoring Officer for guidance.

## **11. Training**

### **As a Councillor:**

**11.1 I attend any training that may be prescribed by the Monitoring Officer as being essential to my role.**

In order to ensure that Councillors are properly equipped to carry out their role and are knowledgeable about the obligations that are placed upon the Council in respect of certain functions and decision-making processes, it has been determined that the following training should be mandatory either for all Councillors or for a limited class of Councillors as follows:

- Safeguarding children and corporate parenting - all Councillors - annually
- Safeguarding adults - all Councillors - annually
- Equalities, Diversity and Inclusivity - all Councillors - biennially
- Bullying, harassment and sexual harassment - all Councillors - biennially
- Data Protection and Freedom of Information / Environmental Information Regulations - all Councillors - biennially
- Councillors' Code of Conduct - all Councillors - annually
- Local government finance & budget setting - all Councillors - following election with additional training to be undertaken as and when required by the Chief Finance Officer
- Dealing with the media / social media - all Councillors - biennially
- Town and Country Planning - members of the Planning Sub-Committee - annually
- Licensing - members of the Licensing Committee and its Sub-Committees - annually
- Recruitment and Selection - members of the Appointments Committee and its Sub-Committees - upon first appointment to the Appointments Committee prior to attending any meeting.

The Monitoring Officer may from time to time review and amend the list of mandatory training and update this Code accordingly and advise Members of any changes.

## **Appendices and Tables**

## Appendix A: The Seven Principles of Public Life

The principles are:

### **Selflessness**

Holders of public office should act solely in terms of the public interest.

### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **Honesty**

Holders of public office should be truthful.

### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B: Registering interests

Within 28 days of becoming a member, or your re-election or re-appointment to office, you **must** register with the Monitoring Officer the interests which fall within the categories set out in **Table 1** (Disclosable Pecuniary Interests) which are as described in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. You **should** also register details of your other personal interests which fall within the categories set out in **Table 2** (Other Registerable Interests).

**"Disclosable Pecuniary Interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is an interest which, if disclosed, could lead to the Councillor, or a person connected with the Councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees, they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Councillor in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take

any steps or further steps in the matter apart from arranging for someone else to deal with it

### Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

### Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects**—
  - Your own financial interest or well-being;
  - A financial interest or well-being of a relative, close associate; or
  - A body included in those you need to disclose under Other Registrable Interests as set out in **Table 2**you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.
9. Where a matter **affects** your financial interest or well-being:
  - To a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - A reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interestyou may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.



**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Subject	Description
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the Council) made to the Councillor during the previous 12-month period for expenses incurred by them in carrying out their duties as a Councillor, or towards their election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the Councillor or their spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director <sup>1</sup> or a body that such person has a beneficial interest in the securities of <sup>2</sup> ) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.

<sup>1</sup> 'director' includes a member of the committee of management of an industrial and provident society

<sup>2</sup> '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 and other securities of any description, other than money deposited with a building society

<b>Land and Property</b>	<p>Any beneficial interest in land which is within the area of the council.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the Councillor or their spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
<b>Licences</b>	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.</p>
<b>Corporate tenancies</b>	<p>Any tenancy where (to the Councillor’s knowledge)—</p> <ul style="list-style-type: none"> <li>(a) the landlord is the council; and</li> <li>(b) the tenant is a body that the Councillor, or their spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</li> </ul>
<b>Securities</b>	<p>Any beneficial interest in securities* of a body where—</p> <ul style="list-style-type: none"> <li>(a) that body (to the Councillor’s knowledge) has a place of business or land in the area of the council; and</li> <li>(b) either— <ul style="list-style-type: none"> <li>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</li> <li>(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 Councillor, or their spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</li> </ul> </li> </ul>

## **Table 2: Other Registerable Interests**

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority
- b) any body
  - (i) exercising functions of a public nature;
  - (ii) any body directed to charitable purposes; or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

**Part Seven - Elected Mayor and Councillors**  
**Section B - Standing Orders Relating to the Holding of Office**

In this Section, all references are to the Local Government Act 1972, unless otherwise stated.

**Ordinary Day of Election of Councillors**

Section 37, Representation of the People Act 1983

1. The “ordinary day of election” of Councillors is the first Thursday in May unless the Secretary of State changes it. To change the date the Secretary of State must use a special legal procedure before 1 February in the year before the change.

**Election of Elected Mayor**

Section 9H Local Government Act 2000

2. Elections for the Elected Mayor are held on the same day as the ordinary day of election, except in a small number of circumstances.

**Term of Office of Councillors**

Paragraph 6, Schedule 2

3. Councillors are elected for four years. This is called the term of office, which is the time they hold their position.
4. Councillors retire, or leave office, together every fourth year, four days after the ordinary day of election.
5. On that day, the newly elected councillors start their term of office.

**Term of Office of Elected Mayor**

Section 9H Local Government Act 2000 and Regulation 6, Local Authorities (Elected Mayors) (Elections, Terms of Office and Casual Vacancies) (England) Regulations 2012

6. The term of office of an Elected Mayor is four years.
7. The Elected Mayor’s term of office starts on the fourth day after the election and ends at the start of the next term of office of an Elected Mayor.

**Resignation of Mayor or Councillor**

Section 84

8. An Elected Mayor or Councillor can resign from office by giving signed, written notice to the Chief Executive. The resignation takes effect when the Chief Executive receives the notice.

**Part Seven - Elected Mayor and Councillors**

**Section B - Standing Orders Relating to the Holding of Office**

## **Filling of “Casual Vacancy” in Office of Councillor**

### Section 89

9. When a Councillor does not complete the four year term office (because they resign, are disqualified, or die), a vacancy arises that is called a casual vacancy. In these circumstances an election to fill the vacancy is held -
  - (a) Where the High Court or the Council have declared the office to be vacant, within thirty-five days of the date of the declaration.
  - (b) In all other cases, within thirty-five days of notice being given to the Chief Executive. This must be in writing and given by two local government electors for the Borough.
10. The Returning Officer fixes the date for the election to fill a casual vacancy.
11. When a casual vacancy occurs within six months of the ordinary day that councillors retire from office, an election for a casual vacancy is not unusually held. Instead, the election will take place at the next ordinary election. However, if the total number of unfilled vacancies in the membership of the Council is more than one third of the full number of members, an election to fill the casual vacancy will be held.

## **Filling of “Casual Vacancy” in Office of Elected Mayor**

Regulation 9, Local Authorities (Elected Mayors) (Elections, Terms of Office and Casual Vacancies) (England) Regulations 2012.

12. When a casual vacancy arises in the office of Elected Mayor, an election to fill the vacancy is held -
  - (a) Where the High Court or the Council have declared the office to be vacant, within thirty-five days of the date of the declaration.
  - (b) In all other cases, within thirty-five days of notice being given to the Chief Executive. This must be in writing and given by two local government electors for the Borough.
13. If the Council has passed a resolution to make a change to its governance arrangements, there will be no election to fill this casual vacancy.
14. Where a casual vacancy occurs within six months of the ordinary day of retirement from the office, no election will be held before the next ordinary election.

## **Election and Term of Office of Speaker**

Paragraphs 2 and 3, Schedule 2

15. The Speaker is elected annually by the Council. All Councillors who are not members of the executive may be elected as Speaker. This election happens at the beginning of the Annual Meeting.
16. The Speaker continues in office until a new Speaker is elected, unless they resign, become disqualified, or die.
17. During their term of office, the Speaker continues to be a member of the Council, despite paragraph 4 above.
18. If the outgoing Speaker has ceased to be a member of the Council by the time of the Annual Meeting, they are not entitled to vote in the election of a new Speaker, unless there are equal votes for one or more nominees, when they will have a casting vote.

## **Filling of Casual Vacancy in the Office of Speaker**

Section 88

20. If a casual vacancy for the office of Speaker arises, an election to fill the vacancy must be held no later than the next ordinary meeting of the Council.
21. However, if the next ordinary meeting of the Council is to be held within 14 days from the date the vacancy arises, the election to the office of Speaker must be held no later than the following ordinary meeting.

## **Term of office of persons filling casual vacancies**

Section 90

22. A person elected to fill a casual vacancy holds office until the day the person in whose place they were elected would have retired.

## **Members of Council not to be appointed as officers**

Section 116

23. A Councillor cannot be appointed by the Council to any paid office while they are a member of the Council, or for a year after they stop being a member of the Council.

## **Acceptance of Office**

Section 83

24. A person elected to the office of Speaker, Deputy Speaker, Councillor or Elected Mayor cannot act in that office unless:

## **Part Seven - Elected Mayor and Councillors**

### **Section B - Standing Orders Relating to the Holding of Office**

- (a) they have made a declaration of acceptance of office as prescribed by rules made by the Secretary of State, and
- (b) they have delivered this to the Chief Executive within two months from the date of election.

25. If the declaration is not made and delivered to the Chief Executive within this time, the office of the person elected becomes vacant.

### **Vacation of office by failure to attend meetings**

#### Section 85

26. If a member of the Council fails to attend any meeting of the Council (including any committee, sub-committee, joint committee, joint board or other body discharging the functions of the Council) for six consecutive months from the date of their last attendance, they will cease to be a member of the Council, unless Full Council approved the absence before the end of the six months.
27. If any Cabinet member fails to attend any meeting of the Cabinet (including a Cabinet committee or decisions made by Cabinet members acting alone) for six consecutive months from the date of their last attendance, they will cease to be a member of the Council, unless Full Council approved the absence before the end of the six months.
28. A person will not be disqualified from office only for failing to attend meetings as above if:
- (a) they are a member of any branch of His Majesty's naval, military or air forces when employed during war or any emergency on any naval, military or air force service, or
  - (b) their employment is in the service of His Majesty in connection with war or any emergency,

and

the Secretary of State decides that they should not be disqualified from office because of this absence, if the failure to attend is due to this employment.

## **Part Seven - Elected Mayor and Councillors**

### **Section C - Members' Allowances Scheme 2022/23**

*Adopted by Council: 25 January 2023*

#### **Introduction**

- 1.1 This Scheme is based on the independent report and recommendations of Sir Rodney Brooke CBE DL, Chair of London Councils Independent Remuneration Panel. It also takes account of London Council's report "The Remuneration of Councillors in London 2022" published by its independent panel of which Sir Rodney Brooke CBE DL is a member.
- 1.2 This Scheme has been approved by Full Council of the London Borough of Hackney in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003.
- 1.3 This Scheme may be cited as the London Borough of Hackney Members' Allowances Scheme for 2022/23.
- 1.4 At the start of each municipal year, Full Council shall adopt a Scheme for the payment of Basic Allowances, as required by the Regulations.
- 1.5 In addition, provision for the following allowances shall be made in accordance with the Regulations for payments of:
  - Special Responsibility Allowance;
  - Independent and Co-opted Members Allowance;
  - Independent Person Allowance;
  - Carers Allowance;
  - Parental Leave and Sickness Pay;
  - Travel and Subsistence Allowance;
- 1.6 The London Borough of Hackney has arrangements for its Scheme to be independently reviewed when required with reference to London Councils Independent Remuneration Panel.

#### **Basic Allowance**

- 2.1 A Basic Allowance is paid to all Councillors in recognition of their commitment to attend formal meetings of the Council as well as meetings with officers and constituents. The Basic Allowance is intended to cover



any incidental costs which may arise, such as the use of private telephones.

- 2.3 Each Councillor is entitled to claim a Basic Allowance of £12,014.00 per annum, which is payable monthly via the Council's payroll.

### **Special Responsibility Allowance**

- 3.1 A Special Responsibility Allowance (SRA) is payable in addition to the Basic Allowance to those Councillors that are given significant additional Council duties.

### **The Allowances**

- 4.1 The Basic Allowances and SRAs are as follows:

#### **Basic Allowance**

Basic Allowance All Councillors (except the Mayor)	£12,014.00
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#### **Special Responsibility Allowances**

##### Political Roles – Majority Group

Majority Group Chair	£2,807.00
Majority Group Secretary	£2,807.00
Majority Group Whip	£6,119.34

##### Political Roles – Opposition Group

##### **(When the Council is formed with one opposition group)**

Opposition Group Leader	£24,317.65
Opposition Group Whip	£2,807.00

##### Political Roles – Opposition Groups

##### **(When the Council is formed of two opposition groups and where there is a majority and minority group)**

First Opposition Group Leader	£15,281.99
First Opposition Group Whip	£2,807.00
Second Opposition Group Leader	£9,532.61

### Panel Members

Adoption Panel Member	£2,807.00
Fostering Panel Member	£2,807.00

### Committee Chairs

Chair of Audit Sub Committee	£8,671.22
Chair of Corporate Committee	£8,671.22
Chair of Licensing Committee	£19,256.42
Chair of Pensions Board	£2,807.00
Chair of Pensions Committee	£17,342.46
Chair of Planning Sub Committee	£19,256.42
Chair of Standards Committee	£2,807.00

### Scrutiny

Scrutiny Commission Chairs	£15,708.23
Chair of Scrutiny Panel	£9,532.61
Vice Chair of Scrutiny Panel	£6,355.07

### Speaker and Deputy Speaker

Speaker (see 4.3 below)	£21,145.70
Deputy Speaker (see 4.3 below)	£5,853.05

### Mayoral Advisers

Mayoral Advisers	£17,342.46
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### Cabinet Members

Cabinet Members	£39,015.33
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### Deputy Mayor

Deputy Mayor	£45,964.43
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### Directly Elected Mayor

Directly Elected Mayor (see 4.4 below)	£89,224.50
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- 4.1 Only one SRA may be claimed. It will be for individual Members who would otherwise qualify for more than one SRA to inform the Head of Business Intelligence, Elections & Member Services which allowance they wish to claim, otherwise the highest allowance will be paid.
- 4.2 The roles of Speaker and Deputy Speaker do not attract a SRA but are covered by a separate legal regime. Schedule 2 of the Local Government Act 1972 provides that a London Borough may pay the Chair of the Council (known as the Speaker in the London Borough of Hackney) such allowances and full Council thinks reasonable for the purpose of enabling the Chair to meet the expense of the office. There is a similar power in respect of the Vice Chair (Deputy Speaker).
- 4.3 The role of the directly elected Mayor does not attract a Basic Allowance or SRA. The Mayor receives one single allowance which covers all of the responsibilities included in the role.

### **Member Allowance Uplift**

- 5.1 The Basic and Special Responsibility Allowances are normally uplifted each year in line with the Local Government Pay Settlement Pay Rate when this becomes known, and will be reviewed and approved by Full Council at the start of each Municipal Year. The 202/23 allowances have been uplifted as that now increase exceeds the officer pay award, which was a lump sum, whilst aligning closer to the London Councils independent panel report.

### **Pensions**

- 6.1 In accordance with legislation, since the start of the 2014-18 electoral term, Members of the Council are not entitled to participate in the Local Government Pension Scheme.

### **Parental Leave and Sickness Pay**

- 7.1 The Member Parental Leave Scheme is defined as Members' entitlement to maternity, paternity, adoption, surrogacy and shared parental leave.

- 7.2 All Members shall continue to receive their Basic Allowance in full in the case of parental and sickness leave.
- 7.3 Members entitled to a Special Responsibility Allowance shall continue to receive their allowance in the case of parental and sickness leave in a similar way that Council officers do. A replacement to cover the period of absence can be appointed by Full Council, and the replacement will be entitled to claim a SRA. Where the SRA in question relates to the Cabinet, the appointment will be made by the Mayor.
- 7.4 Full details of the Member Parental Leave Scheme are attached at Appendix A

### **Dependant Carer's Allowance**

- 8.1 The Council will make reasonable payments for the reimbursement of the care of dependant relatives living with the Elected Member. Full details of the Dependant Carer's Allowance Scheme are attached at Appendix B.

### **Travel and Subsistence Allowance**

- 9.1 The Council will provide an allowance to Members for any travel or subsistence costs incurred as a result of attending a Council Approved Duty or event outside of the Borough. Independent Members, Co-opted Members and the Independent Person can claim for any travel or subsistence costs associated with their Council duty. Full details of the Travel and Subsistence Allowance are attached at Appendix C.

### **Approved Council Duties**

- 10.1 The schedule of approved Council duties can be found at Appendix D of this Scheme. Members of the Council may claim a Travel and Subsistence Allowance and/or Carers' Allowances when attending these duties.

### **Council Cycle Scheme**

- 11.1 Members are entitled to join the Council's employee Cycle Scheme whereby they can choose a bicycle and equipment from an approved supplier (up to £3,000 in value) and the Council purchases it and loans it to the Member. The Member will then repay the loan from their Basic Allowance in return for the loan of the VAT free bicycle across an agreed period. At the end of the loan period the Council may sell the bicycle to the Member at a fair market value.

## **Part Payments**

- 12.1 In the case of Basic Allowances, Special Responsibility Allowances, Travel and Subsistence Allowance, or Dependent Carers' Allowances, payment will only be made for the period during which a person performs the duties for which these allowances are payable. Where a Member, Independent Member, Co-opted Member or Independent Person resigns or ceases to be a Member, the part of the allowance payable for the period for which they cease to be a Member, may be withheld by the Council.

## **Repayments**

- 13.1 Where payment of any allowance has already been made in respect of any period during which the Member, Independent Member, Co-opted or Independent Person concerned ceases to be a Member, or is in any other way not entitled to receive the allowance in respect of that period, the Member, shall repay to the Council on demand such part of the allowance as relates to any such period.

## **Opting to Forgo an Allowance**

- 14.1 Basic Allowance and SRAs will be paid automatically unless notice is received in writing from the Member concerned forgoing the entitlement in whole or in part. All such notices should be sent to the Head of Business Intelligence, Elections & Member Services.

## **Claims and Payment**

- 15.1 Payments in relation to Basic Allowances, SRAs, Independent Member, Co-opted Member and Independent Person allowances shall be paid in monthly instalments in accordance with this Scheme.
- 15.2 Basic, SRA, Independent Member, Co-opted Member and Independent Person allowance payments are made net of income tax and National Insurance through the PAYE system used for salaried employees. Bank details are therefore required for each Member. If a Member changes their bank details, the revised details should be provided to Member Services.
- 15.3 Claims for Travel and Subsistence allowances, and Dependent Carer's allowance should be submitted no later than three months from the date that expenses are incurred. Claims must be made on the agreed claim form available from Member Services.

- 15.4 Claims will be checked on receipt by Member Services. Claims received before the 20th day of the month will be paid on or before the 15th day of the following month.

### **Allowances for Independent Members and Co-Opted Members**

- 16.1 The standard rate for Independent Members and Co-opted Members allowances is £129.80 per meeting. This is translated into an annual allowance by multiplying this by the anticipated number of meetings. This amount is payable to Co-opted Members on the Children and Young People Scrutiny Commission, Pensions Board, Pensions Committee and Standards Committee.

### **The Independent Person**

- 17.1 The Council's Independent Person for ethical governance matters shall be entitled to an allowance of £523.16 per annum.

### **Chair and Members of the Design Review Panel**

- 18.1 The Chair of the Design Review Panel shall be entitled to an allowance of £450.00 per meeting.
- 18.2 Members of the Design Review Panel shall be entitled to an allowance of £50.00 per hour, capped at £200.00 per meeting.

### **Publication**

- 19.1 The Council is required to publish details of the Members' Allowances Scheme and the total amount received by each Member. The records must also be available for inspection by any local government elector for the authority, or by any local government elector of any principal Council in whose area the authority operates.

### **Review of the Scheme**

- 20.1 The Council has arrangements for its Scheme to be independently reviewed with reference to London Councils Independent Remuneration Panel.

20.2 Minor revisions are the responsibility of the Head of Business Intelligence, Elections & Member Services in consultation with the Chair of the Council's Independent Remuneration Panel where needed.

### **Queries**

21.1 Any specific queries regarding the entitlement to the Scheme should, in the first instance, be addressed to the Head of Business Intelligence, Elections & Member Services ([members.services@hackney.gov.uk](mailto:members.services@hackney.gov.uk)). Queries regarding the processing of claims and payments should be addressed to the Member Services team (020 8356 3373).

## Member Parental Leave Scheme

The Member Parental Leave Scheme (and the term Parental Leave) is defined as Members' entitlement to maternity, paternity, adoption, surrogacy, and shared parental leave.

The objective of the scheme is to ensure that insofar as possible Members are able to take appropriate leave at the time of birth, adoption or surrogacy; that both parents are able to take leave and that reasonable and adequate arrangements are in place to provide cover for portfolio-holders and others in receipt of Special Responsibility Allowances (SRA) during any period of leave taken.

### Introduction

- 1.1 In accordance with the Council's Members' Allowances Scheme, Members shall continue to receive their Basic Allowance in full during Parental Leave.
- 1.2 Members entitled to a Special Responsibility Allowance will also continue to receive this allowance during Parental Leave up to the same benefit levels as officers in their equivalent policies.

### Six-month rule

- 1.3 Any Member who takes Parental Leave retains their legal duty under the Local Government Act 1972 to attend a meeting of the Council within a six month consecutive period unless the Council Meeting agrees to an extended leave of absence prior to the expiration of that six month consecutive period.

### Resigning from Office

- 1.4 If the Member decides to not return to office following their Parental Leave, Member Services must be notified. The Payroll Team must then be informed within two working days of receiving notification. Member allowance(s) will cease from the effective resignation date, however any outstanding Maternity Pay entitlement will continue to be paid by the Council.



## Elections

- 1.5 If an election is held during the Parental Leave and Members are not re-elected, or decide not to stand for re-election, their basic allowance and SRA if appropriate will cease from the Monday after the election date.

## Cover arrangements and returning to post

- 1.6 If a Member holds a position attracting a SRA, a temporary replacement would normally be appointed for periods of extended Parental Leave. The temporary appointment would also be entitled to receive a SRA.
- 1.7 Unless the Member taking Parental Leave is removed from their post at an Annual General Meeting of the Council whilst on Parental Leave, or unless the Party to which they belong loses control of the Council during their Parental Leave period, they will return at the end of their Parental Leave period to the same post which they held before the Parental Leave began.
- 1.8 The Mayor however can change their Cabinet members and portfolios at any time, though this would normally be in exceptional circumstances. In such circumstances, it is expected that any Cabinet member on Parental Leave would normally return from their Parental Leave to a similar portfolio size.
- 1.9 If there is a Mayoral election during a period of Parental Leave, any new Mayor can form a new Cabinet and if this does not include the Member on Parental leave, then their SRA will cease from the date the new Cabinet is formed.

## **Maternity Leave**

### Entitlement

- 2.1 All pregnant Members are entitled to Maternity Leave totalling 52 weeks, regardless of their length of term in office (unless their term of office ends earlier than this).

### Compulsory Maternity Leave

- 2.2 Members must take a minimum of two weeks Maternity Leave from the date the baby is born.

### Maternity Leave Start Date

- 2.3 Maternity Leave will start:
- ***On a date chosen by the Member***, which can be at any time after the beginning of the 11th week before the Member's expected week of childbirth and up to the date the baby is born
- 2.4 Maternity Leave may be triggered before the chosen date where:
- ***The baby is born early***. Maternity leave commences the day after the Member gives birth; or
  - ***The Member has sickness absence for a pregnancy-related reason in the four weeks before the expected week of childbirth***. Maternity Leave commences the date after the sickness absence
- 2.5 In summary, Maternity Leave is triggered by the date notified by the pregnant person, the actual birth of the baby, or pregnancy related sickness immediately prior to the due date - whichever occurs first.

### Notification of Maternity Leave

- 2.6 The Member must notify Member Services in writing no later than the end of the 15th week, or as soon as reasonably practicable, before the expected week of childbirth.
- 2.7 Information must include:
- Confirmation of the expected date of childbirth.
  - A copy of the MATB1 (a certificate available from a doctor or midwife). The original must be provided if the Member wishes to claim Maternity Pay (MP) from the Council.
  - The Parental Leave Confirmation Form, which will confirm the date Maternity Leave will start. It should be noted that Maternity Leave can start any day of the week.
- 2.8 On receipt of the information, within two weeks, Member Services will acknowledge that the period of absence has been noted and forward the information to the Council's Payroll Team.
- 2.9 The Council's Payroll Team will write to the Member to confirm the Maternity Leave period, including the end date, i.e. a maximum of 52 weeks and entitlement to allowance(s).



## Member Maternity Allowance Entitlement

### Basic Allowance

- 3.1 A Member on Maternity Leave will continue to receive this allowance throughout the Maternity Leave period. If, however, an election is held during the Member's Maternity Leave and they are not re-elected, or they decide not to stand for re-election, the basic allowance will cease from the Monday after the election date, when their office officially ends.

### Special Responsibility Allowance (SRA)

- 3.2 If a Member receives a SRA during their Maternity Leave it will be paid as follows:

***For Members not claiming Maternity Pay (MP) through the Council:***

First six weeks	90% of SRA plus basic allowance
7 to 24 weeks	50% of SRA plus basic allowance
25 to 52 week	Basic allowance only

***For Members claiming MP:***

First six weeks	90% of SRA, including MP plus basic allowance
7 to 24 weeks	50% of SRA plus MP and basic allowance
25 to 39 weeks	MP and basic allowance
40 to 52 weeks	Basic allowance only

## Member Maternity Special Circumstances

### Premature Baby Leave

- 4.1 Parents of babies born before 37 weeks will be entitled to receive one extra day of Premature Baby Leave receiving full SRA for every day their premature baby spends in hospital before 37 weeks. This leave entitlement will be added to the end of the Members Maternity Leave period after this leave entitlement has been exhausted.

### Illness due to pregnancy

- 4.2 If a Member has not started Maternity Leave, and cannot discharge their duties as a Councillor due to a pregnancy related illness at anytime after the beginning of the fourth week before the expected week of childbirth, Maternity Leave will have to start the day after the first day of their illness.
- 4.3 The Member is responsible for informing Member Services if this situation occurs.
- 4.4 Members Services will ensure that the Council's Payroll Team is informed within two working days of receipt of the details.
- 4.5 The Council's Payroll Team will provide confirmation of Maternity Leave and allowance entitlement to the Member, with a copy to Members Services, within ten working days.

### Early Delivery

- 4.6 If the baby is born earlier than expected and the Member has not yet started their maternity leave, the Maternity Leave will automatically start the day after the baby is born.
- 4.7 As soon as is practically possible, the Member must inform Member Services with a MATB1 form produced to confirm the baby's date of birth and the original expected date of delivery.
- 4.8 Members Services will ensure that the Council's Payroll Team is informed within two working days of receipt of the details.
- 4.9 The Council's Payroll Team will provide confirmation of Maternity Leave and pay entitlement to the Member, with a copy to Members Services, within ten working days.

### Maternity Pay (MP)

- 4.10 For Members in receipt of a SRA who want to claim a Statutory Maternity Pay equivalent (members are not entitled to SMP), an original copy of their MATB1 form must be provided.

### Multiple Births

- 4.11 Maternity Leave arrangements are unaffected by the number of babies born from a single pregnancy.

#### Returning from Maternity Leave early

- 4.12 If a Member wishes to return from Maternity Leave earlier than originally planned they should inform Member Services in writing.
- 4.13 Member Services will ensure that the Council's Payroll Team is informed within two working days of receipt of the details.
- 4.14 The Council's Payroll Team will provide confirmation that the information has been received and relevant reinstatement or adjustment of the SRA has been actioned, with a copy to Member Services, within ten working days.

#### Still Birth

- 4.15 If a baby is delivered after 24 weeks of pregnancy the Member is entitled to Maternity Leave and allowance(s).

### **Paternity Leave**

#### Entitlement

- 5.1 Members are entitled to a maximum of two weeks Paternity Leave (Six working days at full allowance and four at the statutory rate).

### **Paternity Leave Qualifying Criteria**

#### Birth

- 5.2 To qualify the Member must
- Be the biological father and have or expect to have responsibility for the child's upbringing; or
  - Be the spouse (husband or wife), civil partner or partner of the person giving birth and have or expect to have the main responsibility for the child's upbringing, along with the person who gave birth

#### Adoption

- 5.3 The Member must

- Be the spouse (husband or wife), civil partner or partner of the adopter and have or expect to have the main responsibility for the child's upbringing, along with the other parent

### Surrogacy

- 5.4 To qualify the Member must (with their partner) meet the criteria for 'Adoption Leave'. The Member must
- Be the intended parent and be responsible for the child (with their partner);
  - Be in a couple; and
  - Not be the parent who will take 'Adoption Leave'

Note: Partners, couples and spouses can be of the same or a different sex.

### **Member Paternity Allowance Entitlement**

#### Basic Allowance + Special Responsibility Allowance

- 6.1 A Member on Paternity Leave will continue to receive their basic allowance and SRA throughout the Paternity Leave period.

### **Starting and ending Paternity Leave**

#### Birth

- 7.1 A Member can choose to start their leave:
- From the date of the child's birth (whether this is earlier or later than expected)
  - From a chosen number of days after the date of the child's birth (whether this is earlier or later than expected) e.g. ten days after the child is born
  - From a chosen date after the baby is expected to be born
  - From the date of the child's birth if the baby is 'stillborn' at 24 weeks
- 7.2 Normally Paternity Leave must be taken within eight weeks of the birth of the child. However, if the baby is premature, then the eight weeks starts from the expected date of childbirth. If the baby is born late, the eight weeks starts from the actual birth of the baby.

- 7.3 If a Member chooses to start their Paternity Leave from the date the baby is born and they are at work on that date, then the Paternity Leave will begin the next day.



## Adoption

- 7.4 Where the child is adopted within the UK, a Member can choose to start their leave:
- On the date the child is placed; or
  - From a chosen number of days after the date the child is placed (e.g. ten days after the child is placed); *or*
  - From a chosen date after the child is expected to be placed
- 7.5 Paternity Leave must be taken after the child is placed.
- 7.6 Where the child is adopted from overseas, a Member can choose to start their leave:
- The date the child enters Great Britain; *or*
  - From a chosen date after the child enters Great Britain

## Surrogacy

- 7.7 Paternity Leave can commence the day the child is born or the day after if the Member is working that day. Normally Paternity Leave must be taken within eight weeks of the birth of the child. However, if the baby is premature, then the eight weeks starts from the expected date of childbirth. If the baby is born late, the eight weeks starts from the actual birth of the baby.

## Notification of Paternity Leave

- 7.8 The Member must notify Member Services in writing no later than the end of the 15th week before the baby is expected, unless this is not reasonably practicable.
- 7.9 Information must include:
- The week the child is due (included in the Parental Leave Confirmation Form)
  - When they want to start their leave (included in the Parental Leave Confirmation Form)
  - SC3 form for Birth Parents ([Link to Gov.uk website](#))
  - SC4 form for an Adopting or Parental order parent ([Link to Gov.uk website](#))
  - SC5 form for a parent adopting from overseas ([Link to Gov.uk website](#))

- 7.10 The Member must notify Member Services when their child was actually born or adopted as soon as is reasonably practicable after the birth or placement.
- 7.11 Where the baby is adopted within the UK, the Member must notify Member Services no later than seven days after the date they are notified of being matched with a child.
- 7.12 Where the child is adopted from abroad, the Member must notify Member Services no later than 28 days after receipt of the official notification.
- 7.13 The Member must give at least 28 days notice of the date they want the Paternity Leave to begin.

### **Paternity Leave Special Circumstances**

#### Multiple Births

- 8.1 Only one period of Paternity Leave is available, even if more than one child is born as the result of the same pregnancy or if more than one child is placed with the individual or couple for adoption under the same arrangement.

#### Premature Baby Leave

- 8.2 Parents of babies born before 37 weeks will be entitled to receive one extra day of Premature Baby Leave on full SRA allowance for every day their premature baby spends in hospital before 37 weeks. This leave entitlement will be added to the end of the Members Parental Leave period after this leave entitlement has been exhausted.

### **Adoption and Surrogacy Leave (referred to as Adoption Leave)**

#### Entitlement

- 9.1 Members are entitled to Adoption Leave totalling 52 weeks (unless their office officially ends before this).

#### Qualifying Criteria

- 9.2 **For Adoption and 'Fostering to Adopt'** - The Member must be newly matched with the child by an adoption agency, which must be recognised in the UK.

- 9.3 **For Surrogacy** – The Member must have applied, or be intending to apply for a Parental Order in relation to the child.

#### Exclusions

- 9.4 Private adoptions do not qualify e.g. a foster parent adopting a foster child, or a step-parent adopting their partner's child.

#### **Notification of Adoption Leave**

##### Adoption and 'Foster to Adopt'

- 10.1 Members must notify Member Services in writing of their intention to take adoption leave within seven days of being notified of the match by the adoption agency; advising:
- The date the child is being placed with them
  - The date the leave will start
  - Whether or not they intend to return to work following the Adoption Leave.
- 10.2 The notification must be accompanied by the following evidence:
- Name and address of the adoption agency
  - The date the employee was notified they would be matched with the child
  - The date the agency expects to place the child
  - Matching certificate completed by the adoption agency.

##### Surrogacy

- 10.3 Members must notify Member Services in writing of their intention to take leave advising:
- The date that the leave is expected to start (which is the date the baby is expected to be born)
  - The period of time they intend to take.
- 10.4 This notification must be made either during or before the 15th week before the date the child is expected to be born.
- 10.5 If requested, the Member must provide (within 14 days of receiving the request) a declaration confirming that:
- The leave is being requested for the intended purpose

- That they meet the qualifying conditions
- That they will be applying for a parental order, with an appropriate other person, who may be another person of the same sex.

## Member Adoption Leave Allowance Entitlement

### Basic Allowance

11.1 A Member on Adoption Leave will continue to receive this allowance throughout the leave period.

### Special Responsibility Allowance (SRA)

11.2 If a Member receives a SRA during their Adoption Leave it will be paid as follows:

First six weeks	90% of SRA plus basic allowance
7 to 24 weeks	50% of SRA plus basic allowance
25 to 52 weeks	Basic allowance only

## Commencement of Adoption Leave

12.1 The Adoption Leave period may begin:

### For **Adoption and 'Foster to Adopt'**:

- From the date of the child's placement – whether earlier or later than expected; or
- From a pre-determined date which can be up to 14 days before the expected date of placement

Or, where adopting a child from overseas:

- The date the child enters Great Britain
- A pre-determined date which is no later than 28 days after this date.

For **surrogacy** the leave period begins from the date the baby is born. If the baby is born while the Member is at work, then the leave can start from the next day.

## Adoption Leave Special Circumstances

### Premature Baby Leave

13.1 Parents of babies born before 37 weeks will be entitled to receive 1 extra day of Premature Baby Leave on full SRA allowance for every day their premature baby spends in hospital before 37 weeks. This leave

entitlement will be added to the end of the Members Adoption Leave period after this leave entitlement has been exhausted.

- 13.2 For **Adoption and 'Fostering to Adopt'** eligibility will depend on the circumstances. However, normally where a premature baby is placed with the adopting parents before 37 weeks, premature baby leave will apply.
- 13.3 For **surrogacy** these provisions will normally apply from the birth of the premature baby i.e. the date the new parents receive the baby.

#### Adopting more than one child

- 13.4 Adoption leave entitlements are the same regardless of the number of children adopted at any one time.
- 13.5 This also applies to surrogacy in the event of a multiple birth.

#### **Shared Parental Leave**

- 14.1 Shared Parental Leave enables eligible parents to choose how to share the care of their child during the first year of birth or adoption. Its purpose is to give parents more flexibility in considering how best to care for, and bond with, their child.
- 14.2 A Member who has made Shared Parental Leave arrangements through their employment is requested to advise Member Services of these at the earliest possible opportunity. Every effort will be made to replicate such arrangements in terms of leave from Council.
- 14.3 Requests will be looked at on a case-by-case basis.

## Dependant Carer's Allowance

### Legality

- 1.1 The Scheme is established by the Council under the Local Authorities (Members Allowances) (England) Regulations 2003. The Dependent Carers' Allowance is payable in respect of the approved duties set out in Appendix D. The Scheme requires Members claiming the allowance to demonstrate and certify that carer expenses are actually and necessarily incurred in the conduct of their official duties.

### Entitlement

- 2.1 The Scheme provides for payments to be made to Members in respect of care for "dependent relatives" living with the Member. For the purposes of the scheme, "dependent relatives" are defined as:
- (a) children aged 15 or under;
  - (b) relatives requiring full time care as a result of disability or infirmity.
- 2.2 Under no circumstances will the allowance be payable to an immediate relative of the Member.
- 2.3 For meetings or duties within the Council's boundaries, the allowance will be paid for the duration of the meeting or approved duty plus an allowance for up to one hour's travelling time before and after the meeting. For duties outside the Council's boundaries, the allowance will be paid for the duration of the duty plus the actual travelling time to and from the venue. In all instances, total time claimed should be rounded to the nearest half-hour.

### **Rates of Allowance**

- 3.1 The Dependent Carers' Allowance is set at the same level as the London Living Wage and is paid at this rate irrespective of the number of dependants.
- 3.2 Where a dependent relative requires specialist professional care, the full cost of care will be allowed, with the prior written approval of the Director of Legal, Democratic and Electoral Services.

## **Claims Procedures**

- 4.1 Members wishing to apply for Dependant Carers' Allowance must submit an application form to the Head of Business Intelligence, Elections & Member Services, declaring that:
- (a) claims made shall only be made in respect of a named dependent relative (or relatives) as defined in the Scheme;
  - (b) claims shall only be made in respect of the entitlements set out in paragraph 2 above;
  - (c) receipts shall be provided in support of all claims; and
  - (d) where a specialist professional carer is to be engaged, that this is a necessary expense for which full reimbursement will be claimed.
- 4.2 Members are required to notify Member Services in the event of their entitlement to Dependant Carers' Allowance ending.
- 4.3 All claims will be processed through the Council's Payroll system.

## **Audit**

- 5.1 Internal Audit will review the systems for payment of Members' Allowances on a routine basis and include sample testing of Members' Allowances transactions in annual probity programmes.



**Travel and Subsistence Allowance****Public Transport**

- 1.1 Elected Members may claim expenses for journeys associated with an approved duty or event (see Appendix D) outside of the Borough. The Council will not provide an allowance for any travel within the Borough.
- 1.2 Independent Members and Co-opted Members of the Council and the Independent Person may claim for travel both inside and outside the Borough for journeys associated with an approved duty.
- 1.3 The rate must not exceed the ordinary standard class fare or any available saver fare.
- 1.4 Booking arrangements for travel outside of London must be made by Member Services to seek the most cost-effective deal within current parameters.
- 1.5 A receipt must be produced for any claim.
- 1.6 For travel within London, Members may claim for travel on an Oyster Card. To claim for travel paid for on an Oyster Card, Members must provide Member Services with a printed record of the journey travelled, which can be obtained from the TfL website.

**Private Vehicle**

- 2.1 Elected Members, Independent Members, Co-opted Members and the Independent Person may claim expenses for journeys by private vehicle associated with an approved duty outside of the Borough. The Council will not provide an allowance for any travel within the Borough.
- 2.2 An allowance of 24p per mile can be claimed for travel by motorcycle.
- 2.3 An allowance of 46.9p per mile can be claimed for travel by motor vehicle up to the first 8,500 miles annually. After the first 8,500 miles, an allowance of 13.7p per mile.
- 2.4 Members, if using a private motor vehicle, should note that the Council does not provide any insurance cover. Members should have Business Use cover as part of their policy.

## **Taxi**

- 3.1 Members can claim an allowance for the amount of a taxi fare, and any reasonable gratuity, to enable them to attend an approved duty if the following exceptional circumstances and criteria apply:
- (a) in cases of a genuine emergency;
  - (b) when no public transport is reasonably available to travel to the approved duty;
  - (c) for safety reasons; or
  - (d) if there is insufficient time to travel from one approved duty to another by public transport.
- 3.2 The cost of travel by taxi must have been incurred wholly and exclusively for a Member's attendance at an approved Council duty. Taxi fares can only be claimed by Members once approved by the Head of Business Intelligence, Elections & Member Services.
- 3.3 A receipt must be produced for any claim.

## **Hired Vehicle**

- 4.1 Other than for a taxi, Members will only be able to claim an allowance per mile as per the rates detailed in paragraph 2 above. As such, Members will be reimbursed as if they had owned the vehicle, and will not be reimbursed for the cost of hiring the vehicle.
- 4.2 A receipt must be produced for any claim by the Member who hired the vehicle.

## **Aeroplane**

- 5.1 Subject to prior approval by the Head of Business Intelligence, Elections & Member Services, the cost of travel at the ordinary fare or any available cheap fare by regular air service or where no such service is available or in case of urgency the actual fare paid by the Member where the saving in time against other available means of transport is so substantial as to justify payment of the fare by that means.

5.2 A receipt must be produced for any claim.

### **Bicycle**

6.1 Members may claim an allowance in respect of travel by bicycle or by any other non motorised form of transport undertaken, of 20p per mile, in connection with or relating to an approved Council duty outside of the Borough.

6.2 Independent Members, Co-opted Members and the Independent Person may claim a cycling allowance for journeys inside and outside of the Borough.

### **Subsistence**

7.1 The payment of subsistence allowance will only be payable to Members for approved Council duties and conferences subject to the approval of the Head of Business Intelligence, Elections & Member Services.

7.2 When more than 4 hours away from normal place of residence, the repayment of subsistence allowances will be made to cover the actual cost incurred up to the following rates –

- (a) Breakfast - £5.50
- (b) Lunch - £7.50
- (c) Evening Meal - £10.50
- (d) Out of pocket expenses (per night) - £4.50

7.3 Members are also entitled to overnight accommodation, if required, when attending an approved duty outside of London, subject to the approval of the Head of Business Intelligence, Elections & Member Services. Member Services shall be responsible for making any bookings and will pay for the accommodation directly.

7.4 Receipts must be produced for any claim in order to be valid.

### Approved Council Duties

For the purposes of the payment of Travel, Subsistence and Carers' Allowances, Approved Council duties are defined as the following official meetings set out below. For information, some outside bodies may pay an allowance to Members for their role and work on that specific outside body.

1. Appointments Committee or Sub Committees
2. Cabinet or Cabinet Sub Committees
3. Corporate Committee or Sub Committees
4. Corporate Parenting Board
5. Council
6. Council Joint Committee
7. Health and Wellbeing Board
8. Joint Committee of the Six Growth Boroughs
9. Licensing Committee or Sub Committees
10. Overview and Scrutiny Commissions
11. Pensions Board
12. Pensions Committee
13. Planning Committee or Sub Committees
14. Standards Committee or Sub Committees
15. Ward Forums
16. Duties for the office of Speaker or Deputy Speaker
17. Education related meetings such as:
  - the Schools Admissions Forum
  - School Governing Bodies
18. Independent Statutory Panels
  - Adoption Panel
  - Fostering Panel

19. A meeting of outside bodies:

- Abney Park Cemetery Trust
- Agudas Israel Housing Association
- Bangla Housing Association
- Chats Palace Arts Centre
- Clapton Park TMO
- CREATE London Ltd
- East London NHS Foundation Trust
- Finsbury Park Trust
- Groundwork London
- Hackney CAB
- Hackney Community Law Centre
- Hackney Empire Ltd Board
- Hackney Parish Almshouse Charity
- Hackney Parochial Charity
- Homerton NHS Foundation Trust
- Hornsey Parochial Charity
- Lee Valley Regional Park Authority
- LGA General Assembly
- Local Government Information Unit (LGIU)
- London Councils Executive
- London Councils Grants Committee
- London Councils Greater London Employment Forum (GLEF)
- London Councils Leaders' Committee
- London Councils Transport and Environment Committee (TEC)
- London Housing Consortium
- London Pensions Collective Investment Vehicle (CIV)

- London Legacy Development Corporation Planning Decisions Committee (LLDC)
  - London Road Safety Council
  - London Youth Games Foundation
  - Manor House Trust
  - Newable Ltd
  - North London Waste Authority
  - Reserve Forces and Cadets Association (GL RFCA)
  - Shoreditch Town Hall Trust
  - Shoreditch Trust
  - South Hackney Parochial Charity
  - Standing Advisory Council on Religious Education (SACRE)
  - Sun Babies Trust
  - West Hackney Parochial Charity
20. Attendance at Conference meetings:
- London Councils
  - Local Government Association
21. Attendance at any meeting which is an induction training session, seminar, presentation, or briefing arranged by Chief Officers of the Council for all Members of a Committee, Sub Committee or Panel to discuss matters relevant to the discharge of the Council's functions and to which Members of more than one party Group have been invited.
22. Attendance at visits and inspection of sites and premises arranged by officers (e.g. opening of new facilities).
23. Attendance by Members who have the relevant special responsibility on matters concerning the discharge of the Council's functions.
24. Attendance before parliamentary Committees, official bodies and inquiries to give evidence or make representations on the Council's behalf.
25. Attendance at events by Members where they are invited to showcase or represent the work of Hackney.

## Part Seven - The Elected Mayor and Councillors

### Section E - The Elected Mayor's and Councillors' Rights to Access Information

1. The Elected Mayor and Councillors have a right to see the majority of information which the Council holds so they can carry out their duties as elected members of the Council. This can range from information about services, to information about their constituents.
2. This document sets out guidance on the circumstances in which members may gain access to information owned by the Council. If further advice regarding a particular situation is required, this can be obtained from the Monitoring Officer.

#### Rights to Access Material

3. The Elected Mayor and Councillors have a right to see documents, or parts of documents, where this is reasonably necessary to enable them to perform their duties as elected members or their role within the Council. This is commonly referred to as the 'need to know' principle. This covers cases where they seek to see information which relates to a committee of which they are a member.
4. This does not amount to an automatic right to see documents and the right of access does not extend to areas which are not within their direct responsibility.
5. In addition to the general right, any elected member has a statutory right to see documents which contain information relating to:
  - (a) Business transacted at meetings of the Executive (including panels and forums), the Council and its Committees;
  - (b) Any decision that might be made by a portfolio holder in accordance with the Council's Constitution; and
  - (c) Any key decision made by the Officer.
6. Some categories of information are exempt from this provision and the list of exemptions is set out at the end of this document. The practice in the Council is that the Elected Mayor and Councillors can generally see all information, even if it is exempt. However, there will be some circumstances where this is not the case, for example, where it concerns personal matters. If exempt information is disclosed then it is to be treated in confidence in accordance with the requirements of the Councillor Code of Conduct.
7. If the Council is minded not to disclose exempt information, it will consider whether, in all the circumstances of the case, the public interest in disclosing

the information outweighs the public interest in maintaining the exemption. If so, the information will be disclosed.

### **Overview and Scrutiny**

8. In addition to the above rights, members of the Scrutiny Panel and Scrutiny Commissions can obtain exempt information or confidential information if it is relevant to an action or decision that is being reviewed or scrutinised. These members will also be entitled to copies of any document which is in the possession or control of the Executive, Cabinet (or any of its sub-committees), a Portfolio Holder, Advisory Panel or Consultative Forum and which contains material relating to:
  - (a) Any business transacted at a meeting of Cabinet (or any of its sub-committees), Advisory Panel or Consultative Forum; or
  - (b) Any decision made by an individual member of the Executive.
9. Confidential information is defined as:
  - (a) Information provided to the local authority by a government department which has forbidden the disclosure of the information to the public; or
  - (b) Information which cannot be disclosed to the public by a law or court order

### **Freedom of Information Act 2000 (FOIA)**

10. The Elected Mayor and Councillors have the same rights as any other member of the public to request information under the FOIA. Any such request should be dealt with under the Council's procedure for FOI requests.
11. It should be noted that political groups are not part of the Council and therefore the Freedom of Information Act does not apply to them.

### **Data Protection Act/General Data Protection Regulations**

12. The provisions of the Data Protection Act/General Data Protection Regulations apply to any personal information relating to individuals. The position differs according to the capacity in which the Elected Mayor and Councillors may be acting.



### **Elected members as data controllers**

13. The Elected Mayor and Councillors are 'data controllers' under the General Data Protection Regulations and are responsible for the personal data that they collect, store, use and delete. A data controller is defined in the Regulations as a person who determines the purposes for which and the means by which personal data is processed

### **Acting on behalf of local residents**

14. A local authority does not generally have to get the consent of an individual to disclose their personal information to the Councillors provided that:
  - (a) The Councillor represents the ward in which the individual lives;
  - (b) The Elected Mayor or Councillor makes it clear that they are representing the individual in any request for their personal information to the local authority; and
  - (c) The information is necessary to respond to the individual.

### **Sensitive information**

15. Certain information is classified as sensitive under the Data Protection Act and General Data Protection Regulations including information about racial or ethnic origins, political opinions and religious beliefs. Normally, consent from the individual or another condition specified under the Act is required before disclosure can be made. However, disclosure of such information to the Elected Mayor and Councillors are allowed where they have been asked by the individual to take action on their behalf and the information is necessary in order for them to assist.

### **Care Proceedings**

16. The Family Proceedings Court Rules 1991 lay down strict rules in respect of information relating to family proceedings. Information can only be disclosed with leave of the court. This is not restricted to documents filed with the court but covers any information relating to these proceedings. The Elected Mayor and Councillors cannot see any such information in any circumstances, even where they are representing a constituent.

### **Councillor Code of Conduct**

17. The provisions of the Councillor Code of Conduct contains details as to when confidential or exempt information can/cannot be disclosed. The disclosure of

confidential or exempt information other than as permitted is a breach of the Code of Conduct.

### **Requests for Information**

18. Where the Elected Mayor or Councillor makes a request for information and the Officer to whom it is made is unsure whether the information can be disclosed, advice should be sought from the Monitoring Officer.
19. Where a request for information is granted, the appropriate Service Head, Director or Group Director may place restrictions on how that information is to be accessed, for example by viewing it at the Council's offices, and/or specify steps which are to be taken to ensure the security of that information.
20. The Elected Mayor and Councillors must not use information for any other reason than that specified in their request.

**Exempt information**

- (1) Information relating to any individual.
- (2) Information which is likely to reveal the identity of an individual.
- (3) Information relating to the financial or business affairs of any particular person (including the authority holding that information).
- (4) Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
- (5) Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- (6) Information which reveals that the authority proposes:
  - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any enactment.
- (7) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

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The following categories apply to meetings of the Standards Committee or Sub-Committees in connection with the investigation and consideration of an allegation of a breach of the Councillor Code of Conduct:

- Information which is subject to any obligation of confidentiality.
- Information which relates in any way to matters concerning national security.
- The deliberations of a Standards Committee or of a sub-committee of a Standards Committee in reaching any finding on a matter relating to the conduct of the Elected Mayor, Councillor or Co-opted member.

## **Part Eight - Officers**

### **Section A - Proper Officer Functions**

### **Section B - Officer Employment Procedure Rules**

### **Section C - Monitoring Officer Protocol**

**Part Eight - Officers**  
**Section A - Proper Officer Functions**

The posts below are Proper Officers for the Council. Specific responsibilities are attached to each role.

If any of these Officers are unable to act or the post is vacant, the Chief Executive will nominate another officer to act in their place.

The Chief Executive is appointed as Proper Officer for all existing or future statutory provisions, where no Proper Officer appointment has been made.

	<b>Function exercised by</b>	<b>Function</b>	<b>Statutory provision</b>
1	Chief Executive	Certification of documents as a decision of any Officer of the Council exercising delegated powers.	Greater London Council (General Powers) Act 1969
2	Chief Executive	The Officer to whom a person elected to the office of Councillor shall deliver a declaration of acceptance of office on a form prescribed by rules.	s83(1) Local Government Act 1972
3	Chief Executive	The Officer before whom a declaration of acceptance of office of Speaker or Deputy Speaker may be made	s83(3)(b) Local Government Act 1972
4	Chief Executive	The Officer to whom written notice of resignation of elected office shall be delivered.	s84 Local Government Act 1972

	<b>Function exercised by</b>	<b>Function</b>	<b>Statutory provision</b>
5	Chief Executive	To declare any vacancy in any office under the Section.	s86 Local Government Act 1972
6	Chief Executive	The Officer by whom a meeting of the Council for the election of the vacant office of Chairperson of the Council may be convened.	s88(2) Local Government Act 1972
7	Chief Executive	The Officer to whom notice in writing of a casual vacancy occurring in the office of Councillor may be given by two local government electors for the Borough.	s89(1)(b) Local Government Act 1972
8	Chief Executive	To give notice and send summonses in respect of any Council meeting.	s99 & Schedule 12 Local Government Act 1972
9	Chief Executive	To give public notice of any meeting to which the public are entitled to attend, provide copies of agenda and facilities for the press.	s100 Local Government Act 1972
10	Chief Executive	The Officer to exclude from committees, sub committees, Council or	s100B(2) Local Government Act

	Function exercised by	Function	Statutory provision
		Executive meeting agendas any information to be dealt with in a meeting room which the public are likely to be excluded.	1972
11	Chief Executive	The Officer 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.	s100B(7)(c) Local Government Act 1972
12	Chief Executive	The Officer 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.	s100C(2) Local Government Act 1972
13	Chief Executive	The Officer to prepare a list of background papers for reports considered by committees, sub-committees, Council or the Executive.	s100D(1)(a) Local Government Act 1972
14	Chief Executive	The Officer to determine which documents constitute background papers and	s100D(5) and s100H Local Government Act

	Function exercised by	Function	Statutory provision
		ability to charge for the provision of such documents	1972
15	Chief Executive	The Officer to decide which documents are not, by virtue of containing exempt information, required to be open to inspection.	s100F(2) Local Government Act 1972
16	Chief Executive	To maintain a register of the names and addresses of Councillors and membership of committees, lists of delegations and the like.	s100G Local Government Act 1972
17	Chief Executive	The Officer to whom money properly due from officers shall be paid.	s115 Local Government Act 1972
18	Chief Executive	The Officer responsible for the keeping of the roll of freeman.	S248 Local Government Act 1972
19	Chief Executive	The Officer responsible for the receipt of notices regarding the address to which summons to meetings is to be sent.	Paragraphs 4(2)(b) and 4(3), Schedule 12 Local Government Act 1972



	<b>Function exercised by</b>	<b>Function</b>	<b>Statutory provision</b>
20	Chief Executive	Officer responsible for the certification of true copies of resolutions.	Paragraph 25(7), Schedule 14 Local Government Act 1972
21	Chief Executive	The Officer to certify copies of any resolution, order, report or minutes of proceedings of the Authority as evidence in any legal proceedings.	s41 Local Government (Miscellaneous Provisions) Act 1976
22	Chief Executive	Notices requiring details of interest in land.	s16 Representation of the People Act 1983
23	Chief Executive	The Registration Officer for the purpose of the registration of electors.	s8 Representation of the People Act 1983
24	Chief Executive	The Returning Officer at an election of London Borough Councillors.	s35 Representation of the People Act 1983
25	Chief Executive	Acting Returning Officer at an election of a Member of Parliament.	s28 Representation

	Function exercised by	Function	Statutory provision
			of the People Act 1983
26	Chief Executive	The Officer responsible for the grant and supervision of exemptions from political restriction.	S3A Local Government and Housing Act 1989
27	Chief Executive	The Officer to be designated Head of the Paid Service	s4 Local Government and Housing Act 1989
28	Chief Executive	The Officer to hold on deposit the list of politically restricted posts and provide certificates as to whether a post is politically restricted	s2 Local Government and Housing Act 1989
29	Chief Executive	The Officer responsible for ensuring a proper record is made of Executive decisions and that the Authority's Executive Meetings and Key Decisions Notice is published in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.	Local Government Act 2000

	<b>Function exercised by</b>	<b>Function</b>	<b>Statutory provision</b>
30	Chief Executive	To make payments of relevant allowances in accordance with the Council's Members' Allowances Scheme	Local Government Act 2000
31	Chief Executive	To defray expenses of any Members making official and courtesy visits, receptions and entertainment of distinguished persons visiting the Borough.	Local Government Act 2000
32	Chief Executive	Responsible person for ensuring that the Council complies with statutory requirements relating to complaints made to the Council about its public health functions and, where necessary, action is taken in light of the outcome of such complaints.	Health and Social Care Act 2012
33	Chief Executive	The Officer responsible for ensuring that the Council, in the exercise of its functions, have due regard to the need to prevent people vulnerable from being drawn into terrorism	Counter Terrorism and Security Act 2015

	<b>Function exercised by</b>	<b>Function</b>	<b>Statutory provision</b>
34	Group Director, Finance & Corporate Resources	Proper Officer for Births, Deaths and Marriages.	Registration Services Act 1953
35	Group Director, Finance & Corporate Resources	The Officer to make statutory declarations and issue any certificate with regard to securities held by local authority companies.	s146 Local Government Act 1972
36	Group Director, Finance & Corporate Resources	The Officer to be responsible for the proper administration of the Authority's financial affairs (and to issue a report to Members if there is or is likely to be unlawful expenditure or an unbalanced budget).	s151 Local Government Act 1972
37	Group Director, Finance and Corporate Resources	Notification to the Council's auditor of any meeting to be held under Section 15 of the 1988 Act (meeting to consider any report of the Chief Finance Office under Section 114).	S116 Local Government Finance Act 1988

	<b>Function exercised by</b>	<b>Function</b>	<b>Statutory provision</b>
38	Group Director, Finance and Corporate Resources	Provision of information to the Secretary of State in relation to the exercise of his powers under this Act as and when required.	s139A Local Government Finance Act 1988
39	Group Director, Finance and Corporate Resources	Requirement to report to Council annually on the robustness of estimates and financial reserves	Local Government Act 2003
40	Director, Legal, Democratic & Electoral Services	Authorising Officers to attend court and appear on behalf of the Council under Local Government Act 1972 and the County Courts Act 1984.	s223 Local Government Act 1972 s60 County Courts Act 1980
41	Director, Legal, Democratic & Electoral Services	The Officer to receive and retain statutory documents on behalf of the Authority	s225(1) Local Government Act 1972
42	Director, Legal, Democratic & Electoral Services	The Officer to certify photographic copies of documents.	s229(5) Local Government Act 1972
43	Director, Legal, Democratic & Electoral	The Officer to receive documents required to be served on the Authority.	s233 Local Government Act 1972

	<b>Function exercised by</b>	<b>Function</b>	<b>Statutory provision</b>
	Services		
44	Director, Legal, Democratic & Electoral Services	The Officer to authenticate documents on behalf of the Authority.	s234(1) & (2) Local Government Act 1972
45	Director, Legal, Democratic & Electoral Services	The Officer to certify printed copies of Byelaws.	s238 Local Government Act 1972
46	Director, Legal, Democratic & Electoral Services	The Officer to be designated Monitoring Officer.	s5 Local Government and Housing Act 1989
47	Director, Legal, Democratic & Electoral Services	To certify Council records for the purposes of admitting the document in evidence in civil proceedings.	Civil Evidence Act 1985
48	Director, Legal, Democratic & Electoral Services	Certification of relevant powers to enter into contracts.	Local Government (Contracts) Act 1997
49	Director, Legal, Democratic & Electoral Services	To ensure that copies of the Constitution are available for inspection.	Local Government Act 2000

	<b>Function exercised by</b>	<b>Function</b>	<b>Statutory provision</b>
50	Director, Legal, Democratic & Electoral Services	Responsibility for establishing and maintaining a register of Councillors and co-opted members interests, and for ensuring that it is published on the Council's website.	Section 29 Localism Act 2011
51	Group Director, Climate, Homes & Economy	The Officer to act as Local Registrar as defined in Section 3 of the Land Charges Act 1975.	s19 Local Land Charges Act 1975
52	Group Director, Climate, Homes & Economy	The appointment of a suitably qualified person as the Council's Medical Advisor on Environmental Health and Proper Officer for notifiable diseases.	Public Health (Control of Diseases) Act 1984 and The Milk and Dairies (General) Regulations 1969
53	Director of Public Health	The exercise by the authority of its functions under section 2B, 111 or 249 or Schedule 1 – health improvement duties to take steps to improve the health of the people in the area.	s73A(1)(a) Health and Social Care Act 2012
54	Director of Public Health	The exercise by the authority of its functions by	s73A(1)(b) Health and

	Function exercised by	Function	Statutory provision
		virtue of section 6C(1) or (3) – The exercise of the Secretary of State’s public health protection or health improvement functions that they delegate to local authorities, either by arrangement or under regulations – these include services mandated by regulations.	Social Care Act 2012
55	Director of Public Health	Anything done by the authority in pursuance or arrangements under section 7A – Any public health activity undertaken by the local authority under arrangements with the Secretary of State.	s73A(1)(c) Health and Social Care Act 2012
56	Director of Public Health	The exercise by the authority of any of its functions that relate to planning for, or responding to, emergencies involving a risk to public health.	s73A(1)(d) Health and Social Care Act 2012



	<b>Function exercised by</b>	<b>Function</b>	<b>Statutory provision</b>
57	Director of Public Health	The functions of the authority under section 325 of the Criminal Justice Act 2003 – the local authority’s role in coordinating with the police, the probation service and the prison service to assess the risks posed by violent and sex offenders.	s73A(1)(e) Health and Social Care Act 2012
58	Director of Public Health	Other public health functions that the Secretary of State may specify in regulations.	s73A(1)(f) Health and Social Care Act 2012
59	Group Director & all Chief Officers	To have regard to the effect of the exercise of any function on the need to prevent crime and disorder and offending by children and young persons.	S13 and 37 Crime and Disorder Act 1998
60	The Chief Executive, Group Directors and Service Directors	Power to authorise officers to enter premises and seize items where the Council has a power of seizure under this Act and to perform other related duties (return and security of seized items).	Criminal Justice and Police Act 2001
61	Group Director, Children & Education	To apply for the discharge or variation of a Child Safety Order.	s12 Crime and Disorder Act 1998

	<b>Function exercised by</b>	<b>Function</b>	<b>Statutory provision</b>
62	Head of Scrutiny and Ward Forums	The Officer designated as Scrutiny Officer.	Section 9FB Local Government Act 2000.

**Part Eight - Officers**  
**Section B - Officer Employment Procedure Rules**

**General**

- 1.1 At the Annual Meeting, Full Council will establish an Appointments Committee. That Committee will establish Sub-Committees, which will be responsible for the appointment, disciplinary and appeal processes relating to the Head of Paid Service and all Chief Officers, as required. The Disciplinary Sub-Committee must include at least one member of the Cabinet.
- 1.2 Where an appointment is the responsibility of the Appointment Sub-Committee, all elements of the recruitment procedure up to final panel interviews shall be the responsibility of the Head of Paid Service or an Officer authorised by him/her.
- 1.3 The Council is required by law to appoint a number of senior officers; these are known as statutory chief officers. These statutory chief officers are the Head of Paid Service, Director of Adult Social Services, Director of Children's Services, s151 Officer, Monitoring Officer and Director of Public Health. The Council may also designate posts as non-statutory chief officer posts.
- 1.4 For the purposes of these Rules, the Council's Chief Officer posts are set out below. Where the post is a statutory chief officer post, the statutory name appears in brackets immediately afterwards. If the post is a non-statutory post then this is also stated.
  - (a) Chief Executive (Head of Paid Service)
  - (b) Group Director, Adults, Health and Integration (Director of Adult Social Services)
  - (c) Group Director, Children and Education (Director of Children's Services)
  - (d) Group Director, Finance and Corporate Resources (Chief Finance Officer/s151 Officer)
  - (e) Group Director, Climate Homes and Economy (non statutory)
  - (f) Director of Legal, Democratic and Electoral Services (Monitoring Officer)
  - (g) Director, Public Health (Director of Public Health)

- (h) Director of Human Resources and Organisational Development (non statutory)

- 1.5 In these Rules, Deputy Chief Officers are defined as Officers, who may be statutory officers, in Directorates who report to or are directly accountable either to the Head of Paid Service or to a statutory or non-statutory Chief Officer.
- 1.6 The appointment or dismissal of, and taking disciplinary action against, all other members of staff of the Council must be discharged, on behalf of the Council by the Head of Paid Service (Chief Executive) or by an Officer nominated by them.

### **Declarations**

- 2.1 The Council will require any candidate for appointment as an Officer of the Council to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of the Elected Mayor, Councillor or Officer of the Council or of the partner of such person.
- 2.2 No candidate that is related to the Elected Mayor, Councillor or a Chief Officer will be appointed without the permission of the relevant Chief Officer or an Officer nominated by them.

### **Seeking support for appointment**

- 3.1 Any applicant who directly or indirectly seeks the support of the Elected Mayor and a Councillor for an appointment with the Council will be disqualified from the process. The content of this paragraph will be included in any recruitment information.
- 3.2 The Elected Mayor or Councillors are not permitted to provide a written reference or testimonial in support of any applicant nor are they permitted to support the candidature of any applicant.

### **Recruitment of Head of Paid Service (Chief Executive) and Chief Officers (statutory and non-statutory)**

- 4.1 Where the Council proposes to appoint a Head of Paid Service and Chief Officers the Council will:
  - (a) Prepare a job description/person specification for the role, including any qualifications and qualities to be sought in the person to be appointed; and

- (b) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it

### **Appointment of the Head of the Paid Service (Chief Executive)**

- 5.1 The Council's Appointments Committee will establish a Sub-Committee, which must include at least one Councillor from the Cabinet, who will be responsible for making recommendations about the appointment of the Head of Paid Service (Chief Executive).
- 5.2 Full Council will consider the recommendation of the Sub-Committee and make a decision. Full Council may only approve the appointment of the Head of Paid Service (Chief Executive) if neither the Elected Mayor nor any Councillor of the Cabinet has made, following the procedure in 7.1(b) and 7.2 below, a well-founded objection to that appointment.

### **Appointment of Chief Officers**

- 6.1 The Council's Appointments Committee will establish a Sub-Committee, which must include at least one Councillor from the Cabinet, to appoint a Chief Officer to a permanent position.
- 6.2 In the case of temporary or interim appointments to Chief Officer positions:
  - (a) The Head of Paid Service (Chief Executive) is responsible for temporary appointments, in consultation with the Elected Mayor, where this is an acting up appointment; i.e. where an existing employee carries out additional duties of a higher graded post.
  - (b) An Appointments Sub-Committee is responsible for interim appointments where it is proposed to make an appointment other than of a person currently employed by the Council.

### **Director of Public Health**

- 6.3 Full Council must, in accordance with Part 3 of the National Health Service Act 2006, as amended by paragraph 30 of the Health and Social Care Act 2012, jointly with the Secretary of State, appoint an individual to have responsibility for all the Council's public health functions, including any conferred by regulation. The individual is to be an Officer of the Council.

## **Procedure for the appointment of Chief Officers**

- 7.1 The following process will apply after the Appointments Sub-Committee has interviewed all shortlisted candidates for Chief Officer posts:
- (a) If the Sub-Committee agree on a candidate suitable for the post, they will indicate their 'provisional intention to make an offer' to the Head of the Paid Service (Chief Executive) together with any particulars which the Sub-Committee considers relevant in making the appointment;
  - (b) The Head of Paid Service (Chief Executive) will notify the Elected Mayor and each Councillor of the Cabinet of the name of the person the Appointments Sub-Committee wishes to make an offer to, and any other particulars relevant to the appointment notified by the Appointments Sub-Committee, allowing an opportunity for any objection to be made to the proposed appointment by the Elected Mayor on behalf of any Councillor of the Cabinet.
- 7.2 The notification in 7.1(b) will be by email and the period of objection will normally be two working days. If the period of objection is to be shortened, notification will be by telephone and email.
- 7.3 The 'provisional intention to make an offer' will become a firm offer and the offer will be made without the need for the Appointments Sub-Committee to re-convene if:
- (a) The Elected Mayor notifies the Appointments Sub-Committee that neither they nor any other member of the Cabinet has an objection to an offer being made; or
  - (b) The Head of Paid Service (Chief Executive) notifies the Appointments Sub-Committee that no objection has been received from the Elected Mayor within the objection period.

## **Procedure where an objection is received to an appointment**

- 8.1 If an objection is received from the Elected Mayor, the Appointments Sub-Committee will re-convene to consider the objection. If the Appointments Sub-Committee is satisfied that any objection received from the Elected Mayor is not material, or is not well founded, they will confirm their decision and a formal offer will be made.

## **Other Appointments**

### All Officers below Chief Officer

- 9.1 The appointment of all Officers below Chief Officer (other than any assistants to the Elected Mayor and political groups) is the responsibility of the Head of Paid Service (Chief Executive) or their nominee, and may not be made by the Elected Mayor or any Councillor.
- 9.2 In the case of the employment of a Deputy Chief Officer, an offer will only be made if neither the Elected Mayor nor any Councillor of the Cabinet has made a well-founded objection to that appointment.

### Assistants to Political Groups

- 9.3 The appointment of any assistant to a political group will be made in accordance with the wishes of that political group.

### Political Assistant to the Elected Mayor

- 9.4 Any Political Assistant to the Elected Mayor may only be appointed by the Elected Mayor.

## **Disciplinary Action**

- 10.1 There is a disciplinary process for the Head of Paid Service (Chief Executive) and all Chief Officers (statutory or non-statutory).
- 10.2 There is an additional special statutory process relating to disciplinary action against the Head of Paid Service (Chief Executive), Monitoring Officer and Chief Finance Officer which must be followed. The Council's usual policies and procedures will not apply.
- 10.3 The Appointments Committee will establish a Disciplinary Sub-Committee to discharge all functions relating to disciplinary action against Chief Officers. The Disciplinary Sub-Committee will consider if there is a case to answer and whether suspension is necessary.
- 10.4 The Head of Paid Service (Chief Executive) and Chief Officers may be suspended whilst an investigation takes place into alleged misconduct. The suspension will be on full pay and will normally last no longer than two months.
- 10.5 Where it appears to the Council that an allegation of misconduct by the Head of Paid Service (Chief Executive) or any other Chief Officer requires investigation, then an investigator will be appointed to carry out the

investigation and compile an investigation report. The investigator appointed may be independent of the Council.

- 10.6 In cases involving the Head of Paid Service (Chief Executive), Monitoring Officer and Chief Finance Officer, the appointment of a specific investigator should be agreed between the Disciplinary Sub-Committee and the relevant Officer or in default of such agreement the investigator should be a person nominated by the Secretary of State.
- 10.7 The investigator may recommend that the suspension of the relevant Officer be extended for a period beyond the initial two-month period in order to complete the investigation.
- 10.8 The investigator may inspect any documents relating to the conduct of the relevant Officer which are in the possession of the Council, or which the Council has the power to authorise them to inspect.
- 10.9 The investigator may ask any member of the Council's staff to answer questions concerning the conduct of the relevant Officer.
- 10.10 The investigator will then forward the investigation report to the Disciplinary Sub-Committee for consideration. The relevant Officer will also be provided with a copy of the report.
- 10.11 The Council will pay reasonable remuneration to the investigator, together with any costs incurred by them in completing the investigation.
- 10.12 The Disciplinary Sub-Committee will consider the investigator's report. The Officer will be given the opportunity to present evidence to the Disciplinary Sub-Committee and to appear before it, prior to the Disciplinary Sub-Committee making its decision.
- 10.13 No decision can be made by the Disciplinary Sub-Committee to dismiss the Head of Paid Service (Chief Executive), Chief Finance Officer or the Monitoring Officer; the Sub-Committee can only recommend dismissal for these three officers. Where dismissal is recommended for them a statutory process must be followed. The Disciplinary Sub-Committee can, however, make decisions short of dismissal for all Chief Officers.
- 10.14 Where a Disciplinary Sub-Committee has made a decision short of dismissal for any Chief Officer or a decision to dismiss a Chief Officer other than the Head of Paid Service (Chief Executive), Monitoring Officer or the Chief Finance Officer. The relevant officer may appeal to the Appointments Committee.



## **Statutory process relating to the disciplinary / dismissal of Head of Paid Service (Chief Executive), Monitoring Officer and Chief Financial Officer.**

- 11.1 If the decision of the Disciplinary Sub-Committee is to recommend to Full Council the dismissal of the Head of Paid Service (Chief Executive), Monitoring Officer or the Chief Finance Officer, the evidence collected must be put before an Independent Panel for its assessment.
- 11.2 For these purposes the Independent Panel will be a Committee appointed by the Council under section 102(4) of the Local Government Act 1972 for the purpose of advising the Council on matters relating to the dismissal of the Head of Paid Service (Chief Executive), Monitoring Officer or Chief Finance Officer.
- 11.3 The Council will invite relevant Independent Persons to be considered for appointment to the Panel, with a view to appointing at least two Independent Persons to the Panel.
- 11.4 The Independent Panel will comprise at least two Independent Persons who have accepted an invitation from the following 'pool'
  - (a) An Independent Person who has been appointed by the Council and who is a local government elector.
  - (b) Any other Independent Person who has been appointed by the Council; and
  - (c) An Independent Person who has been appointed by another Council or Councils.
- 11.5 The Council must appoint the Independent Panel at least 20 working days before the relevant Full Council meeting.
- 11.6 The Independent Panel will consider the investigator's report and the recommendation of the Disciplinary Sub-Committee and will then provide Full Council with any advice, views and recommendations that it has on any dismissal. The conclusions of the Independent Panel will be included in a formal report to Full Council, together with the investigator's report and recommendations of the Disciplinary Sub-Committee.
- 11.7 The Independent Panel will provide the relevant Officer with an advance copy of the report in order that any representations can be made.
- 11.8 Full Council will then consider the recommendations of the Independent Panel and the conclusion of any investigation into the proposed dismissal. The Head

of Paid Service (Chief Executive), Monitoring Officer or Chief Finance Officer will be given the opportunity to make any representations. This will be considered as their appeal process. Full Council will then consider whether to uphold any recommended dismissal.

### **Notice of Dismissal**

- 12.1 Where the Officer to be dismissed is the Head of Paid Service (Chief Executive), the Monitoring Officer should be notified of the dismissal and any other particulars which are considered relevant to the dismissal.
- 12.2 Where the Officer to be dismissed is the Monitoring Officer or the Chief Finance Officer, the Head of Paid Service (Chief Executive) should be notified of the dismissal and any other particulars which are considered relevant to the dismissal.
- 12.3 The Elected Mayor and Cabinet will be consulted on any proposed dismissal of a Chief Officer and Deputy Chief Officer, other than those where the power of dismissal is reserved for Full Council. The Elected Mayor and Cabinet will be afforded a defined period to provide any views on the proposed dismissal.

### **Additional provisions relating to the Director of Public Health**

- 13.1 With regard to the dismissal of the Director of Public Health, if the Secretary of State believes that the Director of Public Health is not properly carrying out any Secretary of State function that has been delegated to the Council, the Secretary of State can direct the Council to review the Director of Public Health's performance, to consider what steps can be taken and to report back.
- 13.2 This power does not extend to the Director of Public Health's performance of the Council's own health improvement duties. The Council must consult the Secretary of State before dismissing its Director of Public Health. The Council may suspend its Director of Public Health from duty. The Secretary of State cannot veto its final decision on dismissal.

### **Involvement of Councillors in the disciplinary process**

- 14.1 Councillors or the Elected Mayor will not be involved in disciplinary action or dismissal against any Officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct.
- 14.2 Councillors and the Elected Mayor, as part of Full Council will be involved in the consideration and determination of disciplinary action or dismissal against the Head of Paid Service (Chief Executive), the Monitoring Officer and the

Chief Finance Officer of the Council following receipt of advice, views and recommendations from an Independent Panel.

- 14.3 Members of the Disciplinary Sub-Committee will be involved in the consideration and determination of disciplinary action or dismissal against the Head of Paid Service (Chief Executive) and Chief Officers.

## Part Eight - Officers

### Section C - Monitoring Officer Protocol

#### **General introduction to statutory responsibilities**

- 1.1 The Monitoring Officer is a statutory appointment pursuant to section 5 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged in the London Borough of Hackney.
- 1.2 The current responsibilities of the Monitoring Officer role rest with the Director of Legal, Democratic & Electoral Services, who undertakes to discharge their statutory responsibilities with a positive determination and in a manner that enhances the overall reputation of the Council.
- 1.3 The Monitoring Officer may appoint one or more Deputy Monitoring Officers if they consider that it would be conducive to the effective conduct of their statutory responsibilities.
- 1.4 A summary list of the statutory responsibilities appears in the table annexed to this document. In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on the Elected Mayor, Councillors and Officers:
  - (a) Complying with the law (including any relevant Codes of Conduct);
  - (b) Complying with any general guidance issued from time to time;
  - (c) Making lawful and proportionate decisions;
  - (d) Not taking action that would bring the Council, their offices or professions into disrepute; and
  - (e) Seeking early advice on issues relating to legal, constitutional or ethical matters.

#### **Working Arrangements**

- 2.1 The following arrangements and understandings between the Monitoring Officer, the Elected Mayor, Councillors and Chief Officers are designed to ensure the effective discharge of the Council's business and functions.

## 2.2 The Monitoring Officer will:-

- (a) Be alerted by the Elected Mayor, Councillors and Officers to any issue(s) that may become of concern to the Council, in particular issues around legal powers, ethical standards, probity, propriety, and procedural or other constitutional issues;
- (b) Have advance notice (including receiving Agendas, Minutes, Reports and related papers) of all relevant meetings of the Council, including joint bodies, partnerships, etc at which a binding decision of the Council may be made;
- (c) Have the right to attend, and be heard, at any meeting of the Council before any binding decision is taken by the Council;
- (d) In carrying out any investigation(s), have unqualified access to any information held by the Council and to any officer who can assist in the discharge of their functions;
- (e) Ensure the Head of Paid Service/Chief Executive and the s151 Officer are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, and procedural or other constitutional issues;
- (f) Meet regularly with the Head of Paid Service/Chief Executive and the s151 Officer to consider and recommend action in connection with corporate governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, and procedural or other constitutional issues;
- (g) Report to the Council, from time to time, on the Constitution and any necessary or desirable changes;
- (h) Report to the Council, as necessary, on the staff, accommodation and resources they require to discharge their statutory functions;
- (i) Maintain and keep up-to-date relevant statutory registers for the declaration of members' interests, gifts and hospitality;

## Relationships

3.1 The Monitoring Officer will develop effective working relationships to ensure the effective and efficient discharge of Council business with:

- (a) The Elected Mayor, Speaker, Group Leaders and Chairs of the committees, sub-committees and panels; and

- (b) The external Auditor, the Local Government and Social Care Ombudsman and the Housing Ombudsman;

3.2 The Monitoring Officer shall be responsible for preparing any training programme for the Elected Mayor and Councillors on ethical standards and Code of Conduct issues.

### **Monitoring the Protocol**

4.1 The Monitoring Officer will report to the Constitution Committee as and when necessary on whether:

- (a) The arrangements set out in this Protocol have been complied with; and
- (b) Any amendments to this Protocol are required in the light of issues which have arisen.

### **Conflicts**

5.1 Where the Monitoring Officer has received a complaint, or is aware of an event which may lead to them issuing a statutory report, relating to a matter upon which they have previously advised the Council, they shall consult the Chief Executive as to whether:

- (a) The matter should be referred to the Deputy Monitoring Officer for investigation and reporting; or
- (b) A neighbouring authority should be asked to make their Monitoring Officer available to investigate the matter and submit a report.

**Summary of Monitoring Officer Functions**

	<b>Description</b>	<b>Source</b>
1	Report on contraventions or likely contraventions of any enactment or rule of law.	Local Government & Housing Act 1989 ss 5, 5A (as inserted by SI 2001/2237).
2	Report on any maladministration or injustice where the Ombudsman has carried out an investigation.	Local Government & Housing Act 1989 ss 5, 5A (as inserted by SI 2001/2237).
3	Appointment of Deputy	Local Government & Housing Act 1989 s 5.
4	Power to delegate.	Local Government Act 2000 s 82A (as inserted by the Local Government Act 2003 s 113)
5	Report on resources	Local Government & Housing Act 1989 s5
6	Investigate misconduct in compliance with the Council's adopted Code of Conduct	Localism Act 2011 s 28
7	Establish and maintain registers of Members' interests and gifts and hospitality	Localism Act 2011 Chapter 7

	Description	Source
8	Key role in promoting and maintaining high standards of conduct through support to the Standards Committee.	Localism Act 2011 Chapter 7
9	Advice on vires issues, maladministration, financial impropriety, probity and policy framework and budget issues to all Members	Department for Communities & Local Government, Local Government & Social Care Ombudsman



## **Part Nine - Codes and Protocols**

### **Section A - Planning Code of Practice**

### **Section B - Licensing Code of Practice**

### **Section C - Protocol for Elected Mayor & Councillor / Officer Relations**

### **Section D - Protocol on the Governance of Council Interests in Companies**

### **Section E - Protocol on Remote Attendance at Council meetings**

## **Part Nine - Codes and Protocols**

### **Section A - Planning Code of Practice**

#### **Introduction**

- 1.1 Hackney has adopted a development plan that sets out how the Council intends the borough to evolve; this plan along with the Supplementary Planning Guidance describes what developments are likely to be permitted.
- 1.2 The planning process exists to ensure that developments are in line with the Borough's policies and while many minor applications are dealt with by officers under delegated authority, major schemes and those raising substantial objections are determined by the Planning Sub-Committee made up of elected Councillors.
- 1.3 The Planning Code of Practice provides guidance on how Councillors sitting on the Council's Planning Sub Committee must conduct themselves when determining any application before them, both in the lead up to and at the Sub-Committee meeting itself.
- 1.4 This Code is supplementary to the Councillor Code of Conduct which sets out the parameters for acceptable behaviour for Councillors. The Planning Code of Practice and the Councillor Code of Conduct should therefore be read side by side.
- 1.5 The Councillor Code of Conduct is set out at Part 5, Section A of the Constitution.
- 1.6 The key objectives of this Code are to ensure that Councillors sitting on the Planning Sub-Committee act reasonably and openly when dealing with matters that are before them and protect the Council and individual Councillors from allegations of unfairness, findings of maladministration and any legal challenge.
- 1.7 If at any time it appears that the rules and procedures set out in this document are not being followed, the Legal Adviser and / or Governance Services Officer will bring this to the attention of the Chair, who will take appropriate action. The matter may also be brought to the attention of the Director of Legal, Democratic and Electoral Services.

## **Failure to observe the Planning Code of Practice**

- 2.1 Failure by a Councillor to observe this Planning Code of Practice will be a breach of the Councillor Code of Conduct.

## **How to avoid a conflict of interest and still assist your constituents**

- 3.1 Planning Sub-Committee members have to retain an open mind on any application as they are a part of the decision-making process and cannot be seen to side with either the applicant or those who are making representations at the meeting at which the application would be determined. Adhering to the following rules will also ensure that public confidence in the Sub-Committee is maintained and serve to minimise the prospect of non-planning related matters affecting the judgement of Sub-Committee members
- 3.2 As decision makers, Sub-Committee members should neither be seen to be pre-judging the application before them for consideration, nor to be influenced by those with whom they have a special relationship, their political party or Councillors, at any stage prior to determination. Sub-Committee members should similarly avoid making public statements as to their support of, or opposition to, any application
- 3.3 Where Sub-Committee members receive lobbying material about an application coming before the Planning Sub-Committee through the post or by email, they should forward it to the Governance Service as soon as they realise it is lobbying material. If a Sub-Committee member is approached by an individual or an organisation in relation to a particular application on the agenda of an upcoming meeting, the Sub-Committee member should advise the person or organisation that it is not appropriate for them to personally comment on the application but that the person or organisation may:
- (a) Write to the Planning Service concerning the particular application who will then respond and update the person or organisation accordingly;
  - (b) Contact the Governance Service to request to speak at the Sub-Committee meeting. Such representation must be received by 4 pm the day prior to a Sub-Committee meeting. Any request to speak may be refused if the representation is not received by the deadline; and
  - (c) Contact an alternative Councillor who is not to be part of the Sub-Committee meeting at which the application may be heard.

- 3.4 Councillors should represent the best interests of Citizens. Sometimes they may find themselves in a difficult situation where they are sent lobbying material. If a Councillor finds themselves in such a situation, they need to decide whether they wish to sit on the Sub-Committee and hear the application or to represent the interests of their Citizens
- 3.5 Sub-Committee members can hear applications from within their particular ward.
- 3.6 If a Councillor is offered an inducement or is placed under pressure or is intimidated to make a decision in a particular way on an application, they must notify the Director of Legal, Democratic and Electoral Services.
- 3.7 If Sub-Committee members are under any doubt as to the implications of a view which they might have expressed or a role which they might have played on a planning matter before going to the Sub-Committee meeting, they should seek advice from the Director of Legal, Democratic and Electoral Services in advance of the relevant meeting or from the Legal Adviser to the Planning Sub-Committee before the meeting begins.

#### **When to declare an interest**

- 4.1 In line with the provisions of the Councillor Code of Conduct, every Councillor has a duty to notify the Council's Monitoring Officer in writing of any disclosable pecuniary interests they may have within 28 days of:
  - (a) The Code being adopted by Full Council; or
  - (b) The Councillor's election or appointment (if that is later).
- 4.2 In addition, subject to agreement with the Monitoring Officer that the interest is a sensitive one as defined in the Councillor Code of Conduct, a Councillor or voting co-optee has a duty, within 28 days of becoming aware of any new pecuniary interest or any change to any pecuniary interest notified to the Monitoring Officer, to notify the Council's Monitoring Officer in writing of that new pecuniary interest or change.

#### **Disclosable pecuniary interests**

- 5.1 As a Councillor, you have a disclosable pecuniary interest if it is of a description specified in regulations made by the Secretary of State and either:
  - (a) It is an interest of yours, or

- (b) It is an interest of:
- (i) your spouse or civil partner
  - (ii) a person with whom you are living as husband and wife, or
  - (iii) a person with whom you are living as if you were a civil partner and you are aware that that other person has the interest.

### **Pecuniary interests in matters considered at meeting**

- 6.1 If you attend a meeting including a Planning Sub-Committee meeting and are aware that you have a disclosable pecuniary interest in any matter to be considered, or being considered, at that meeting, you must - subject to paragraph 8.1 below - disclose that interest to the meeting
- 6.2 If any doubt exists in a Sub-Committee member's mind, they are advised to seek advice from the Director of Legal, Democratic and Electoral Services in advance of the Sub-Committee meeting, or from the Legal Adviser to the Sub-Committee before the start of the meeting. In the final analysis, the duty to declare and the decision as to whether an interest should be disclosed rests with the Councillor, not with Officers.

### **What to do when a disclosable pecuniary interest is declared?**

- 7.1 Once you have disclosed a pecuniary interest at the meeting, you may not – unless you have obtained a dispensation from the Council's Monitoring Officer:
- (a) Participate, or participate further, in any discussion of the matter at the meeting; or
  - (b) Participate in any vote, or further vote, taken on the matter at the meeting
- 7.2 Additionally, you will be excluded from a meeting while any discussion or vote takes place that you are not permitted to participate in, as a result of paragraph 6.1 above
- 7.3 Restrictions in paragraphs 7.1 and 7.2 above do not apply where you attend the meeting for the purposes of answering questions or otherwise giving evidence relating to that decision, action or matter.

## **Dispensations**

- 8.1 As a Councillor, you may submit a written request to the Monitoring Officer well in advance of meeting, for dispensation relieving you from the restrictions on a participation in and voting on a disclosable pecuniary interest subject to the provisions set out in the Councillor Code of Conduct. It should be noted that some requests may need to go to the Standards Committee.
- 8.2 It is important to note that the rules relating to declarations of interest apply equally to any Councillor who may from time to time wish to attend a meeting of the Planning Sub-Committee and speak on a particular matter. Each Councillor who attends a meeting must make an assessment of whether they have an interest in the matter under discussion, whether they intend to participate in proceedings or not. However, if a Councillor has a disclosable pecuniary interest, they must withdraw from the meeting room for the duration of the discussion on that item subject to paragraph 7.3 above where a Councillor wishes to answer questions or give evidence. However, if a Councillor who has a disclosable pecuniary interest does not wish to speak, they must leave the room when the agenda item is under discussion.

## **Predetermination or bias**

- 9.1 Planning Sub-Committee members must hear all planning applications with an open mind. They must not make up their mind on an application before they have heard the full application and any representations made for or against it
- 9.2 Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life, you should not be prohibited from participating in a decision in your political role as a Councillor. You may have even directly or indirectly expressed a view on a matter which may be relevant to a decision. However, you should avoid placing yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- 9.3 When making a decision in such situations, you should consider the matter with an open mind and on the facts before the meeting at which the decision is to be taken. If a Councillor has made up their mind before the meeting, they should not hear the application.
- 9.4 Where a planning matter is under consideration relating either to an external body that you sit on as a Councillor, or to an individual whom you actively engage in supporting, or an organisation which you actively engage in

supporting, then such an interest must be declared and you should not participate in the meeting to discuss or vote on the matter (see 'When to Declare an Interest' in paragraph 4.1 above). By becoming involved in a planning application prior to the Sub-Committee meeting other than to read the Planning Officer's report and any additional documentation provided, the Councillor risks the Sub-Committee decision being challenged or overturned on appeal.

### **Decision Making – Permitted Considerations**

- 10.1 Councillors should only consider the merits of an application as set out before the Sub-Committee, as allowed for under the relevant legislation, before determining whether or not to grant an application in full or in part. Sub-Committee Councillors must not give weight to non-planning matters that may be raised by any party involved in the Sub-Committee meeting.
- 10.2 Further, an applicant or objector may not raise any substantial new information at a meeting (including by way of correspondence, other documents or photographs) at the Sub-Committee meeting without due notice and agreement by the Chair of the Sub-Committee and all parties attending the meeting. Any attempt by applicants or objectors (or their agents) to introduce such information without the necessary agreement is not permitted.
- 10.3 Applications must be determined in accordance with the relevant legislation and the Council's planning policy statements.
- 10.4 If a decision of the Planning Sub-Committee is seen to be made on other than sound permitted grounds it could be open to legal challenge, and if the court deems the decision to be flawed, it may be overturned. This could have serious cost implications for the authority.
- 10.5 Any decision by the Sub-Committee must be substantiated by reasons, based on the relevant legislation and the Council's planning policy statements, and these must be agreed by the Sub-Committee and included in the minutes of the meeting by the Governance Officer.

### **Site Visits Protocol**

- 11.1 Councillors can ask a Planning Officer to arrange site visits in respect of applications to be determined by the Sub-Committee. Such visits may be with or without a planning Officer in attendance.

- 11.2 If a site visit is required the Planning Officer attending should advise the Governance Service of the time / date of the site visit, those Councillors in attendance and any other relevant information.
- 11.3 Councillors are reminded that they are required to retain an open mind on applications and must not preempt a decision when undertaking site visits.

### **Councillors' Training**

- 12.1 All Councillors who sit on the Planning Sub-Committee **MUST** attend appropriate and ongoing training before exercising their right to be involved in the decision-making process at a Sub-Committee meeting.

### **Behaviour at Meetings**

- 13.1 Councillors who sit on the Sub-Committee who are not present for the entirety of a particular item for whatever reason must refrain from participating in the discussion on that item and must not be involved in the decision-making process.
- 13.2 Councillors who sit on the Sub-Committee must be seen to act fairly. They must not discuss, or appear to discuss, any matter with members of the public during the course of the meeting or in the lead up to it.
- 13.3 Councillors who are not members of the Planning Sub-Committee may only speak at a Sub-Committee meeting if they have made a representation or are acting on behalf of someone who has. Councillors should sit separately from the Planning Sub-Committee members and they should declare whether they have had any contact with the applicant / objector / property owner or their agents and whether they are speaking on behalf of a third party and if so, who.
- 13.4 Councillors who are not members of the Planning Sub-Committee must not communicate with those who are part of the Sub-Committee in any other manner than that described above in the lead up to or during the course of the Sub-Committee meeting.

### **Political Whips**

- 14.1 Proceedings are quasi-judicial and should never run on party political lines. Councillors should neither be whipped nor lobbied by other Councillors. Councillors are advised that any political group meeting prior to the Planning Sub-Committee meeting must not be used to decide how Councillors will determine items before the Planning Sub-Committee meets.



## **Councillors as Community Advocates**

- 15.1 Councillors who are not sitting on the Planning Sub-Committee may represent the interests of their constituents at that Planning Sub-Committee meeting.
- 15.2 A Councillor may advocate on behalf of their constituents and may stay in the meeting room after making representations.
- 15.3 A Councillor who has a disclosable pecuniary interest in an application before the Planning Sub-Committee may speak at the meeting about their objection and their constituents' objections to the application, in regard to the licensing objectives. The Councillor must however, then leave the meeting room when the application is being considered unless they have been granted dispensation.

## **Breach of the Code**

- 16.1 Where a Councillor believes the Code has been breached, this must be brought to the attention of the Monitoring Officer.

## **Offences**

- 17.1 It is a criminal offence if a Councillor or voting co-optee fails, without reasonable excuse to disclose their own or their spouse's or civil partner's pecuniary interest within 28 days of their taking office or fails to disclose a disclosable pecuniary interest that they are aware of at a meeting where any matter to be considered relates to their interest.

## Part Nine - Codes and Protocols

### Section A - Licensing Code of Practice

#### Introduction

- 1.1 Hackney Council has adopted licensing policy statements under both the Licensing Act 2003 and Gambling Act 2005, which set out the Council's policies when providing permissions to those wishing to carry out relevant licensable activities within the Borough.
- 1.2 Licensable activities under the Licensing Act 2003 consist of the sale and supply of alcohol, regulated entertainment and late-night refreshment. The Gambling Act 2005 defines gaming, betting and certain types of lotteries, as licensable activities.
- 1.3 The legislation has laid down procedures and rules governing how all parties should conduct themselves before and during a Sub-Committee meeting.
- 1.4 The Licensing Code of Practice provides guidance on how Councillors on the Council's Licensing Committee must conduct themselves when determining any application before them, both in the lead up to and at the Sub-Committee meeting itself.
- 1.5 This Code is supplementary to the Councillor Code of Conduct which sets out the parameters for acceptable behaviour for Members. The Licensing Code of Practice and the Councillor Code of Conduct should therefore be read side by side.
- 1.6 The Councillor Code of Conduct is set out at Part 5, Section A of the Constitution.
- 1.7 The key objectives of this Code are to ensure that Councillors of the Licensing Sub-Committee act reasonably and openly when dealing with matters that are before them and protect the Council and individual Councillors from allegations of unfairness, findings of maladministration and any legal challenge.
- 1.8 If at any time it appears that the rules and procedures set out in this document are not being followed, the Legal Adviser and / or Governance Services Officer will bring this to the attention of the Chair, who will take appropriate action. The matter may also be brought to the attention of the Director of Legal, Democratic and Electoral Services.

#### Failure to observe the Licensing Code of Practice

- 2.1 Failure by a Councillor to observe this Licensing Code of Practice will be a breach of the Councillor Code of Conduct.

## How to avoid a conflict of interest and still assist your constituents

- 3.1 Sub-Committee members have to retain an open mind on any specific application before them for consideration as they are a part of the decision making process and cannot be seen to side with either the applicant or those who are making representations at the meeting at which the application would be determined. Adhering to the following rules will also ensure that public confidence in the Sub-Committee is maintained and serve to minimise the prospect of non-licensing related matters affecting the judgement of Sub-Committee members.
- 3.2 As decision makers, Licensing Sub-Committee members should neither be seen to be pre-judging the application before them for consideration, nor to be influenced by those with whom they have a special relationship, their political party or Councillors, at any stage prior to determination. Sub-Committee members should similarly avoid making public statements as to their support of, or opposition to, any application.
- 3.3 Where Sub-Committee members receive lobbying material about an application coming before the Licensing Sub-Committee through the post or by email, they should forward it to the Governance Service as soon as they realise it is lobbying material. If a Sub-Committee member is approached by an individual or an organisation in relation to a particular application on the agenda of an upcoming meeting, the Sub-Committee member should advise the person or organisation that it is not appropriate for them to personally comment on the application but that the person or organisation may:
  - (a) Write to the Licensing Service concerning the particular application who will then respond and update the person or organisation accordingly;
  - (b) Contact the Governance Service to request to speak at the Sub-Committee meeting, provided that they have written to the Licensing Service making a representation against the application; and
  - (c) Contact an alternative Member of the Council who is not to be part of the Sub-Committee meeting at which the application may be heard.
- 3.4 Councillors should represent the best interests of Citizens. Sometimes they may find themselves in a difficult situation where they are sent lobbying material. If a Councillor finds themselves in such a situation, they need to decide whether they wish to sit on the Sub-Committee and hear the application or to represent the interests of their Citizens.

- 3.5 Although ward Councillors who wish to make representations to the Sub-Committee may do so, they cannot hear applications within their particular ward.
- 3.6 If a Councillor is offered an inducement or is placed under pressure or is intimidated to make a decision in a particular way on an application, they must notify the Director of Legal, Democratic and Electoral Services.
- 3.7 If Sub-Committee members are under any doubt as to the implications of a view which they might have expressed or a role which they might have played on a licensing matter before going to the Sub-Committee meeting, they should seek advice from the Director of Legal, Democratic and Electoral Services in advance of the relevant meeting or from the Legal Adviser to the Licensing Sub-Committee before the meeting begins.

### **When to declare an interest**

- 4.1 In line with the provisions of the Councillor Code of Conduct, every Councillor has a duty to notify the Council's Monitoring Officer in writing of any disclosable pecuniary interests they may have within 28 days of:
  - (a) The Code being adopted by Full Council; or;
  - (b) The Member's election or appointment (if that is later).
- 4.2 In addition, subject to agreement with the Monitoring Officer that the interest is a sensitive one as defined in the Councillor Code of Conduct, a Councillor or voting co-optee has a duty, within 28 days of becoming aware of any new pecuniary interest or any change to any pecuniary interest notified to the Monitoring Officer, to notify the Council's Monitoring Officer in writing of that new pecuniary interest or change.

### **Disclosable pecuniary interest**

- 5.1 As a Councillor, you have a disclosable pecuniary interest if it is of a description specified in regulations made by the Secretary of State and either:
  - (a) It is an interest of yours, or
  - (b) It is an interest of:
    - (i) your spouse or civil partner
    - (ii) a person with whom you are living as husband and wife, or
    - (iii) a person with whom you are living as if you were a civil partner and you are aware that that other person has the interest.

## **Pecuniary interests in matters considered at meetings**

- 6.1 If you attend a meeting including a Licensing Sub-Committee meeting and are aware that you have a disclosable pecuniary interest in any matter to be considered, or being considered, at that meeting, you must - subject to paragraph 8.1 below - disclose that interest to the meeting.
- 6.2 If any doubt exists in a Sub-Committee member's mind, they are advised to seek advice from the Director of Legal, Democratic and Electoral Services in advance of the Sub-Committee meeting, or from the Legal Adviser to the Sub-Committee before the start of the meeting. In the final analysis, the duty to declare and the decision as to whether an interest should be disclosed rests with the Councillor, not with Officers.

## **What to do when a disclosable pecuniary interest is declared?**

- 7.1 Once you have disclosed a pecuniary interest at the meeting, you may not – unless you have obtained a dispensation from the Council's Monitoring Officer:
- Participate, or participate further, in any discussion of the matter at the meeting; or;
  - Participate in any vote, or further vote, taken on the matter at the meeting.
- 7.2 Additionally, you will be excluded from a meeting while any discussion or vote takes place that you are not permitted to participate in, as a result of paragraph 6.1 above.
- 7.3 Restrictions in paragraphs 7.1 and 7.2 above do not apply where you attend the meeting for the purposes of answering questions or otherwise giving evidence relating to that decision, action or matter.

## **Dispensation**

- 8.1 As a Councillor, you may submit a written request to the Monitoring Officer well in advance of meeting, for dispensation relieving you from the restrictions on a participation in and voting on a disclosable pecuniary interest subject to the provisions set out in the Councillor Code of Conduct. It should be noted that some requests may need to go to the Standards Committee.
- 8.2 It is important to note that the rules relating to declarations of interest apply equally to any Councillor who may from time to time wish to attend a meeting of the Licensing Sub-Committee and speak on a particular matter. Each Councillor who attends a meeting must make an assessment of whether they have an interest in the matter under discussion, whether they intend to participate in proceedings or not. However, if a Councillor has a disclosable

pecuniary interest, they must withdraw from the meeting room for the duration of the discussion on that item subject to paragraph 7.3 above where a Councillor wishes to answer questions or give evidence. However, if a Councillor who has a disclosable pecuniary interest does not wish to speak, they must leave the room when the agenda item is under discussion.

### **Predetermination or bias**

- 9.1 Councillors must hear all licensing applications with an open mind. They must not make up their mind on an application before they have heard the full application and any representations made for or against it.
- 9.2 Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life, you should not be prohibited from participating in a decision in your political role as a Councillor. You may have even directly or indirectly expressed a view on a matter which may be relevant to a decision. However, you should avoid placing yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- 9.3 Where a licensing matter is under consideration relating either an external body that you sit on as a Councillor, or an individual whom you actively engage in supporting, or an organisation which you actively engage in supporting, then such an interest must be declared and you should not participate in the meeting to discuss or vote on the matter (see 'When to Declare an Interest' in paragraph 4.1 above). By becoming involved in a licensing application prior to the Sub-Committee meeting other than to read the Licensing Officer's report and any additional documentation provided, the Councillor risks the Sub-Committee decision being challenged or overturned on appeal.

### **Decision Making – Permitted Considerations**

- 10.1 Councillors should only consider the merits of an application as set out before the Sub-Committee, as allowed for under the relevant legislation, before determining whether or not to grant an application in full or in part. Sub-Committee members must not give weight to non-licensing matters that may be raised by any party involved in the Sub-Committee meeting.
- 10.2 Further, an applicant or objector may not raise any substantial new information at a meeting (including by way of correspondence, other documents or photographs) at the Sub-Committee meeting without due notice and agreement by the Chair of the Sub-Committee and all parties attending the meeting. Any attempt by applicants or those making representations (or their agents) to

introduce such information without the necessary agreement is not permitted under the hearing regulations.

- 10.3 Applications must be determined in accordance with the relevant legislation and the Council's licensing policy statement(s).
- 10.4 If a decision of the Licensing Sub-Committee is seen to be made on other than sound permitted grounds it could be open to legal challenge, and if the court deems the decision to be flawed, it may be overturned. This could have serious cost implications for the authority.
- 10.5 Any decision by the Sub-Committee must be substantiated by reasons, based on the relevant legislation and the Council's licensing policy statement, and these must be agreed by the Sub Committee and included in the minutes of the meeting by the Governance Officer.

### **Site Visits Protocol**

- 11.1 Councillors are advised against attending site visits, unless its absolutely necessary, as the decisions are based on the application made and the representations received, which is then determined following a discussion at the Sub-Committee meeting.
- 11.2 If in exceptional circumstances a site visit is required the Member attending should advise Governance Services of the time/date of the site visit, those Councillors in attendance and any other relevant information.
- 11.3 Councillors are reminded that they are required to retain an open mind on applications and must not discuss pre-empt a decision when undertaking site visits.

### **Pre-meeting Meetings**

- 12.1 It is generally a good practice to have a pre-meeting of Councillors of the Licensing Committee and officers to clarify issues and to consider additional documents submitted by applicants and objectors. However, Members are advised to maintain an open mind and not to make a decision on any application at the pre-meeting.

### **Members' Training**

- 13.1 All members of the Licensing Committee **MUST** attend appropriate and ongoing training before exercising their right to be involved in the decision-making process at a Sub-Committee meeting.

## **Behaviour at Meetings**

- 14.1 Members of the Sub-Committee who are not present for the entirety of a particular item for whatever reason must refrain from participating in the discussion on that item and must not be involved in the decision-making process.
- 14.2 Members of the Sub-Committee must be seen to act fairly. They must not discuss, or appear to discuss, any matter with members of the public during the course of the meeting or in the lead up to it. Nor should Councillors accept letters or documents from members of the public at any time before or during the meeting, in case this is misinterpreted.
- 14.3 Councillors who are not members of the Licensing Sub-Committee may only speak at a Sub-Committee meeting if they have made a representation or are acting on behalf of someone who has. Councillors should sit separately from the members of the Licensing Sub-Committee and they should declare whether they have had any contact with the applicant / representor / responsible authority or their agents and whether they are speaking on behalf of a third party and if so, who.
- 14.4 Councillors who are not members of the Licensing Sub-Committee must not communicate with the members who are part of the Sub-Committee in any other manner than that described above in the lead up to or during the course of the Sub-Committee meeting.

## **Political Whip**

- 15.1 Licensing Sub-Committee proceedings are quasi-judicial and should never run on party political lines. Councillors sitting on Licensing Sub-Committee's should neither be whipped nor lobbied by other Members. Licensing Sub-Committee Councillors are advised that any political group meeting prior to the Licensing Sub-Committee meeting must not be used to decide how Councillors will determine items before the Licensing Sub-Committee meets.

## **Members as Community Advocates**

- 16.1 Councillors who are not sitting on the Licensing Sub-Committee may represent the interests of their constituents at that Licensing Sub-Committee meeting.
- 16.2 A Councillor may advocate on behalf of their constituents and may stay in the meeting room after making representations.
- 16.3 A Councillor who has a disclosable pecuniary interest in an application before the Licensing Sub-Committee may speak at the meeting about their objection and their constituents' objections to the application, in regard to the licensing



objectives. The Councillor must however, then leave the meeting room when the application is being considered unless they have been granted dispensation.

### **Breach of the Code**

17.1 Where a Councillor believes the Code has been breached, this must be brought to the attention of the Monitoring Officer.

### **Offences**

18.1 It is a criminal offence if a Councillor or voting co-optee fails, without reasonable excuse to disclose their own or their spouse's or civil partner's pecuniary interest within 28 days of their taking office or fails to disclose a disclosable pecuniary interest that they are aware of at a meeting where any matter to be considered relates to their interest.

**Part 9 - Codes and Protocols**  
**Section C - Protocol for Elected Mayor & Councillor/Officer Relations**

<b>Elected Mayor and Councillors</b>		<b>Officers</b>
Democratically elected representatives who set the Council's budget and policies		Politically neutral staff who are employed to manage and deliver services using their skills and professional knowledge
<b>The Elected Mayor and Councillors will:</b>		<b>Officers will:</b>
Respect employed staff and recognise professional boundaries	<i>Working Together</i>	Be sensitive to issues, including operational and political sensitivities and be focussed on solutions
Encourage constructive challenge from officers	<i>Determination</i>	Take responsibility for their actions and outcomes
Consider the advice from professional officers	<i>Empowerment and respect</i>	Listen to and respect the insight of the Elected Mayor and Councillors
Embrace innovation and celebrate success	<i>Excellence</i>	Make recommendations based on evidence
Engage with officers in an honest and straightforward way	<i>Simplicity</i>	Be honest and open with the Elected Mayor and Councillors
Recognise legal and financial constraints	<i>Accountability</i>	Understand the constraints that the Elected Mayor and Councillors operate under

## **Introduction**

- 1.1 The Council has produced this Protocol to promote the highest standards in public life and harmonious working relationships.
- 1.2 This Protocol recognises the varied and complex relationships between the Elected Mayor, Councillors and Officers.
- 1.3 If the Protocol is followed, it should frame the effective working relationship that is essential to the successful operation of the Council's business. Mutual trust, respect and understanding between the Elected Mayor, Councillors and Officers is crucial.
- 1.4 The Protocol also applies to dealings between voting and non-voting co-opted members and Officers.

## **The Relationship: General Points**

- 2.1 The Elected Mayor, Councillors and Officers all serve the public and they are indispensable to one another however their responsibilities are distinct. The Elected Mayor and Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council as a whole, not to any political group; their job is to advise the Elected Mayor, Councillors and the Council and to carry out the Council's work under the direction and control of the Council, the Cabinet, their committees and sub-committees.
- 2.2 Mutual respect is at the heart of this Protocol. It is therefore important that dealings between the Elected Mayor, Councillors and Officers should be courteous and neither party should seek to take unfair advantage of their position or exert undue influence on the other.

## **Obligations on Elected Mayor and Councillors**

- 3.1 The Elected Mayor and Councillors must comply with the Council's adopted Councillor Code of Conduct, as set out in Part 7, Section A of this Constitution.
- 3.2 The Elected Mayor and Councillors must not do anything that compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Council.
- 3.3 The Elected Mayor and Councillors must not disclose information given to them in confidence, or information they believe to be confidential, unless they have authorisation to do so, or are required to do so by law. They must not

prevent another person from gaining access to information to which they are entitled by law.

- 3.4 The Elected Mayor and Councillors must use any Council facilities provided for them in their role as an elected member strictly for that purpose and no other.
- 3.5 The Council employs certain Officers to assist the Elected Mayor and Councillors in their role. These Officers must not be asked to assist with any personal, business or party-political matter and any inappropriate requests for assistance will be referred to their Head of Service. The exception to this rule is any duly appointed Political Assistant(s), who may assist with party political matters.
- 3.6 The Elected Mayor and Councillors are under an obligation to disclose personal interests in accordance with the Councillor Code of Conduct. They must register financial and other interests as well as gifts and hospitality as set out in the Councillor Code of Conduct.
- 3.7 The Elected Mayor and Councillors have a duty to act reasonably when taking part in the Council's decision-making processes. They must:
  - (a) Read all relevant papers provided;
  - (b) Declare any interests necessary in accordance with the Code of Conduct;
  - (c) Take into account any legal or financial advice provided;
  - (d) Take into account all relevant considerations, and disregard anything which is not relevant;.
- 3.8 The Elected Mayor and Councillors control the Council's assets and finances. They are in a position of trust and the law imposes on them a fiduciary duty to act in the best interests of all the people of Hackney.

### **Relationship between the Elected Mayor, Councillors and Officers**

- 4.1 Relationships with a particular individual or party groups should not be such as to create suspicion that an officer favours that individual or party group above others. Officers may be a member of a political party, but if an Officer is in a politically restricted post they may not have an active political role or stand for elected office.

- 4.2 Any close personal or family relationships between Officers and the Elected Mayor or Councillors should be disclosed to the Chief Executive who will decide how far this needs to be disclosed to others. The Elected Mayor and Councillors must also declare any relationship with an Officer which might be seen as influencing their work to their party whip.
- 4.3 Generally, a close relationship between the Elected Mayor or Councillors and a senior Officer is incompatible with the high standards of public life promoted by the Council and should be avoided. Such relationships may put the Elected Mayor or Councillor and the Officer in a position to exercise improper influence over the workings of the Council. Even if there is no actual impropriety, the situation may give rise to suspicion and the public may perceive that the opportunity for improper influence exists.
- 4.4 Close personal familiarity between the Elected Mayor or Councillors and Officers can damage professional relationships and prove embarrassing to other elected members and Officers. Officers should refer to the Elected Mayor and Councillors by the title of the office they hold; for example, Mayor, Speaker, Chair, Vice-Chair, or Councillor. The Elected Mayor and Councillors should similarly avoid excessive informality and should refer to Officers either by their title or by their full name.
- 4.5 The same degree of formality is not necessary at any social events that The Elected Mayor and Councillors attend with Officers. Nevertheless, people attending events should be mindful that close personal familiarity could embarrass others or damage the professional relationship.

## **The Role of Elected Mayor and Councillors**

- 5.1 The Elected Mayor and Councillors:
- (a) Develop and set policies that will then be implemented by Officers.
  - (b) Monitor how those policies are being implemented.
  - (c) Where their office allows them to do so, provide guidance to Officers on how those policies are to be implemented, either if Members wish to do so or if Officers ask for guidance.;
  - (d) Represent the views of their communities and ward constituents, and deal with individual casework.
  - (e) Recognise the statutory roles of the:
    - Chief Executive as Head of Paid Service;

- Group Director, Finance and Corporate Resources as Section 151 Officer;
- Director of Legal, Democratic & Electoral Services as Monitoring Officer;
- Group Director, Children and Education (the DCS)
- Group Director of Adults, Health and Integration (the DASS); and
- Director of Public Health.

These Statutory Chief Officers have responsibilities in law over and above their obligations to the Authority which they must be allowed to discharge.

- (f) Consult with the communities they represent on the development of policy, particularly Best Value Reviews, the Best Value Performance Plan, Community Planning and other local initiatives.
- (g) Consult with the Monitoring Officer and the Section 151 Officer about vires, maladministration, financial impropriety and probity or where they have any doubt as to whether the particular decisions are, or are likely to be, contrary to the policy framework or the law or contrary to, or not wholly in accordance with the budget.
- (h) Respect Officers' political impartiality.
- (i) Promote the highest standards of conduct and ethics.

5.2 The Elected Mayor and Councillors must not insist that any Officer take any action, or not take action, that the Officer considers unlawful or illegal; is in direct contradiction of any code or guidance, contrary to the Council's budget or policy framework, or which would be likely to amount to maladministration.

## **The Role of Officers**

6.1 Officers:

- (a) Implement the policies set by the Elected Mayor and Councillors.
- (b) Will ask for guidance on implementation of the policies set by the Elected Mayor and Councillors if they are unclear about any aspect of those policies.
- (c) Give such professional advice to the Elected Mayor and Councillors as may be required of them from time to time, recognising the

different needs for advice there may be depending upon the role of the Elected Mayor and Councillors.

- (d) Carry out their delegated functions to the best of their ability and in the interests of the Council.
- (e) Must remember that they are employed by the London Borough of Hackney as a whole and not by any particular part of the Council.
- (f) Are under a duty to help all the Elected Mayor and Councillors, Co-opted Members and all parts of the Council equally.
- (g) Must take all relevant matters into account when formulating advice to the Elected Mayor and Councillors.

## 6.2 Officers must not:

- (a) Set policy other than for the smooth running of office procedures and processes and as may have been delegated under the Council's Constitution and Scheme of Delegations.
- (b) Take any action, or not take action, which would be unlawful or illegal, is in direct contradiction of any code or guidance, contrary to the Council's budget or policy framework, or which would be likely to amount to maladministration.

## Expectations

### 7.1 The Elected Mayor and Councillors can expect from Officers:

- (a) A commitment to the Authority as a whole, and not to any political group or individual Member;
- (b) A working partnership;
- (c) An understanding of and support for respective roles, workloads and pressures;
- (d) Timely response to enquiries and complaints in accordance with agreed standards and processes;
- (e) Professional advice not influenced by political views or preference, which does not compromise the political neutrality of employees;
- (f) Regular, up to date information and discussion on matters that can reasonably be considered appropriate and relevant to their needs,

having regard to any individual responsibilities that they have and positions that they hold;

- (g) Awareness of and sensitivity to the political environment in which they are working;
- (h) Respect, dignity and courtesy;
- (i) Training and development in order to carry out their role effectively
- (j) Integrity, mutual support and appropriate confidentiality;
- (k) That Officers will not use the relationship to advance their personal interests or to influence decisions improperly;
- (l) That Officers will at all times comply with the Code of Conduct for Employees.

7.2 Officers can expect from the Elected Mayor and Councillors:

- (a) A working partnership;
- (b) An understanding of and support for respective roles, workloads and pressures;
- (c) An understanding and knowledge of the local area and a willingness to share this with staff;
- (d) Political leadership and direction;
- (e) Respect, dignity and courtesy;
- (f) Integrity, mutual support and appropriate confidentiality;
- (g) Not to be subject to bullying or harassment or to be intimidated or put under undue pressure or improper influence and that regard will be had to the power relationship between the Elected Mayor, Councillor and employee and the potential vulnerability of staff, particularly at junior levels.
- (h) That the Elected Mayor and Councillors will not use their position or relationship with Officers to advance their personal interests or those of others or to influence decisions improperly
- (i) That Elected Mayor and Councillors will at all times comply with the Councillor Code of Conduct.



## **Relationship between the Chair and Members of the Scrutiny Panel and Commissions and Officers**

8.1 The Chair and members of the Council's Scrutiny Panel and Commissions and related bodies must:

- (a) Seek the advice of the Monitoring Officer where they consider there is doubt about the lawfulness of a decision, or the Monitoring Officer or the s151 Officer where they consider a decision of the Elected Mayor or the Cabinet might be contrary to the budget and policy framework.
- (b) When considering calling Officers to give evidence, liaise with the relevant Director or Chief Officer as to the most appropriate Officer to attend.
- (c) When asking Officers to give evidence, confine questions, so far as possible, to questions of fact and explanation relating to policies and decisions. Officers may be asked to give a professional opinion, but Officers must not be asked questions relating to political views.
- (d) Where they consider it appropriate, ask Officers to explain and justify advice given to executive members prior to decisions being undertaken and justify decisions they themselves have taken under the Council's Constitution, and their response to consultations under the Scheme of Delegations.
- (e) Not question Officers in such a way as to be in breach of the Council's policy on harassment nor deal with matters which are of a personal or disciplinary nature.
- (f) At all times respect the political impartiality of the Officers.

8.2 Officers must:

- (a) Maintain political impartiality at all times when commenting on the Cabinet's/Council's policies and actions.
- (b) Be prepared to explain and justify advice given to Councillors of the Cabinet and the Council prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution and Scheme of Delegations.
- (c) Ensure that appropriate Officers appear before the relevant panel.

## **Relationship between the Chair and Members of Committees and Officers**

9.1 The Chair and Members of Council Committees must give Officers the opportunity to present any report and give any advice they wish to present or give.

## **Officer Relationships with Party Groups**

10.1 When dealing with the various party groups:

- (a) Any request for information to/from a political group or elected member must be treated with strict confidence by the Officers concerned and will not be accessible to any other political group. Factual information will, if requested, be available to all political groups.
- (b) Officers shall exercise care when giving briefings or commenting on the policies and actions of the Cabinet or any of the Council's Committees or panels and maintain political impartiality at all times.

10.2 When acting in party groups, and dealing with Officers, the Elected Mayor and Councillors must:

- (a) Recognise that Party Groups are not empowered to make decisions on behalf of the Council.
- (b) Ensure they do not do anything that may compromise Officer impartiality.
- (c) Ensure that confidential matters are not divulged to non-Councillors.

## **Councillors in their Ward Role**

11.1 When acting in their ward role, Councillors

- (a) Need to be mindful of their competing roles, i.e. acting for the Council and acting for constituents, and the possible conflicts of interest that can arise and the pressure this can bring on Officer time.
- (b) Recognise the Officers' right to suggest that senior Officers, the Cabinet, Council, or a Committee/Commission need to authorise additional work requested by individual Councillors.

## **Complaints about Officers or services**

- 12.1 The Elected Mayor and Councillors have the right to be critical about reports or the actions taken by Officers, but they should always;
- (a) Avoid personal attacks on Officers; and
  - (b) Ensure that criticism is constructive and well-founded.
- 12.2 The Elected Mayor and Councillors should avoid undermining respect for Officers at meetings, or in any public forum. This would be damaging, both to effective working relationships and to the public image of the Council. It would also undermine the mutual trust and courtesy that is an essential element of a well-run authority.

## **Member Access to Documents and Information**

- 13.1 The rights of the Elected Mayor and Councillors with regards to accessing information is dealt with in the Elected Mayor's and Councillors' Rights to Access Information in Part 7, Section D of this Constitution.

## **Publicity and Press Releases**

- 14.1 Councils are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Council, explaining its objectives and policies to the electors and Council Tax payers. Councils use publicity to keep the public informed and to encourage public participation. Good, effective publicity aimed to improve public awareness of a Council's activities is to be welcomed.
- 14.2 Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that local authority decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a Code of Recommended Practice on Local Authority Publicity. It is therefore essential that any decisions about publicity take the provisions of this Code into account. Particular care is required before and during election (known as the "pre-election period"), and advice on this is provided by the Monitoring Officer.
- 14.3 All Council press releases:
- (a) Should be in accordance with the Council's agreed Media Guidelines; and

- (b) Should be issued through the Council's Communications Team.

## **Correspondence**

- 15.1 When Councillors are writing in their capacity as a Councillor, they must make it clear whether they are writing on behalf of the Council or as the ward Member. All letters sent on behalf of the Council must be written on the relevant headed paper. All emails should be sent via the corporate Hackney email.
- 15.2 Correspondence may be subject to disclosure under the Freedom of Information Act/Environmental Information Regulations. Where correspondence is confidential, this should be clearly stated. For example, correspondence written in connection with legal proceedings; contractual matters; any other matter where papers can remain 'exempt' within the meaning of Schedule 12A to the Local Government Act 1972.

## **If things go wrong**

- 16.1 From time to time the relationship may break down or become strained. In such cases, it will always be preferable to resolve matters informally.

### Procedure for Elected Mayor and Councillors

- 16.2 In the event that the Elected Mayor or Councillor is dissatisfied with the conduct, behaviour or performance of an Officer then they should raise the matter with the appropriate Group Director. Where the matter concerns a Group Director, it should be raised with the Chief Executive. Where the matter concerns the Chief Executive it should be raised with the Elected Mayor. The Elected Mayor may raise concerns about the Chief Executive with the Monitoring Officer.
- 16.3 If the Elected Mayor or any Councillor is concerned about the way a service or part of it is performing as opposed to the conduct of a specific Officer, and if the concerns cannot be resolved through discussion with the manager of the service, then this should be raised with the Chief Executive.

### Procedure for Officers

- 16.4 If an Officer wishes to raise a concern about the behaviour of the Elected Mayor or a Councillor they can either escalate it to their line manager, Group Director or to the Council's Monitoring Officer, as appropriate to the circumstances. Officers also may use the Council's Whistleblowing Procedure.

- 16.5 Having been notified of a concern in this way, the line manager, Group Director or Monitoring Officer will take appropriate action, including approaching the person concerned and raising with the Group Leader and/or Whip or referring the matter to the Monitoring Officer where there is a potential breach of the Code of Conduct.
- 16.6 Group Leaders and Whips should promote a positive atmosphere of trust, respect and understanding and must be prepared to deal with and seek to resolve any reported incidents of breaches of this Protocol by their Group Members. In the event of receiving a report of this nature, a Group Leader and/or Whip will actively consider the matter and seek to achieve a satisfactory outcome, reporting that outcome to the Officer who reported the issue.

#### **Advice on the application of the Protocol**

- 17.1 Advice on the application of this Protocol should be sought from either the Head of the Paid Service (the Chief Executive) or the Monitoring Officer.

## Part Nine - Codes and Protocols

### Section D - Protocol on the Governance of Council Interests in Companies

#### Introduction

- 1.1 It is imperative that companies in which the Council has an interest are set up, managed and run according to the rules of good governance in order to mitigate risk.
- 1.2 The Local Authorities (Goods and Services) Act 1970 authorises councils to enter into agreements with other local authorities and other designated public bodies, for the provision of goods, materials and administrative, professional and technical services, for the use of vehicles, plant and apparatus and associated staff, and for the carrying out of maintenance.
- 1.3 The Local Government Act 2003 added new possibilities to charge for services, to both provide extra services at cost and to trade with the private sector. Under the 2003 Act, the Government authorised trading by means of a trading order. The current trading order permits all councils in England to trade or "to do for a commercial purpose", anything which they are authorised to do for the purpose of carrying on their ordinary functions, which includes the Council's general power of competence under the Localism Act 2011. Councils are therefore permitted to trade with the private sector for a profit; these profits may then go back to the council through dividends or service charges.
- 1.4 The law prescribes that the Council must use a company where it wishes to do things for a commercial purpose.
- 1.5 Anyone within the Council intending to set up a company should refer to the published Alternative Service Delivery Vehicle Framework Management Handbook.
- 1.6 Before a company is established:
  - (a) Legal, financial and audit advice must be taken
  - (b) A robust business case must be prepared covering the objectives of the business; the investment and other resources required to achieve those objectives; any risks the business might face and how significant these risks are; and the expected financial results of the business, together with any other relevant outcomes that the business is expected to achieve. Where the company is intending to exercise the power to trade pursuant to the Local Government Act 2003, the

business case must also contain enough detail to satisfy the requirements of the Act.

- 1.7 All listed companies are subject to the UK Corporate Governance Code. The Council expects all of its companies and any subsidiaries to adopt the “comply or explain” approach of the UK Corporate Governance Code as a demonstration of best practice in corporate governance.

### **Controls and Freedoms**

- 2.1 It is recognised that a trading company needs to be given commercial freedoms to enable it to succeed. Governance arrangements will seek to ensure that:
- (a) The company will be provided with sufficient freedoms to achieve its objectives; and
  - (b) The Council will retain sufficient controls to ensure that its investment is protected, that appropriate social and financial returns on investment can be obtained and that the trading activities of the companies are conducted in accordance with the values of the Council.

### **Relationship, Integrity and Accountability**

- 3.1 Whilst a company operates in a way which protects that company’s commercial interests, the Council must carry out its functions as an investor in a way which pays due respect to the responsibilities it has as a local authority. Governance arrangements will seek to ensure that:
- (a) The Council makes investment decisions based upon complete and accurate consideration of business cases and business plans;
  - (b) The Council evaluates social and financial benefits and returns on investment; and
  - (c) The Council exercises its powers in relation to the reviewing of decision making in a manner that ensures the companies can provide full and frank financial and business reporting against their business plans and be open to an appropriate level of scrutiny without fear of commercial confidentiality being breached.

### **Understanding of role**

- 4.1 As companies have a separate legal personality to the local authority, the success and good governance of the company depends upon those involved

understanding their role and responsibilities collectively and individually. Governance arrangements will ensure that there is sufficient induction, training and other materials in place so that:

- (a) Legal duties;
- (b) Stewardship of assets;
- (c) The provisions of the governing documents;
- (d) The external environment; and
- (e) The total structure of the organisations and the venture

are appropriately understood by the Elected Mayor and Councillors, by officers of the Council and by the directors of the companies.

### **Ownership and control of the company**

- 5.1 The London Borough of Hackney, in its capacity as the local authority as a corporate body, will be a member of the company. The membership will be as guarantor if a company is limited by guarantee or, as will be the norm for local authority trading companies (LATC), the holder of shares (perhaps the only share) in a company limited by shares.
- 5.2 The rights and duties as a member of the company will, however, almost always fall to be exercised as a corporate responsibility. This means that decisions to be taken by the Council as a member of the company (as shareholder) fall to be decided on in the normal way. That is by the executive (Elected Mayor and Cabinet) or by an Officer if appropriate powers have been delegated. Decisions taken by the Council will be subject to access to information rules.
- 5.3 The authority of the shareholder is exercised where decisions of the company are reserved for approval of the Council before they can be implemented, but also directly in the form of a shareholder's written resolution or at the company's general meetings.
- 5.4 At the company general meetings the Council will be present and voting as a member of the company, where this presence and voting will be in the form of a single person known as the 'shareholder representative'.
- 5.5 Decisions to be made by the Council, rather than left to the company itself, are known as 'reserved matters'. Reserved matters cover such things as the approval of the company's annual business plan or mid-year amendments to it, the appointment of directors, certain key financing decisions and so forth.



These are established either through agreement with the company, known as a shareholders' agreement, or as set out in the company's governing articles of association.

5.6 The relationship between the local authority (and the companies it is a member of) is governed by key documents that are required to establish a local authority company, and a trading company in particular. In establishing the local authority's company and then in governing the relationship with what is now a separate legal personality, the Council will need to put in place the following documents:

- (a) The **business case** which assesses the risk involved in the proposed trading enterprise and decides whether or not it should be established and proceed to trade. It starts the process of business planning.
- (b) The **articles of association**, or the memorandum and articles of association as it used to be called, which is the constitution of the company. This is the legal document required to set up a limited company and give details of its name, aims and authorised share capital, conduct of meetings, appointment of directors and registered office.
- (c) The **shareholders agreement**, or management agreement, which sets out the rights of the Council as the sole or co-shareholder and how it can exercise those rights. It details the powers of the board of the company and how and when the shareholder might influence those powers. It is important to note that the shareholder agreement is capable of being developed and added to as the company develops.
- (d) The **financial agreements** which are the commercial agreements that set out what assistance is to be provided and on what terms. This may be purely financial, such as a direct loan or a facility such as a parental guarantee, and made on commercial terms. It may also be in the form of goods, services or staff to be provided and set out in a resourcing agreement or a service level agreement, which is likely to be on a service charge or cost recovery basis. The agreements may require regular and detailed access to information and financial reporting to the Council and/or holding company.
- (e) The **business plan** which sets out the objectives of the business, how they are to be achieved and standards met adjusted in the light of experience and changing circumstances. It is a comprehensive analysis of the business situation at a particular point in time. It is often referred to as the annual business plan because it is expected to be submitted for shareholder approval annually.

## **Intelligent Shareholder**

- 6.1 When a company is established, the Council designates an 'intelligent shareholder' who is responsible for:
- (a) Nomination of directors and company secretaries.
  - (b) Exercising the Council's vote at general meetings of the company;
  - (c) Determining those matters that are reserved to the shareholder to decide upon; and
  - (d) Holding the companies to account on a day to day basis for performance against their agreed business plan; contractual matters between the Council and the company; the company's state of financial health; and the social and financial return the company provides on the Council's investment.
- 6.2 The intelligent shareholder will report annually to Cabinet on the performance of the Council's companies. Such reports may either follow the end of each accounting period for the company or be collated into one annual report at the intelligent shareholder's discretion.
- 6.3 The Council has designated the Group Director, Finance and Corporate Resources to be the intelligent shareholder for all Council owned and controlled companies.

## **Relationships**

- 7.1 Cabinet is responsible for approving the business case to establish a company, of setting the right balance between the economic, social and environmental objects of a company when it is established and of subsequently overseeing and scrutinising the exercise of the Council's powers as shareholder.
- 7.2 Once established, the company must then get on with the business of delivering the objectives with which it has been tasked, within the parameters set for it. It must be otherwise free, however, to operate in its own best interests and to compete on an even basis with its competitors in the marketplace.
- 7.3 This creates a flow of information and accountability, in which
- (a) The company gets on with the business of delivery;

- (b) The Council makes the company decisions reserved to it and to holds the company to account for performing against them; and
- (c) Councillors, as part of their overview role, scrutinise the decisions made on the Council's behalf.

- 7.4 The legal framework for local authority companies includes an express requirement concerning the provision of information to Members of the Council, which reflects the similar provision in relation to local authorities generally. This states that a local authority regulated company “*shall provide to a Member of the Council such information about the affairs of the company as the member reasonably requires for the proper discharge of his duties.*”
- 7.5 The exception here is that the company cannot be required to provide information in breach of legislation or in breach of an obligation owed to any person.

## **Investment and Finance**

- 8.1 The balance of how each company venture may be financed will be assessed and set out in the business case, required at the very beginning of the venture and the incorporation of the company as described above, and in business plans as made or amended and agreed by the Council. Each decision will take into account state aid implications and such matters as where legislative and regulatory requirements demand full cost recovery or standard commercial terms to be applied.
- 8.2 Where the purpose of a company is to better utilise assets owned by the Council, for example, the principal investment in the company is likely to be those assets. The assets may then be made use of by the company through their being transferred in their entirety from the Council to the company or by being provided to the company by the Council under a lease, loan or use agreement.
- 8.3 Investment at the initial stage of a trading company will normally be by way of purchase of share capital, often together with a loan or loan facility on commercial terms. This is to fund those costs which arise at the start of the company or company joint venture, including the holding company and its subsidiaries, to cover initial set up costs, working capital costs and collateral costs. For purchased company interests, share value should reflect the fair value of the going concern.
- 8.4 Direct investment may well also be by various other forms of agreement. This may be for the supply of monies, directly as a loan or under a parental guarantee, credit agreement, facility and so forth, which should be on

standard commercial terms. It may also be for the supply of goods, property or staff, as described above and at section 12 below.

## **Company Structure**

- 9.1 Wherever advantageous and reasonably practicable to do so, the Council's companies and any subsidiary companies will be expected to adopt a common 'group' approach. Where a Teckal company is used, this will involve the companies using existing Council policies and strategies where appropriate and, in particular, the Council will require the company and its subsidiaries to adopt a common approach across the group on branding and its finance, ethics and procurement policies and practices wherever practicable. For example, the Council will require a Teckal and potentially other companies owned by the Council to approve the procurement and authorisation of spend levels set by each company for its directors and staff.
- 9.2 More detailed matters may also be set as a common approach by the Council, where it considers that that will increase effectiveness, efficiency and engender common understanding. This is likely to include such things as group financial procedure rules, fraud and whistle-blowing policies, decision making levels and procedures, capability and disciplinary procedures, health and safety practices and so forth.
- 9.3 The Council and any holding company may similarly provide a natural home and conduit for support and control roles that will be common across the group, such as company secretarial services, procurement, finance and human resources. These fall into two groups. The first is those services that would be better employed directly by the company within any group structure, such as financial and payroll systems for example. The other are those provided as managed services to the companies by the Council, under a resourcing agreement (or service level agreement), because this is more cost effective, appropriate or is a demand of the shareholder, such as HR or company secretarial and legal services.
- 9.4 The secondary purpose is financial, in that a range of company activities can share VAT registration where appropriate and more than one company, one arranged as a subsidiary to another, can be treated as holding group accounts. The latter means that reporting is as one set of accounts and that profit and loss can be distributed across the group, setting one off against another, as might be desired to meet the aims and values set for the group.
- 9.5 The Council will approve the appointment of auditors for any company and its accounts may be required to appear as part of the Council's financial statements.

## **The Company's Board**

- 10.1 A local authority company will be run by its board of directors answerable to the shareholders, in accordance with the articles of association. A board of between 3 and 8 directors is likely to be most practical, although this will be dependent on the circumstances of each company.
- 10.2 The representatives who are appointed directors by the Council will participate directly in the activities of the company and are answerable to the company and have the powers and duties of company directors whilst they do so. Accordingly, careful consideration needs to be given as to the potential for conflicts of interest when making appointments. Only persons who are considered to best meet the requirements of the company in question should be appointed as Directors.
- 10.3 Where an Officer is appointed to a company board, they will be provided with an indemnity for their actions in that role. This is provided for under the Local Authorities (Indemnities for Members and Officers) Order 2004. It should be noted, however, that any such indemnity only covers actions taken honestly and in good faith.
- 10.4 Directors currently receive no remuneration for fulfilling the role.
- 10.5 For the purposes of completeness, if a Councillor is appointed to serve as a director, the law only permits them to receive payment for that directorship up to the amount payable for that role under the authority's Special Responsibility Allowance (SRA), set as a result of the recommendation of an Independent Remuneration Panel. These payments may be made by the company directly or, more normally by the Council for reasons of simplicity, accounting and accountability.

## **Conflicts of interest**

- 11.1 Councillors and Officers should be aware of potential conflicts of interest when carrying out their roles for their authorities, or when acting as directors of trading companies.
- 11.2 There will always arise a point where, in matters of reporting, contractual discussion, investment requests or resourcing agreements, there is potential for the same person to be a decision maker or advisor both for the Council and the company. This is a reflection of the position of each company as a separate legal entity and that the directors of each company are subject to.
- 11.4 A Briefing Note on Directors Duties and Conflicts of Interest has been prepared which all Directors will read before their first Board Meeting. In

addition all Directors should ensure that they undertake training on their responsibilities and conflicts of interest.

### **Managed Services, Support Arrangements and Employees**

- 12.1 The Council is required to recover the costs of any accommodation, goods, services, staff or any other thing it supplies to a company; it cannot subsidise the operation of the company.
- 12.2 The Council may enter into an agreement with the companies to provide services at cost or as a surplus service charge and that staff time and resources utilised for company purposes should be carefully accounted for. Where this is done at cost, which shall be the norm, the approach should be in accordance with the CIPFA definition of 'whole cost'.
- 12.3 The areas of the authority's resources utilised might include project management, initial set-up staff, human resources, audit, business continuity, communications, procurement, legal and finance. It is for the company and the Council to agree what is the appropriate level of authority led resource that is appropriate, should or can be delivered to the company in each case. The parameters of those services can be agreed through a Resourcing Agreement or what is known as a Service Level Agreement (SLA).
- 12.4 The authority as shareholder, however, does need to be assured that there are effective and robust support services in place in certain areas. This is to satisfy itself that sufficient standards of operational governance, legal and company secretarial compliance and effective financial management within the company are adhered to. The authority will reserve to itself the ability under the Shareholder Agreement to insist on supplying these services to a controlled company, at cost, if it feels that these standards are not otherwise being met or are not in its opinion likely to be met.
- 12.5 The Company Secretary role should have a consistent approach across all of the Council owned companies or group of companies. This is to ensure consistent interpretation of the compliance standards across the companies and of the governance relationship between the companies and between the companies and the Council. In addition, it ensures that appropriate and proper intelligence is shared across the companies and the authority. In relation to all authority-controlled companies and their subsidiaries, therefore, the position of company secretary as an officer (not a director) of each company in the group is fulfilled by an Officer from within the Legal & Governance Service.
- 12.6 In relation to company staffing, it is expected that staff of the local authority trading companies will be directly recruited and employed by the companies themselves, with the exception of those support staff supplied by or seconded

from the authority as described above. Where the business case includes that staff are transferred, however, this will be subject to full reporting and then consultation and requirements under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) and guidance.

**Part Nine - Codes and Protocols**  
**Section E - Protocol concerning Remote Attendance at Meetings**

**Introduction**

- 1.1 The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 which permitted remote attendance at, and remote access to, council meetings expired on 7 May 2021.
- 1.2 As a consequence, all meetings of the Council, except for Licensing Sub-Committee meetings which are not meetings convened under the Local Government Act, must be held face to face. We recognise, however, that sometimes elected Members and members of the public will not always be able to attend in person.
- 1.3. This protocol concerns remote attendance at Council meetings.

**Times and Access to Meetings**

- 2.1 Meetings will be held at the time notified on the agenda and the agenda will include details of the physical location for the meeting and the livestream link. Calendar appointments for elected Members will include the link to access the meeting via Google Meet.

**Meetings of Council, Cabinet and all Council Committees etc (except Licensing Sub-Committee meetings)**

Elected Mayor and Councillors in Remote Attendance

- 3.1 The Elected Mayor or any Councillor who accesses a meeting remotely:
  - (a) Is not counted as being present at the meeting for the purposes of s85 of the Local Government Act 1972;
  - (b) Does not count for the purposes of the quorum of the meeting;
  - (c) May not vote on any item under consideration at the meeting; and
  - (d) May speak on any item under consideration at the meeting with the permission of the Chair.



### 3.2 The Elected Mayor or any Councillor should:

- (a) Use all reasonable efforts to ensure that they have a stable connection to the meeting via wifi/mobile data. It is recommended that the Elected Mayor or any Councillor join the meeting no later than 5 minutes before the meeting is due to commence to test the stability of their connection.
- (b) Not join a meeting remotely if they are located in a disruptive or noisy environment, for example on public transport or in a cafe.
- (c) Ensure that their background is neutral or use the blurring option.
- (d) Where they are a member of the Committee etc, have their cameras turned on at all times and microphones on mute unless they are called upon to speak.
- (e) Where they are not a member of the Committee etc, have their cameras turned off and microphones on mute unless they are called upon to speak. If they are called upon to speak both the camera and microphone should be turned on.
- (f) Use the 'raise hand' function to indicate to the Chair that they wish to speak.
- (g) Not use the chat function for any reason other than to indicate that there may be an ICT issue relating to the meeting or that they are leaving the meeting.
- (h) When referring to a specific part of a report or other document, refer to the paragraph/page number so that all members have a clear understanding of what is being referred to.
- (i) Ensure that no other persons have access to the space from which they attend the meeting when confidential/exempt information is under consideration.
- (j) Be careful not to allow exempt or confidential papers to be seen in the video-feed. If exempt or confidential papers are seen on the screen a member of the Governance team or the meeting facilitator will turn off the camera of the member and bring this to the attention of the elected member.

- 3.3 The Elected Mayor or any Councillor in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting their link to the meeting is disconnected for whatever reason and reconnection is not achieved within a reasonable period.

#### Remote Attendance by Members of the Public

- 3.4 A member of the public may attend a meeting remotely in order to exercise a right to speak at the meeting or ask a question.
- 3.5 Members of the public should:
- (a) Use all reasonable efforts to ensure that they have a stable connection to the meeting via wifi/mobile data. It is recommended that members of the public join the meeting no later than 5 minutes before the meeting is due to commence to test the stability of their connection.
  - (b) Not join a meeting remotely if they are located in a disruptive or noisy environment, for example on public transport.
  - (c) Ensure that their background is neutral or use the blurring option.
  - (d) Have their cameras turned on at all times and microphones on mute unless they are called upon to speak.
  - (e) Not use the chat function for any reason.
  - (f) When referring to a specific part of a report or other document, refer to the paragraph/page number so that all members have a clear understanding of what is being referred to.
- 3.6 If the meeting needs to go into a 'private' session to discuss confidential/exempt items of business, the Governance Officer will ensure that any members of the public who are present leave the meeting before consideration of the item begins.

#### Meeting Procedures

- 3.7 The Chair will follow the procedure rules set out in this Constitution.
- 3.8 The Chair, at the beginning of the meeting, will explain any arrangements around participation. Any rulings given by the Chair during the course of the meeting are final. The Elected Mayor or any Councillor may request an explanation from the Chair as to their ruling, but once an explanation has been provided the ruling will be final.

### Persons excluded from the Meeting

- 3.9 Where any person is required to leave the meeting under the terms of Council Procedure Rules 25 or 26 or the applicable Cabinet Procedure Rules, the person's connection to the meeting will be severed by the Governance Officer.

### **Licensing Sub-Committee Meetings**

- 4.1 Meetings of the Council's Licensing Sub-Committees are not meetings called under the Local Government Act 1972 and therefore may be held remotely.
- 4.2 For the Elected Mayor or any Councillor this means that they
- (a) Are counted as being present at the meeting for the purposes of s85 of the Local Government Act 1972;
  - (b) Are counted for the purposes of the quorum of the meeting; and
  - (c) May vote on any item under consideration at the meeting;
- 4.3 The rules relating to meetings referred to in paragraphs 3.1 to 3.9 above will apply equally to Licensing Sub-Committee meetings.

## **Appendices**

**1 - Council (non-executive) Functions**

**2 - Local Choice Functions**

**3 - Terms of Reference of Council Committees etc**

**Appendix 1**  
**Council (Non-Executive) Functions**

**Functions relating to town and country planning and development control**

A	Function	Statutory Provision	Function exercised by:
1 to 4	[No longer in the Regulations]		
5	Power to determine application for planning permission or permission in principle.	Sections 59A(1)(b), 70(1)(a) and (b) and 72, Town and Country Planning Act 1990	Planning Sub-Committee and Group Director, Climate, Homes and Economy
6	Power to determine applications to develop land without compliance with conditions previously attached.	Section 73, Town and Country Planning Act 1990	Planning Sub-Committee and Group Director, Climate, Homes and Economy
7	Power to grant planning permission for development already carried out.	Section 73A, Town and Country Planning Act 1990	Planning Sub-Committee and Group Director, Climate, Homes and Economy
8	Power to decline to determine application for planning permission or	Section 70A, Town and Country Planning Act 1990	Planning Sub-Committee and Group Director,

A	Function	Statutory Provision	Function exercised by:
	permission in principle.		Climate, Homes and Economy
9	Duties relating to the making of determinations of planning applications	Sections 69, 76 and 92, Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) and directions made thereunder	Planning Sub-Committee and Group Director, Climate, Homes and Economy
10	Power to determine application for planning permission or permission in principle made by a local authority, alone or jointly with another person.	Section 316, Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (S.I. 1992/1492)	Planning Sub-Committee and Group Director, Climate, Homes and Economy
11	Power to make determinations, give approval and agree certain other matters relating to the exercise of permitted development rights.	Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418)	Planning Sub-Committee and Group Director, Climate, Homes and Economy

A	Function	Statutory Provision	Function exercised by:
12	Power to enter into agreement regulating development or use of land.	Section 106, Town and Country Planning Act 1990	Planning Sub-Committee and Group Director, Climate, Homes and Economy
13	Power to issue a certificate of existing or proposed lawful use or development.	Sections 191(4) and 192(2), Town and Country Planning Act 1990	Planning Sub-Committee and Group Director, Climate, Homes and Economy
14	Power to serve a completion notice.	Section 94(2), Town and Country Planning Act 1990	Group Director, Climate, Homes and Economy
15	Power to grant consent for the display of advertisements.	Section 220, Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992	Group Director, Climate, Homes and Economy
16	Power to authorise entry onto land.	Section 196A, Town and Country Planning Act 1990	Group Director, Climate, Homes and Economy

A	Function	Statutory Provision	Function exercised by:
17	Power to require the discontinuance of a use of land.	Section 102, Town and Country Planning Act 1990	Planning Sub-Committee and Group Director, Climate, Homes and Economy
18	Power to serve a planning contravention notice, breach of condition notice or stop notice.	Sections 171C, 187A and 183(1), Town and Country Planning Act 1990	Planning Sub-Committee and Group Director, Climate, Homes and Economy
18A	Power to issue a temporary stop notice.	Section 171E of the Town and Country Planning Act 1990	Group Director, Climate, Homes and Economy
19	Power to issue an enforcement notice.	Section 172, Town and Country Planning Act 1990	Planning Sub-Committee and Group Director, Climate, Homes and Economy
20	Power to apply for an injunction restraining a breach of planning control.	Section 187B, Town and Country Planning Act 1990	Group Director, Climate, Homes and Economy
21	Power to determine applications for hazardous substances	Sections 9(1) and 10, Planning (Hazardous Substances) Act 1990	Group Director, Climate, Homes and Economy



A	Function	Statutory Provision	Function exercised by:
	consent, and related powers.		
22	Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 and paragraph 6(5) of Schedule 14 to that Act	Group Director, Climate, Homes and Economy
23	Power to require proper maintenance of land.	Section 215(1), Town and Country Planning Act 1990	v
24	Power to determine application for listed building consent, and related powers.	Sections 16(1) and (2), 17 and 33(1), Planning (Listed Buildings and Conservation Areas) Act 1990	Planning Sub-Committee and Group Director, Climate, Homes and Economy
25	[No longer in the Regulations]		

A	Function	Statutory Provision	Function exercised by:
26	Duties relating to applications for listed building consent.	Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Regulations 3 to 6 and 13 of the Planning (Listed Buildings and Conservation Areas) Regulations (S.I 1990/1590) and paragraphs 8, 15 and 26 of Department of Environment, Transport and the Regions Circular 01/01	Planning Sub-Committee and Group Director, Climate, Homes and Economy
27	Power to serve a building preservation notice, and related powers.	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990	Planning Sub-Committee and Group Director, Climate, Homes and Economy
28	Power to issue enforcement notice in relation to demolition of listed building in conservation area	Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990	Planning Sub-Committee and Group Director, Climate, Homes and Economy

A	Function	Statutory Provision	Function exercised by:
29	Powers to acquire a listed building in need of repair and to serve a repairs notice.	Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990	Planning Sub-Committee and Group Director, Climate, Homes and Economy
30	Power to apply for an injunction in relation to a listed building.	Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990	Group Director, Climate, Homes and Economy
30A	Power to authorise stopping up or diversion of highway.	Section 247 of the Town and Country Planning Act 1990	Group Director, Climate, Homes and Economy
31	Power to execute urgent works.	Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990	Group Director, Climate, Homes and Economy
32	Duty to enter land in Part 2 of the brownfield land register	Regulation 3 of the Town and Country Planning (Brownfield Land Register) Regulations 2017	Group Director, Climate, Homes and Economy

**Functions relating to licensing and registration (in so far as not covered by any other paragraph of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000)**

B	Function	Statutory Provision	Function exercised by:
1	Power to issue licences authorising the use of land as a caravan site ('site licences').	Section 3(3), the Caravan Sites and Control of Development Act 1960	Group Director, Climate, Homes and Economy
2	Power to license the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936	Group Director, Climate, Homes and Economy
3	Power to licence hackney carriages and private hire vehicles.	<p>a) as to hackney carriages, the Town Police Clauses Act 1847, as extended by section 171 of the Public Health Act 1875, and section 15 of the Transport Act 1985; and of the Local Government (Miscellaneous Provisions) Act 1976;</p> <p>b) as to private hire vehicles, sections 48, 57, 58, 60, 79 of the Local Government</p>	Not applicable to the London Borough of Hackney

B	Function	Statutory Provision	Function exercised by:
		(Miscellaneous Provisions) Act 1976	
4	Power to license drivers of hackney carriages and private hire vehicles	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976	Not applicable to the London Borough of Hackney
5	Power to license operators of hackney carriages and private vehicles	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976	Not applicable to the London Borough of Hackney
6	Power to register pool promoters.	Schedule 2 to the Betting, Gambling and Lotteries Act 1963 as saved for certain purposes by article 3(3)(c) of the Gambling Act Order	Group Director, Climate, Homes and Economy
7	Power to grant track betting licences	Schedule 3 to the Betting, Gaming and Lotteries Act 1963 [as saved for certain purposes by article 3(3)(d) of the Gambling Act Order	Not applicable to the London Borough of Hackney

B	Function	Statutory Provision	Function exercised by:
8	Power to license inter-track betting schemes	Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963 [as saved for certain purposes by article 3(3)(e) of the Gambling Act Order	Not applicable to the London Borough of Hackney
9	Power to grant permits in respect of premises with amusement machines.	Schedule 9, Gaming Act 1968 as saved for certain purposes by article 4(2)(1) and (m) of the Gambling Act Order	Group Director, Climate, Homes and Economy
10	Power to register societies wishing to promote lotteries.	Schedule 1 to the Lotteries and Amusements Act 1976 as saved for certain purposes by article 5(2)(a) and (3) of the Gambling Act Order	Group Director, Climate, Homes and Economy
11	Power to grant permits in respect of premises where amusements with prizes are provided.	Schedule 3 to the Lotteries and Amusements Act 1976 as saved for certain purposes by article 5(2)(d) and (5) of the Gambling Act Order	Group Director, Climate, Homes and Economy

B	Function	Statutory Provision	Function exercised by:
12	Power to issue cinema and cinema club licences.	Section 1 of the Cinema Act 1985	Group Director, Climate, Homes and Economy
13	Power to issue theatre licences.	Sections 12-14 of the Theatres Act 1968	Group Director, Climate, Homes and Economy
14	Power to issue entertainments licences.	Section 12 of the Children and Young Persons Act 1933, Section 52 of, and Schedule 12 to, the London Government Act 1963, Section 79 of the Licensing Act 1964, Sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982	Group Director, Climate, Homes and Economy
14A	Any function of a licensing authority.	Licensing Act 2003 and any regulations or orders made under that Act	Licensing Committee and Group Director, Climate, Homes and Economy

B	Function	Statutory Provision	Function exercised by:
14AZA	Powers and functions relating to late night levy requirements.	Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 (c. 13) and any regulations made under that Chapter	Licensing Committee and Group Director, Climate, Homes and Economy
14AA	Duty to comply with requirement to provide information to Gambling Commission.	Section 29 of the Gambling Act 2005	Licensing Committee and Group Director, Climate, Homes and Economy
14AB	Functions relating to exchange of information.	Section 30 of the Gambling Act 2005	Licensing Committee and Group Director, Climate, Homes and Economy
14AC	Functions relating to occasional use notices.	Section 39 of the Gambling Act 2005	Licensing Committee and Group Director, Climate, Homes and Economy
14B	Power to resolve not to issue a casino premises licence.	Section 166 of the Gambling Act 2005	Full Council



B	Function	Statutory Provision	Function exercised by:
14C	Power to designate officer to a licensing authority as an authorised person for a purpose relating to premises.	Section 304 of the Gambling Act 2005	Licensing Committee and Group Director, Climate, Homes and Economy
14CA	Power to make order disapplying section 279 or 282 (1) of the 2005 Act in relation to specified premises.	Section 284 of the Gambling Act 2005	Licensing Committee and Group Director, Climate, Homes and Economy
14D	Power to institute criminal proceedings.	Section 346 of the Gambling Act 2005	Licensing Committee and Group Director, Climate, Homes and Economy
14E	Power to exchange information.	Section 350 of the Gambling Act 2005	Licensing Committee and Group Director, Climate, Homes and Economy
14F	Functions relating to the determination of fees for premises licences.	The Gambling (Premises License Fees) (England and Wales) Regulations 2007 (S.I. 2007/479)	Licensing Committee and Group Director, Climate, Homes and Economy

B	Function	Statutory Provision	Function exercised by:
14G	Functions relating to the registration and regulation of small society lotteries.	Part 5 of Schedule 11 to the Gambling Act 2005	Licensing Committee and Group Director, Climate, Homes and Economy
15	Power to license sex shops and sex cinemas.	The Local Government (Miscellaneous Provisions) Act 1982, Section 2 and Schedule 3.	Licensing Committee and Group Director, Climate, Homes and Economy
16	Power to license performances of hypnotism.	The Hypnotism Act 1952	Licensing Committee and Group Director, Climate, Homes and Economy
17	Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982	Licensing Committee and Group Director, Climate, Homes and Economy
18	Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907	Group Director, Climate, Homes and Economy

B	Function	Statutory Provision	Function exercised by:
19	Power to register door staff.	Paragraphs 1(2) and 9 of Schedule 12 to the London Government Act 1963 (c.33) and Part V of the London Local Authorities Act 1995	Group Director, Climate, Homes and Economy
20	Power to license market and street trading.	Part III of the London Local Authorities Act 1990 and section 6 of the London Local Authorities Act 1994	Group Director, Climate, Homes and Economy
21	Power to license night cafes and take-away food shops.	Part II of the London Local Authorities Act 1990 and section 5 of the London Local Authorities Act 1994	Group Director, Climate, Homes and Economy
22	[No longer in Regulations]		

B	Function	Statutory Provision	Function exercised by:
23	Power to license dealers in game and the killing and selling of game.	Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831; Sections 2 to 16 of the Game Licensing Act 1860, Section 4 of the Customs and Inland Revenue Act 1883, Sections 12(3) and 27 of the Local Government Act 1874 and Section 213 of the Local Government Act 1972	Group Director, Climate, Homes and Economy
24	Power to register and license premises for the preparation of food.	Section 19 of the Food Safety Act 1990	Group Director, Climate, Homes and Economy
25	Power to license scrap yards.	Section 1 of the Scrap Metal Dealers Act 1964	Group Director, Climate, Homes and Economy
26	Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.	The Safety of Sports Grounds Act 1975	Group Director, Climate, Homes and Economy

B	Function	Statutory Provision	Function exercised by:
27	Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	Part III of the Fire Safety and Safety of Places of Sport Act 1987	Group Director, Climate, Homes and Economy
28	Power to issue fire certificates.	Section 5 of the Fire Precautions Act 1971	Group Director, Climate, Homes and Economy
29	Power to grant or renew a licence for a licensable activity under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (selling animals as pets, providing or arranging for the provision of boarding for cats or dogs, hiring out horses, breeding dogs or keeping or training animals for exhibition).	Regulation 4 of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018	Group Director, Climate, Homes and Economy
30-31	[No longer in the Regulations]		

B	Function	Statutory Provision	Function exercised by:
32	Power to license zoos.	Section 1 of the Zoo Licensing Act 1981	Group Director, Climate, Homes and Economy
33	Power to license dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976	Group Director, Climate, Homes and Economy
34	Power to license knackers' yards.	Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999 (S.I. 1999/646)	Group Director, Climate, Homes and Economy
35	Power to license the employment of children.	Part II of the Children and Young Persons Act 1933; Byelaws made under that Act and Part II of the Children and Young Persons Act 1963	Group Director, Children and Education
36	Power to approve premises for the solemnisation of marriages.	Section 46A of the Marriage Act 1949 and the Marriages (Approved Premises) Regulations 1995 (S.I. 1995/510)	Group Director, Finance and Corporate Resources

B	Function	Statutory Provision	Function exercised by:
37	<p>Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to:</p> <p>a) an exchange of lands affected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981; or</p> <p>b) an Order under section 147 of the Inclosure Act 1845.</p>	Regulation 6 of the Commons Registration (New Land) Regulations 1969 (S.I. 1969/1843)	Group Director, Climate, Homes and Economy
38	Power to register variation of rights of common.	Regulation 29 of the Commons Registration (General) Regulations 1966 (S.I. 1966/1471)	Group Director, Climate, Homes and Economy
39	Power to license persons to collect for charitable and other causes.	Section 5 of the Police, Factories, etc (Miscellaneous Provisions) Act 1916 and Section 2 of the House to House	Group Director, Climate, Homes and Economy

B	Function	Statutory Provision	Function exercised by:
		Collections Act 1939	
40	Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993	Group Director, Climate, Homes and Economy
41	Power to grant a street works licence.	Section 50 of the New Roads and Street Works Act 1991	Group Director, Climate, Homes and Economy
42	Power to license agencies for the supply of nurses.	Section 2 of the Nurses Agencies Act 1957	Group Director, Climate, Homes and Economy
43	Power to issue licences for the movement of pigs.	Article 12 of the Pigs (Records, Identification and Movement) Order 1995 (S.I 1995/11)	Group Director, Climate, Homes and Economy
44	Power to license the sale of pigs.	Article 13 of the Pigs (Records Identification and Movement) Order 1995	Group Director, Climate, Homes and Economy
45	Power to license collecting centres for the movement of pigs.	Article 14 of the Pigs (Records, Identification and Movement) Order	Group Director, Climate, Homes and Economy



B	Function	Statutory Provision	Function exercised by:
		1995	
46	Power to issue a licence to move cattle from a market.	Article 5(2) of the Cattle Identification Regulations 1998 (S.I. 1998/871)	Group Director, Climate, Homes and Economy
46A	Power to grant permission for provision etc. of services, amenities, recreation and refreshment facilities on a highway, and related powers.	Sections 115E, 115F and 115K of the Highways Act 1980 and Part 1 of the Business and Planning Act 2020	Group Director, Climate, Homes and Economy
47	Power to permit the deposit of builder's skip on highway.	Section 139 of the Highways Act 1980	Group Director, Climate, Homes and Economy
47A	Duty to publish notice in respect of proposals to grant permission under section 115E of the Highways Act 1980.	S.115G Highways Act 1980	Group Director, Climate, Homes and Economy
48	Power to license planting, trees etc in part of the highway.	Section 142 of the Highways Act 1980	Group Director, Climate, Homes and Economy

B	Function	Statutory Provision	Function exercised by:
49	Power to authorise erection of stiles, etc on footpaths or bridleways.	Section 147 of the Highways Act 1980	Group Director, Climate, Homes and Economy
50	Power to license works in relation to buildings etc which obstruct the highway.	Section 169 of the Highways Act 1980	Group Director, Climate, Homes and Economy
51	Power to consent to temporary deposits or excavations in streets.	Section 171 of the Highways Act 1980	Group Director, Climate, Homes and Economy
52	Power to dispense with obligation to erect hoarding or fence.	Section 172 of the Highways Act 1980	Group Director, Climate, Homes and Economy
53	Power to restrict the placing of rails, beams etc. over highways.	Section 178 of the Highways Act 1980	Group Director, Climate, Homes and Economy
54	Power to consent to construction of cellars etc. under street.	Section 179 of the Highways Act 1980	Group Director, Climate, Homes and Economy

B	Function	Statutory Provision	Function exercised by:
55	Power to consent to the making of openings into cellars etc. under streets, and pavement lights and ventilators.	Section 180 of the Highways Act 1980	Group Director, Climate, Homes and Economy
56	Power to sanction the use of parts of buildings for storage of celluloid.	Section 1 of the Celluloid and Cinematograph Film Act 1992	Group Director, Climate, Homes and Economy
57	Power to approve meat product premises.	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994 (S.I. 1994/3082)	Group Director, Climate, Homes and Economy
58	Power to approve premises for the production of minced meat or meat preparation.	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (S.I. 1995/3205)	Group Director, Climate, Homes and Economy
59	Power to approve dairy establishments.	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995 (S.I. 1995/1086)	Group Director, Climate, Homes and Economy

B	Function	Statutory Provision	Function exercised by:
60	Power to approve egg product establishments.	Regulation 5 of the Egg Product Regulations 1993 (S.I. 1993/1520)	Group Director, Climate, Homes and Economy
61	Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995 (S.I. 1995/1763)	Group Director, Climate, Homes and Economy
62	Power to approve fish products premises.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (S.I.1998/994)	Group Director, Climate, Homes and Economy
63	Power to approve dispatch or purification centres.	Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998	Group Director, Climate, Homes and Economy

B	Function	Statutory Provision	Function exercised by:
64	Power to register fishing vessels on board which shrimps or molluscs are cooked.	Regulations 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998	Not applicable to London Borough of Hackney
65	Power to approve factory vessels and fishery products establishments	Regulations 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998	Not applicable to London Borough of Hackney
66	Power to register auction and wholesale markets.	Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998	Group Director, Climate, Homes and Economy
67	Duty to keep register of food business premises.	Regulation 5 of the Food Premises (Registration) Regulations 1991 (S.I. 1991/2828)	Group Director, Climate, Homes and Economy
68	Power to register food business premises.	Regulation 9 of the Food Premises (Registration) Regulations 1991	Group Director, Climate, Homes and Economy

B	Function	Statutory Provision	Function exercised by:
69	Power to issue near beer license.	Sections 16 to 19 and 21 of the London Local Authorities Act 1995 and, to the extent that it does not have effect by virtue of regulation 2(3), section 3, section 25 of that Act	Group Director, Climate, Homes and Economy
70	Power to register premises or stalls for the sale of goods by way of competitive bidding.	Section 28 of the Greater London Council (General Powers) Act 1984	Group Director, Climate, Homes and Economy
71	Power to register motor salvage operators.	Part I of the Vehicles (Crime) Act 2001	Group Director, Climate, Homes and Economy
72	Functions relating to the registration of common land and town or village greens	Part I of the Commons Act 2006 and the Commons Registration (England) Regulations 2008 (S.I. 2008/1961)	Group Director, Climate, Homes and Economy

## Functions relating to health and safety at work

C	Function	Statutory Provision	Function exercised by:
1	Functions under any of the “relevant statutory provisions” within the meaning of Part I (health, safety and welfare in connection with work and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority’s capacity as an employer.	Part 1 of the Health and Safety at Work etc Act 1974	Group Director, Climate, Homes and Economy

## Functions relating to elections

D	Function	Statutory Provision	Function exercised by:
1	Duty to appoint an electoral registration officer.	Section 8(2) of the Representation of the People Act 1983	Full Council
2	Power to assign officers in relation to requisitions of the registration officer.	Section 52(4) of the Representation of the People Act 1983	Chief Executive
3	Functions in relation to parishes and parish councils.	Part II of the Local Government and Rating Act 1997 and subordinate legislation under that Act	Currently not applicable to London
4	Power to dissolve small parish councils	Section 10 of the Local Government Act 1972	Currently not applicable to London
5	Power to make orders for grouping parishes, dissolving groups and separating parishes from groups	Section 11 of the Local Government Act 1972	Currently not applicable to London



D	Function	Statutory Provision	Function exercised by:
6	Duty to appoint returning officer for local government elections	Section 35 of the Representation of the People Act 1983	Full Council
7	Duty to divide constituency into polling districts.	Section 18A and 18E of, and Schedule A1 to the Representation of the People Act 1983	Chief Executive
8	Power to divide electoral divisions into polling districts at local government elections.	Section 31 of the Representation of the People Act 1983	Chief Executive
9	Powers in respect of holding of elections.	Section 39(4) of the Representation of the People Act 1983	Chief Executive
10	Power to pay expenses properly incurred by electoral registration officers.	Section 54 of the Representation of the People Act 1983	Chief Executive
11	Power to fill vacancies in the	Section 21 of the Representation of the People Act 1985	Full Council

D	Function	Statutory Provision	Function exercised by:
	event of insufficient nominations		
12	Duty to declare vacancy in office in certain cases.	Section 86 of the Local Government Act 1972	Chief Executive
13	Duty to give public notice of a casual vacancy.	Section 87 of the Local Government Act 1972	Chief Executive
14	Power to make temporary appointments to parish councils.	Section 91 of the Local Government Act 1972	Currently not applicable to London.
15	[No longer in the Regulations]		
16	Power to submit proposals to the Secretary of State for an order under Section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000	Section 10 of the Representation of the People Act 2000	Chief Executive

D	Function	Statutory Provision	Function exercised by:
17	Duty to consult on change of scheme for elections.	Sections 33(2), 38(2) and 40(2) of the Local Government and Public Involvement in Health Act 2007	Chief Executive
18	Duties relating to publicity.	Sections 35, 41 and 52 of the Local Government and Public Involvement in Health Act 2007	Chief Executive
19	Duties relating to notice to Electoral Commission.	Sections 36 and 42 of the Local Government and Public Involvement in Health Act 2007	Chief Executive
20	Power to alter years of ordinary election of parish councillors.	Section 53 of the Local Government and Public Involvement in Health Act 2007	Currently not applicable to London
21	Functions relating to change of name of electoral area.	Section 59 of the Local Government and Public Involvement in Health Act 2007	Full Council

## Functions relating to name and status of areas and individuals

E	Function	Statutory Provision	Function exercised by:
1	Power to change the name of a county, district or London Borough.	Section 74 of the Local Government Act 1972	Full Council
2	Power to change the name of a parish.	Section 75 of the Local Government Act 1972	Currently not applicable to London
3	Conferring the title of Honorary Alderman or to admit to be an honorary freeman.	Section 249 of the Local Government Act 1972	Full Council
4	Power to petition for a charter to confer borough status	Section 245(b) of the Local Government Act 1972	Currently not applicable to London

### Functions relating to changing governance arrangements

EA	Function	Statutory Provision	Function exercised by:
1 to 7	[No longer in the Regulations]		

## Functions relating to community governance

EB	Function	Statutory Provision	Function exercised by:
1	Duties relating to community governance reviews	Section 79 of the Local Government and Public Involvement in Health Act 2007	Full Council
2	Functions relating to community governance petition	Sections 80, 83 to 85 of the Local Government and Public Involvement in Health Act 2007	Full Council
3	Functions relating to terms of reference of review.	Sections 81(4) to (6) of the Local Government and Public Involvement in Health Act 2007	Full Council
4	Power to undertake community governance review.	Section 82 of the Government and Public Involvement in Health Act 2007	Full Council
5	Functions relating to the making of recommendations.	Sections 87 to 92 of the Local Government and Public Involvement in Health Act 2007	Full Council

EB	Function	Statutory Provision	Function exercised by:
6	Duties when undertaking review.	Sections 93 to 95 of the Local Government and Public Involvement in Health Act 2007	Full Council
7	Duty to publicise outcome of review.	Section 96 of the Local Government and Public Involvement in Health Act 2007	Chief Executive
8	Duty to send two copies of order to Secretary of State and Electoral Commission.	Section 98(1) of the Local Government and Public Involvement in Health Act 2007	Chief Executive
9	Power to make agreements about incidental matters.	Section 99 of the Local Government and Public Involvement in Health Act 2007	Chief Executive

## Byelaws

F	Function	Statutory Provision	Function exercised by:
1	Making, amending, revoking, re-enacting or enforcing bylaws.	Any provision of any enactment (including a local Act) whenever passed and section 14 of the Interpretation Act 1978	Full Council



## Functions relating to smoke free premises etc

FA	Function	Statutory Provision	Function exercised by:
1	Duty to enforce Chapter 1 and Regulations under it.	Section 10(3) of the Health Act 2006	Group Director, Climate, Homes and Economy
2	Power to authorise officers.	Section 10(5) of, and paragraph 1 of Schedule 2 to the Health Act 2006	Group Director, Climate, Homes and Economy
3	Functions relating to fixed penalty notices.	Paragraphs 13, 15 and 16 of Schedule 1 to the Health Act 2006 and the Smoke-Free (Vehicle Operators and Penalty Notices) Regulations 2007 (S.I. 2006/760)	Group Director, Climate, Homes and Economy
4	Power to transfer enforcement functions to another enforcement authority.	Smoke-Free (Premises and Enforcement) Regulations 2006 (S.I. 2006/3368)	Group Director, Climate, Homes and Economy

## Local or Personal Bills

G	Function	Statutory Provision	Function exercised by:
1	Power to promote or oppose local or personal bills.	Section 239 of the Local Government Act 1972	Full Council

## Functions relating to pensions etc.

H	Function	Statutory Provision	Function exercised by:
1	Functions relating to local government pensions, etc.	Regulations under Sections 7, 12 or 24 of the Superannuation Act 1972	<p>Pensions Committee within Terms of Reference.</p> <p>All other functions - Group Director, Finance and Corporate Resources.</p> <p>Decisions on individual exercise of discretion - Chief Executive and all Group Directors after consultation with Group Director, Finance and Corporate Resources.</p>
2	Functions under the Fire-fighters Pension Scheme reflecting to pensions etc as respects pensions employed by the Fire and Rescue authorities pursuant to Section 1 of the Fire and Rescue Services Act 2004	Section 34 and 36 of the Fire and Rescue Services Act 2004	Not applicable to London Borough of Hackney

## Miscellaneous functions

I	Function	Statutory Provision	Function exercised by:
<b>Part I: Functions relating to public rights of way</b>			
1	Power to create a footpath,bridleway or restricted byway by agreement.	Section 25 of the Highways Act 1980	Group Director, Climate, Homes and Economy
2	Power to create footpaths, bridleways and restricted byways.	Section 26 of the Highways Act 1980	Group Director, Climate, Homes and Economy
3	Duty to keep a register of information with respect to maps, statements and declarations.	Section 31A of the Highways Act 1980	Group Director, Climate, Homes and Economy
4	Power to stop up footpaths, bridleways and restricted byways.	Section 118 of the Highways Act 1980	Group Director, Climate, Homes and Economy
5	Power to determine application for public path extinguishment order.	Sections 118ZA and 118C(2) of the Highways Act 1980	Group Director, Climate, Homes and Economy

I	Function	Statutory Provision	Function exercised by:
6	Power to make a rail crossing extinguishment order.	Section 118A of the Highways Act 1980	Group Director, Climate, Homes and Economy
7	Power to make a special extinguishment order.	Section 118B of the Highways Act 1980	Group Director, Climate, Homes and Economy
8	Power to divert footpaths, bridleways and restricted byways.	Section 119 of the Highways Act 1980	Group Director, Climate, Homes and Economy
9	Power to make a public path diversion order.	Sections 119ZA and 119C(4) of the Highways Act 1980	Group Director, Climate, Homes and Economy
10	Power to make a rail crossing diversion order.	Section 119A of the Highways Act 1980	Group Director, Climate, Homes and Economy
11	Power to make a special diversion order.	Section 119B of the Highways Act 1980	Group Director, Climate, Homes and Economy

I	Function	Statutory Provision	Function exercised by:
12	Power to require applicant for order to enter into agreement.	Section 119C (3) of the Highways Act 1980	Group Director, Climate, Homes and Economy
13	Power to make an SSSI diversion order.	Section 119D of the Highways Act 1980	Group Director, Climate, Homes and Economy
14	Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980.	Section 121B of the Highways Act 1980	Group Director, Climate, Homes and Economy
15	Power to decline to determine certain Applications.	Section 121C of the Highways Act 1980	Group Director, Climate, Homes and Economy
16	Duty to assert and protect the rights of the public to use and enjoyment of highways.	Section 130 of the Highways Act 1980	Group Director, Climate, Homes and Economy
17	Duty to serve notice of proposed action in relation to obstruction.	Section 130A of the Highways Act 1980	Group Director, Climate, Homes and Economy

I	Function	Statutory Provision	Function exercised by:
18	Power to apply for variation of order under section 130B of the Highways Act 1980.	Section 130B(7) of the Highways Act 1980	Group Director, Climate, Homes and Economy
19	Power to authorise temporary disturbance of surface of footpath, bridleway or restricted byway.	Section 135 of the Highways Act 1980	Group Director, Climate, Homes and Economy
20	Power temporarily to divert footpath, bridleway or restricted byway.	Section 135A of the Highways Act 1980	Group Director, Climate, Homes and Economy
21	Functions relating to the making good of damage and the removal of obstructions.	Section 135B of the Highways Act 1980	Group Director, Climate, Homes and Economy
22	Powers relating to the removal of things so deposited on highways as to be a nuisance.	Section 149 of the Highways Act 1980	Group Director, Climate, Homes and Economy

I	Function	Statutory Provision	Function exercised by:
23	Power to extinguish certain public rights of way.	Section 32 of the Acquisition of Land Act 1981	Group Director, Climate, Homes and Economy
24	Duty to keep definitive map and statement under review.	Section 53 of the Wildlife and Countryside Act 1981	Group Director, Climate, Homes and Economy
25	Power to include modifications in other orders.	Section 53A of the Wildlife and Countryside Act 1981	Group Director, Climate, Homes and Economy
26	Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981.	Section 53(B) of the Wildlife and Countryside Act 1981	Group Director, Climate, Homes and Economy
27	[No longer in the Regulations]		
28	Power to prepare map and statement by way of consolidation of definitive map and statement.	Section 57A of the Wildlife and Countryside Act 1981	Group Director, Climate, Homes and Economy



I	Function	Statutory Provision	Function exercised by:
29	Power to designate footpath as cycle track	Section 3 of the Cycle Tracks Act 1984	Group Director, Climate, Homes and Economy
30	Power to extinguish public right of way over land acquired for clearance	Section 294 of the Housing Act 1981	Group Director, Climate, Homes and Economy
31	Power to authorise stopping-up or diversion of footpath, bridleway or restricted byway.	Section 257 of the Town and Country Planning Act 1996	Group Director, Climate, Homes and Economy
32	Power to extinguish public rights of way over land held for planning purposes.	Section 258 of the Town and Country Planning Act 1990	Group Director, Climate, Homes and Economy
33	Power to enter into agreements with respect to means of access	Section 35 of the Countryside and Rights of Way Act 2000	Group Director, Climate, Homes and Economy
34	Power to provide access in absence of agreement.	Section 37 of the Countryside and Rights of Way Act 2000	Group Director, Climate, Homes and Economy

I	Function	Statutory Provision	Function exercised by:
<b>Part II: Other miscellaneous functions</b>			
35	Functions relating to sea fisheries	Section 1,2,10 and 19 of the Sea Fisheries Regulation Act 1966	Not applicable to the London Borough of Hackney
36	Power to make standing orders.	Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972	Full Council
37	Power to appoint staff and to determine the terms and conditions on which they hold office (including procedures for dismissal).	Section 112 of the Local Government Act 1972	Chief Executive and Appointments Sub-Committees for chief officer posts.  Full Council for dismissal of specified statutory senior officers.
38	Power to make standing orders as to contracts	Section 135 of the Local Government Act 1972	Full Council
39	Duty to make arrangements for proper administration of financial affairs etc.	Section 151 of the Local Government Act 1972	Full Council

I	Function	Statutory Provision	Function exercised by:
40	Power to appoint officers for particular purposes (appointment of 'proper officers').	Section 270(3) of the Local Government Act 1972	Full Council
41	Power to make limestone pavement order.	Section 34(2) of the Wildlife and Countryside Act 1981	Group Director, Climate, Homes and Economy
42	Power to make closing order with respect to take-away food shops.	Section 4 of the Local Government (Miscellaneous Provisions) Act 1982	Group Director, Climate, Homes and Economy
43	Duty to designate officer as the Head of the Authority's Paid Service, and to provide staff, etc.	Section 4(1) of the Local Government and Housing Act 1989	Full Council
44	Duty to designate Officer as the Monitoring Officer and to provide staff, etc.	Section 5(1) of the Local Government and Housing Act 1989	Full Council
44A	Duty to provide staff, etc, to a person	Section 82A(4) and (5) of the Local	Chief Executive

I	Function	Statutory Provision	Function exercised by:
	nominated by the Monitoring Officer.	Government Act 2000	
44B	Powers relating to overview and scrutiny committees (voting rights of co-opted Members).	Paragraphs 12 and 14 of Schedule 1 to the Local Government Act 2000	Full Council
45	Duty to approve the authority's statement of accounts, income and expenditure and balance sheet, or record of payment and receipts (as the case may be).	The Accounts and Audit Regulations 1996 (S.I. 1996/590)	Audit Committee
46	Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997 (S.I. 1997/1160)	Group Director, Climate, Homes and Economy
47	Powers relating to the preservation of trees.	Sections 197 to 214D of the Town and Country Planning Act 1990, and the Trees Regulations 1999 (S.I. 1999/1892)	Group Director, Climate, Homes and Economy

I	Function	Statutory Provision	Function exercised by:
47A	Powers relating to complaints about high hedges.	Part 8 of the Anti-Social Behaviour Act 2003	Group Director, Climate, Homes and Economy
48	Power to make payments or provide other benefits in cases of maladministration etc.	Section 92 of the Local Government Act 2000	Chief Executive and Group Directors
49	Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption.	Section 13(2) of the Criminal Justice and Police Act 2001	Corporate Committee
50	Power to make or revoke an order designating a locality as an alcohol disorder zone.	Section 16 of the Violent Crime Reduction Act 2006	Group Director, Climate, Homes and Economy
51	Power to apply for an enforcement order against unlawful works on common land.	Section 41 of the Commons Act 2006	Group Director, Climate, Homes and Economy

I	Function	Statutory Provision	Function exercised by:
52	Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference.	Section 45(2)(a) of the Commons Act 2006	Group Director, Climate, Homes and Economy
53	Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens	Section 45(2)(b) of the Commons Act 2006	Group Director, Climate, Homes and Economy

**Appendix 2  
Local Choice Functions**

**Local Choice Functions**

	<b>Function</b>	<b>Statutory Provision</b>	<b>Function exercised by</b>  Executive or / Non-executive function
1	Any function under a local Act other than a function specified or referred to under Regulation 2 of or Schedule 1 to the Regulations.	Local Authorities (Functions & Responsibilities) Regulations 2000 (S.I 2000/2853)	Full Council  (Non-executive function)
2	The determination of an appeal against any decision made by or on behalf of the Authority.	Local Authorities (Functions & Responsibilities) Regulations 2000 (S.I 2000/2853)	Corporate Committee or Licensing Committee as appropriate.  (Non-executive function)
3	The appointment of review boards	Regulations made under sub-section (4) of section 34 (determination of claims and reviews) of the Social Security Act 1998	The Executive  (Executive function)

	<b>Function</b>	<b>Statutory Provision</b>	<b>Function exercised by</b>  Executive or / Non-executive function
4	The making of arrangements in respect of appeals against the exclusion of pupils.	Subsection (1) of Section 67 of Schedule 18 to the School Standards and Framework Act 1998	Group Director, Climate, Homes and Economy  (Executive function)
5	The making of arrangements in respect admission appeals.	Section 94(1) and (4) of, and schedule 24 to, the School Standards and Framework Act 1998	Group Director, Climate, Homes and Economy  (Executive function)
6	The making of arrangements in respect of children to whom section 87 applies: appeals by governing bodies.	Section 95(2) of and Schedule 25 to, the School Standards and Framework Act 1998	Group Director, Climate, Homes and Economy  (Executive function)
7	The making of arrangements under section 20 (questions on police matters at council meetings) of the Police Act 1996 for enabling questions to be put on the	Section 20 of the Police Act 1996	Not applicable to the London Borough of Hackney



	Function	Statutory Provision	Function exercised by  Executive or / Non-executive function
	discharge of functions of a police authority		
8	The making of appointments under paragraphs 2 to 4 (appointment of members by relevant councils) of Schedule 2 (police authorities established under section 3) of the Police Act 1996	Schedule 2 of the Police Act 1996	Not applicable to the London Borough of Hackney
9	No longer in the Regulations		
10	Any function relating to contaminated land.	Environmental Protection Act 1990, Part IIA	Group Director, Climate, Homes and Economy  (Executive function)
11	The discharge of any function relating to the control of pollution or the management of air quality.	Pollution Prevention and Control Act 1990; Environment Act 1995 (Part IV); Environmental Protection Act 1990 (Part I); Clean Air	Group Director, Climate, Homes and Economy  (Executive function)

	<b>Function</b>	<b>Statutory Provision</b>	<b>Function exercised by</b>  Executive or / Non-executive function
		Act 1993	
12	The service of an abatement notice in respect of a statutory nuisance.	Environmental Protection Act 1990, Section 80(1)	Group Director, Climate, Homes and Economy  (Executive function)
13	The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	Section 8 of the Noise and Statutory Nuisance Act 1993	The Executive  (Executive function)
14	The inspection of an authority's area to detect any statutory nuisance.	Section 79 of the Environmental Protection Act 1990	Group Director, Climate, Homes and Economy  (Executive function)
15	The investigation of any complaint as to the existence of a statutory nuisance.	Section 79 of the Environmental Protection Act 1990	Group Director, Climate, Homes and Economy  (Executive function)

	<b>Function</b>	<b>Statutory Provision</b>	<b>Function exercised by</b>  Executive or / Non-executive function
16	The obtaining of information as to interests in land.	Section 330 of the Town and Country Planning Act 1990	Group Director, Climate, Homes and Economy  (Executive function)
17	The obtaining of particulars of persons interested in land.	Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Group Director, Climate, Homes and Economy  (Executive function)
18	The making of agreements for the execution of highways works.	Section 278 of the Highways Act 1980, (substituted by the section 23 of the New Roads and Street Works Act 1991)	Group Director, Climate, Homes and Economy  (Non-executive function)

	<b>Function</b>	<b>Statutory Provision</b>	<b>Function exercised by</b>  Executive or / Non-executive function
19	<p>The appointment of any individual:</p> <p>a) to any office other than an office in which he is employed by the authority;</p> <p>b) to any body other than the authority; a joint committee of two or more authorities; or</p> <p>c) to any committee or sub-committee of such a body, and the revocation of any such appointment</p>	<p>Local Authorities (Functions &amp; Responsibilities) Regulations 2000 (S.I 2000/2853)</p>	<p>The Executive  (Executive function)</p>
20	<p>The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.</p>	<p>Local Authorities (Functions &amp; Responsibilities) Regulations 2000 (S.I. 2000/2853)</p>	<p>Chief Executive  (Executive function)</p>

	<b>Function</b>	<b>Statutory Provision</b>	<b>Function exercised by</b>  Executive or / Non-executive function
21	Any function of a local authority in their capacity as a harbour authority (to the extent that the function does not fall within paragraph 1 of this Schedule.		Not applicable to the London Borough of Hackney
22	Functions under sections 106, 110, 111 and 113 of the Local Government and Public Involvement in Health Act 2007 relating to local area agreements.	Sections 106, 110, 111 and 113 of the Local Government and Public Involvement in Health Act 2007	The Executive (Executive function)

## Local Choice – Local Act Functions

	Function	Statutory Provision	Function exercised by
1	Licensing of Buskers.	Part V of the London Local Authorities Act 2000.	Group Director, Climate, Homes and Economy
2	Service of penalty charge notice on the basis of information provided by camera, etc.	Section 4 of the London Local Authorities Act 2000.	Group Director, Climate, Homes and Economy
3	Service of penalty charge notice where parking attendant prevented from issuing a notice.	Section 5 of the London Local Authorities Act 2000.	Group Director, Climate, Homes and Economy
4	Cleansing relevant land of refuse litter.	Section 19 of the London Local Authorities Act 2000.	Group Director, Climate, Homes and Economy
5	Fire safety and entertainment licensing.	London Local Authorities Act 1996.	Group Director, Climate, Homes and Economy
6	Authority to license near beer premises.	London Local Authorities Act 1995.	Group Director, Climate, Homes and Economy
7	Near Beer – Approval of policies.	London Local Authorities Act 1995.	Group Director, Climate, Homes and Economy

	<b>Function</b>	<b>Statutory Provision</b>	<b>Function exercised by</b>
8	Penalty charge notices in respect of bus lane infringements.	Section 4 of the London Local Authorities Act 1995.	Group Director, Climate, Homes and Economy
9	Making special temporary prohibitions within a special parking area.	Section 9 of the London Local Authorities Act 1995.	Group Director, Climate, Homes and Economy
10	Notice requiring removal of unauthorised advertisement hoardings, etc.	Section 11 of the London Local Authorities Act 1995.	Group Director, Climate, Homes and Economy
11	Notice requiring removal of signs on buildings.	Section 12 of the London Local Authorities Act 1995.	Group Director, Climate, Homes and Economy
12	Authority to register door supervisors.	London Local Authorities Act 1995.	Group Director, Climate, Homes and Economy
13	Consent to distribution of free literature.	Section 4 of the London Local Authorities Act 1994.	Group Director, Climate, Homes and Economy
14	Licensing of night cafes.	London Local Authorities Act 1994.	Group Director, Climate, Homes and Economy

	<b>Function</b>	<b>Statutory Provision</b>	<b>Function exercised by</b>
15	Renewal of street trading licences.	London Local Authorities Act 1994.	Group Director, Climate, Homes and Economy
16	Night Café Licensing approval of policies.	London Local Authorities Act 1994.	Group Director, Climate, Homes and Economy
17	Regulation of street trading and associated issues.	London Local Authorities Act 1994.	Group Director, Climate, Homes and Economy
18	Making of regulations relating to dangerous structure fees.	Section 8 of the London Local Authorities Act 1994.	Group Director, Climate, Homes and Economy
19	Removal of distribution containers on the highway.	Section 22 of the London Local Authorities Act 1991.	Group Director, Climate, Homes and Economy
20	Licensing of special treatment premises.	Part II of the London Local Authorities Act 1991.	Licensing Committee and Group Director, Climate, Homes and Economy.
21	Approval of policies in respect of special treatment licences.	Part II of the London Local Authorities Act 1991.	Group Director, Climate, Homes and Economy
22	Crime Prevention Policies.	London Local Authorities (No.2) Act	The Executive



	Function	Statutory Provision	Function exercised by
		1990.	
23	Crime prevention measures.	Section 5 of the London Local Authorities Act (No. 2) 1990.	The Executive
24	Restoration of gas, water and electricity.	Section 4 of the London Local Authorities Act (No. 2) 1990.	Group Director, Climate, Homes and Economy
25	Licensing of night cafes.	London Local Authorities Act 1990.	Group Director, Climate, Homes and Economy
26	Removal of luggage or shopping trolleys found in open air.	Section 43 of the London Local Authorities Act 1990.	Group Director, Climate, Homes and Economy
27	Street trading: Regulation of street trading and market trading together with the provision, maintenance and management of storage accommodation; and, the approval of policies in respect of street trading.	London Local Authorities Act 1990.	Group Director, Climate, Homes and Economy

	Function	Statutory Provision	Function exercised by
28	Consent for demolition works under street.	Section 5 of the Greater London Council (General Powers) Act 1986.	Group Director, Climate, Homes and Economy
29	Consent for construction which causes obstruction to access to vaults and cellars.	Section 6 of the Greater London Council (General Powers) Act 1986.	Group Director, Climate, Homes and Economy
30	Consent for infilling of vaults and cellars.	Section 7 of the Greater London Council (General Powers) Act 1986.	Group Director, Climate, Homes and Economy
31	Powers relating to certain retaining walls.	Section 8 of the Greater London Council (General Powers) Act 1986.	Group Director, Climate, Homes and Economy
32	Registration of sleeping accommodation	Part IV of the Greater London Council (General Powers) Act 1984.	Group Director, Climate, Homes and Economy
33	Provision relating to the sale of goods by competitive bidding – including registration of premises or stalls.	Part VI of the Greater London Council (General Powers) Act 1984.	Group Director, Climate, Homes and Economy

	<b>Function</b>	<b>Statutory Provision</b>	<b>Function exercised by</b>
34	Power to charge for approval of plans, etc relating to drains.	Section 36 of the Greater London Council (General Powers) Act 1984.	Group Director, Climate, Homes and Economy
35	Removal of occupants of buildings in vicinity of dangerous structures etc – apply to court.	Section 38 of the Greater London Council (General Powers) Act 1984.	Group Director, Climate, Homes and Economy
36	Determination of charges for London Building Acts consents etc.	Section 3 of the Greater London Council (General Powers) Act 1982.	Group Director, Climate, Homes and Economy
37	Control of overcrowding in certain hostels including the ability to serve notices.	Part VI Greater London Council (General Powers) Act 1981.	Group Director, Climate, Homes and Economy
38	Control of Brown Tail Moth.	Section 8 of the Greater London Council (General Powers) Act 1979.	Group Director, Climate, Homes and Economy
39	Power to establish foreign loans reserve fund.	Greater London Council (General Powers) Act 1976.	Group Director, Climate, Homes and Economy

	Function	Statutory Provision	Function exercised by
40	Power to extinguish rights of interment.	Section 9 of the Greater London Council (General Powers) Act 1976.	Group Director, Climate, Homes and Economy
41	Prohibition of person entering upon grass verge.	Section 14(2) of the Greater London Council (General Powers) Act 1974.	Group Director, Climate, Homes and Economy
42	Authorisation of parking on verges.	Section 15(4) Greater London Council (General Powers) Act 1974.	Group Director, Climate, Homes and Economy
43	Removal of vehicles for street cleaning.	Section 21 of the Greater London Council (General Powers) Act 1974.	Group Director, Climate, Homes and Economy
44	Closure of unsanitary food premises / stalls – Council to seek order from the court.	Section 30 of the Greater London Council (General Powers) Act 1973.	Group Director, Climate, Homes and Economy
45	Licences to erect scaffolding.	Section 15 of the Greater London Council (General Powers) Act 1973.	Group Director, Climate, Homes and Economy
46	Contributions in respect of railings.	Section 18 of the Greater London	Group Director, Climate, Homes and Economy

	Function	Statutory Provision	Function exercised by
		Council (General Powers) Act 1972.	
47	Restoration of gas and electricity services.	Section 19 of the Greater London Council (General Powers) Act 1972.	Group Director, Climate, Homes and Economy
48	Walkways.	Section 11 of the Greater London Council (General Powers) Act 1969.	Group Director, Climate, Homes and Economy
49	Boundary walls	Section 6 of the London County Council (General Powers) Act 1963.	Group Director, Climate, Homes and Economy
50	Acquisition of easements, etc.	Section 8 of the London County Council (General Powers) Act 1963.	Group Director, Climate, Homes and Economy
51	Underpinning of houses near a street improvement.	Section 9 of the London County Council (General Powers) Act 1963.	Group Director, Climate, Homes and Economy
52	Approval of trade refuse disposal facilities.	Section 11 of the London County Council (General Powers) Act 1963.	Group Director, Climate, Homes and Economy

	<b>Function</b>	<b>Statutory Provision</b>	<b>Function exercised by</b>
53	Provision of shops etc in subway.	Section 14 of the London County Council (General Powers) Act 1963.	Group Director, Climate, Homes and Economy
54	Power to provide illumination, floodlighting, etc.	Section 17 of the London County Council (General Powers) Act 1963.	Group Director, Climate, Homes and Economy
55	Service of notices for prevention of flooding etc.	Section 17 of the London County Council (General Powers) Act 1962.	Group Director, Climate, Homes and Economy
56	Restriction of vehicular access to and from street improvements.	Section 13 of the London County Council (General Powers) Act 1960.	Group Director, Climate, Homes and Economy
57	Acquisition of land for the purpose of providing facilities for storage, etc. of horticultural produce.	Section 12 of the London County Council (General Powers) Act 1959.	Group Director of Finance and Corporate Resources
58	Provision of accommodation and charges.	Section 13 of the London County Council (General Powers) Act 1959.	Group Director of Finance and Corporate Resources

	<b>Function</b>	<b>Statutory Provision</b>	<b>Function exercised by</b>
59	Power to lease and enter into agreements.	Section 14 of the London County Council (General Powers) Act 1959.	Group Director of Finance and Corporate Resources
60	Provision of advances for erection etc. of buildings.	Section 78 of the London County Council (General Powers) Act 1957.	Group Director of Finance and Corporate Resources
61	Removal of bottles from streets.	Section 81 of the London County Council (General Powers) Act 1957.	Group Director, Climate, Homes and Economy.
62	Byelaws as to artificial lighting of common staircases.	Section 63 of the London County Council (General Powers) Act 1956.	Group Director, Climate, Homes and Economy
63	Powers of borough Councils to maintain burial grounds.	Section 36 of the London County Council (General Powers) Act 1955.	Group Director, Climate, Homes and Economy
64	Return of library books.	Section 39 of the London County Council (General Powers) Act 1955,	Group Director, Climate, Homes and Economy
65	Recovery of expenses of fencing certain lands.	Section 39 of the London County	Group Director, Climate, Homes and Economy

	Function	Statutory Provision	Function exercised by
		Council (General Powers) Act 1955,	
66	Defacement of streets with slogans etc.	Section 20 of the London County Council (General Powers) Act 1954,	Group Director, Climate, Homes and Economy
67	Powers of sanitary authority to cleanse aged and feeble persons in their homes.	Section 43 of the London County Council (General Powers) Act 1953.	Group Director, Climate, Homes and Economy
68	Expenses of Councils in connection with ceremonies etc.	Section 32 of the London County Council (General Powers) Act 1951.	Full Council
69	Improvement of roadside amenities etc	Section 33 of the London County Council (General Powers) Act 1951.	Group Director, Climate, Homes and Economy
70	Power to supply storage etc. for accommodation to costermongers etc.	Section 34 of the London County Council (General Powers) Act 1951.	Group Director, Climate, Homes and Economy
71	Supply of heat.	Part II of the London County Council (General Powers) Act 1949.	Group Director, Climate, Homes and Economy



	<b>Function</b>	<b>Statutory Provision</b>	<b>Function exercised by</b>
72	Maintenance of forecourts to which public have access and power to serve improvement notices.	Section 43 of the London County Council (General Powers) Act 1948.	Group Director, Climate, Homes and Economy
73	Fencing of dangerous land in or near streets.	Section 44 of the London County Council (General Powers) Act 1948.	Group Director, Climate, Homes and Economy
74	Recovery of expenses and costs.	Section 44 of the London County Council (General Powers) Act 1948.	The Executive
75	Power to provide concert halls etc.	Section 4 of the London County Council (General Powers) Act 1947.	The Executive
76	Power to provide entertainment.	Section 5 of the London County Council (General Powers) Act 1947.	The Executive
77	Contributions to cultural bodies.	Section 59 of the London County Council (General Powers) Act 1947.	The Executive

	Function	Statutory Provision	Function exercised by
78	Acquisition of buildings or places of historic interest.	Section 69 of the London County Council (General Powers) Act 1947.	The Executive
79	Gratuities to non-pensionable employees.	Section 61 of the London County Council (General Powers) Act 1930.	All Group Directors
80	Enclosure of unenclosed land adjoining streets.	Section 33 of the London County Council (General Powers) Act 1925.	Group Director, Climate, Homes and Economy
81	Compensation to persons in the Council's service on abolition of office.	Section 31 of the London County Council (General Powers) Act 1921.	Chief Executive and all Group Directors

## **Appendix 3 - Terms of Reference of Council Committees etc Appointments Committee**

### **Functions**

The Appointments Committee discharges on behalf of the Council, the functions of the employer in relation to the appointment, discipline, pay, and terms and conditions of service, and dismissal for all chief officers (as defined by section 43 of the Localism Act 2011), subject to the Officer Appointment Procedure Rules set out in Part 4 of the Constitution, and the approval of the Full Council where required.

The Appointments Committee also approves any discretionary payments made to a Chief Officer either by way of honorarium or severance payment in accordance with the Pay Policy Statement.

### **Type of Committee**

The Appointments Committee is a non-executive committee established by Full Council to discharge regulatory functions.

### **Membership**

Membership of this Committee is appointed in accordance with political balance at Full Council.

### **Chairing arrangements**

The Chair and Vice Chair of this committee is appointed at Full Council. In the absence of the Chair or Vice Chair, and subject to being quorate, the Committee members can agree who may preside over the meeting based on the number of those present in person.

### **Quorum and Voting Arrangements**

The Quorum of the Appointments Committee shall be 2 elected Councillors.

### **Substitutes**

Substitutes to the Committee will be appointed by Full Council for the purposes of establishing a quorum and will have the same voting rights as regular committee members.

### **Order of Business**

- (a) Receive apologies;

- (b) Receive any declarations of interest from Councillors;
- (c) Approve the minutes of the previous meeting
- (d) Receive questions from, and provide answers to, members of the public on matters covered on the agenda;
- (e) Consider reports as set out in the agenda.
- (f) Consider any items of urgent business.

### **Who may attend?**

Meetings of the Committee will normally be open to the public, unless confidential or exempt information is to be discussed.

### **Location**

This Committee meets at the Council's main offices or any other suitable location.

You can also view meetings online in accordance with the Access to Information Procedure Rules in Part 6, Section C of the Council's Constitution with the Protocol on Recording and Live Streaming Council Meetings set out in Part 6, Section F of the Constitution.

### **Questions to the Committee**

A member of the public who lives, works, or studies in the Borough can ask a question of the Committee with one supplementary question relating to an item on the agenda.

A Councillor may ask a question of the Committee with one supplementary question relating to an item on the agenda.

The total amount of time for questions with notice at the Committee will be no more than 15 minutes.

If the Chair agrees, a member of the public can ask a question at the Committee without having given notice. If a question without notice is asked, the Chair will explain that it might not be possible to give a full answer at the meeting and that a written response will be provided.

### **Frequency of meetings**

The Committee meets on dates set out in the Council's meetings calendar.

### **Papers and Notice**

The agenda and any papers for the Committee will be issued at least 5 working days in advance of the meeting, except in the case of matters of urgency.

### **Review**

The terms of reference will be reviewed on an annual basis, or as necessary, to support the functions and objectives of this Committee. Updates to the terms of reference will be agreed annually at the Committee's first meeting of the municipal year.

Last reviewed: Date xxx

### Appendix 3 - Terms of Reference of Council Committees etc Audit Committee

#### Functions

The Audit Committee is responsible for assisting the Council in discharging its functions in relation to the Council's risk management framework, the internal financial and governance control environment and integrity of the financial reporting and annual governance processes.

The purpose of the Audit Committee is to provide independent assurance to Councillors of the adequacy of the risk management framework and the internal control environment. It provides an independent review of Hackney's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

The Audit Committee is responsible for the functions set out below:

#### Governance, Risk and Control

- (a) To review the Council's corporate governance arrangements against the good governance framework including the ethical framework and consider the local code of governance.
- (b) To review the Council's corporate governance arrangements against the good governance framework including the ethical framework and consider the local code of governance.
- (c) To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- (d) To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.
- (e) To consider the Annual Risk Management Report and Strategy.
- (f) To monitor the effective development and operation of risk management in the Council.
- (g) To monitor progress in addressing risk related issues reported to the Committee.

- (h) To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
- (i) To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.
- (j) To monitor the counter-fraud strategy, actions and resources.
- (k) To review the governance and assurance arrangements for significant partnerships or collaborations.

#### Internal audit

- (a) To approve the Internal Audit Charter and Strategy.
- (b) To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.
- (c) To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
- (d) To approve significant interim changes to the risk-based internal audit plan and resource requirements.
- (e) To make appropriate enquiries of both management and the Head of Internal Audit to determine if there are any inappropriate scope or resource limitations.
- (f) To consider reports from the Head of Internal Audit on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:
  - 1. Updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work.
  - 2. Regular reports on performance results.
  - 3. Reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards (PSIAS) and Local Government Application Note, considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement.
- (g) To consider the Head of Internal Audit's annual report:
  - 1. The statement of the level of conformance with the PSIAS and Local Government Application Note and the results of the Quality

Assurance and Improvement Programme that supports the statement. These will indicate the reliability of the conclusions of internal audit.

2. The opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with the summary of the work supporting the opinion. These will assist the committee in reviewing the Annual Governance Statement.

- (h) To consider summaries of specific internal audit reports as requested.
- (i) To receive reports outlining the action taken where the Head of Internal Audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
- (j) To contribute to the Quality Assurance and Improvement Programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years.
- (k) To consider a report on the effectiveness of internal audit to support the Annual Governance Statement, where required to do so by the Accounts and Audit Regulations.
- (l) The Head of Internal Audit must also establish effective communication with the Chair of the Audit Committee and the Chief Executive, and have unrestricted lines of communication with them if circumstances require.

#### Anti-Fraud & Corruption

- (a) To monitor the Council's policies on whistleblowing in respect of the anti-fraud and corruption policy.
- (b) To monitor the use of Regulatory of Investigatory Powers Act (RIPA) powers across the Council and review the corporate policy and guidance.
- (c) To consider reports from the Office of the Surveillance Commissioner.

#### External Audit

- (a) To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by Public Sector Audit Appointments Ltd (PSSA) or the authority's auditor panel as appropriate.



- (b) To consider the external auditor's annual report to those charged with governance in respect of the annual audit of accounts.
- (c) To consider other specific reports as agreed with the external auditor.
- (d) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- (e) To commission work from internal and external audits.
- (f) To advise and recommend on the effectiveness of relationships between external and internal audits and other inspection agencies or relevant bodies.

### Treasury Management

- (a) To maintain an overview on the Council's investment and borrowing arrangements including consideration of the annual Treasury Management Strategy prior to its approval by Council as part of the annual budget setting process.
- (b) To consider regular reports on the Council's investment and borrowing arrangements in line with the Chartered Institute for Public Finance Accountants (CIPFA) Code of Practice on Treasury Management.

### Financial Accounts

- (a) To review and adopt the annual Statement of Accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- (b) To approve the Annual Governance Statement included within the annual Statement of Accounts, ensuring that any areas highlighted within the statement for action are addressed appropriately.
- (c) To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

### Accountability Arrangements

- (a) To report to those charged with governance on the Committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks; financial reporting arrangements, and internal and external audit functions.

- (b) To report to Full Council on a regular basis on the Committee's performance in relation to the terms of reference and the effectiveness of the Committee in meeting its purpose. This will be achieved via an annual report on the work of the committee and any such reports that may be otherwise required.
- (c) To put in place effective working relationships with the Standards Committee and Scrutiny function to ensure appropriate collaborative working without a duplication of responsibilities.

### **Type of Committee**

Audit Committee is a non-executive committee established by Full Council to discharge regulatory functions.

### **Membership**

Membership of this Committee is appointed in accordance with political balance at Full Council.

### **Chairing arrangements**

The Chair and Vice Chair of this committee is appointed at Full Council. In the absence of the Chair or Vice Chair, and subject to being quorate, the Committee members can agree who may preside over the meeting based on the number of those present in person.

### **Quorum and Voting Arrangements**

The Quorum for the Audit Committee shall be two elected Councillors.

### **Substitutes**

Substitutes to the Committee will be appointed by Full Council for the purposes of establishing a quorum and will have the same voting rights as regular committee members.

### **Order of Business**

- (a) Receive apologies;
- (b) Receive any declarations of interest from Councillors;
- (c) Approve the minutes of the previous meeting
- (d) Receive questions from, and provide answers to, members of the public on matters covered on the agenda;

(e) Consider reports as set out in the agenda.

(f) Consider any items of urgent business.

### **Who may attend?**

Meetings of the Committee will normally be open to the public, unless confidential or exempt information is to be discussed.

### **Location**

This Committee meets at the Council's main offices or any other suitable location.

You can also view meetings online in accordance with the Access to Information Procedure Rules in Part 6, Section C of the Council's Constitution with the Protocol on Recording and Live Streaming Council Meetings set out in Part 6, Section F of the Constitution.

### **Questions to the Committee**

A member of the public who lives, works, or studies in the Borough can ask a question of the Committee with one supplementary question relating to an item on the agenda.

A Councillor may ask a question of the Committee with one supplementary question relating to an item on the agenda.

The total amount of time for questions with notice at the Committee will be no more than 15 minutes.

If the Chair agrees, a member of the public can ask a question at the Committee without having given notice. If a question without notice is asked, the Chair will explain that it might not be possible to give a full answer at the meeting and that a written response will be provided.

### **Frequency of meetings**

The Committee meets on dates set out in the Council's meetings calendar.

### **Papers and Notice**

The agenda and any papers for the Committee will be issued at least 5 working days in advance of the meeting, except in the case of matters of urgency.

## **Review**

The terms of reference will be reviewed on an annual basis, or as necessary, to support the functions and objectives of this Committee. Updates to the terms of reference will be agreed annually at the Committee's first meeting of the municipal year.

Last reviewed: Date xxx

### **Appendix 3 - Terms of Reference of Council Committees etc Cabinet Procurement & Insourcing Committee**

#### **Functions**

Cabinet Procurement & Insourcing Committee is responsible for the functions set out below:

1. The Committee is authorised by Cabinet to give detailed consideration on all issues relating to procurement practice and policy and to award all high-risk contracts, including all contracts above £2m regardless of their risk rating. The Committee may also reserve to itself the consideration to award any contract for any other procurement listed on the Procurement Pipeline (Procurement Forward Plan).
2. The Committee will exercise the following functions and those matters which flow from them, which are executive functions and advise, as appropriate on:
  - (a) Improving the quality of public services to better meet the needs of all local Citizens through the skilful use of procurement as a function to support Council priorities;
  - (b) Ensuring the Council's procurement processes deliver Value for Money (VFM) outcomes where VFM is defined as the optimum combination of both whole life costs and quality (or fitness for purpose).
3. The Committee will oversee the progress of all contracting activities on the Procurement Forward Plan.
4. The Committee will oversee those procurements put before it under the Gateway process to ensure:
  - (a) They are consistent with Hackney's procurement policy and procedures and the Council's statutory obligations as advised by Officers;
  - (b) The "make or buy" decision is robust and consistent with achieving best value for the Council, where best value is defined as providing services that are efficient, effective and deliver Value for Money.
  - (c) The procurement approach will achieve best value for the Council, promoting procurement options that, where consistent with this duty, have regard to opportunities for collaborating with partners at local, regional, and national level, are designed to deliver a mixed economy

of service provision, with ready access to a diverse, competitive range of suppliers providing quality services, including small firms, social enterprises, minority businesses and voluntary and community sector groups.

- (d) Contract awards are made having regard to identification of the most economically advantageous tender (MEAT), considering issues such as quality, performance, delivery, continuity of supply and whole life costs.
  - (e) That the Benefits Realisation of contracts are considered and that lessons learned are captured.
5. The Committee will give consideration to proposals for insourcing of existing outsourced contracts as part of options appraisal for future service provision. Where there is a clear demonstration that this option will consistently achieve best value for the Council and its residents, the Committee will have the power to approve the insourcing of contracts.
  6. The Committee will review and where appropriate award contract variations as set out in Contract Standing Orders.
  7. The Committee will be responsible for considering any procurements that are referred to the Committee by the Chair of Hackney Procurement Board (an officer panel established in accordance with Contract Standing Orders).
  8. The Committee has the discretionary right to refer any report at Gateway 2 or 4 review for decision by Cabinet,
  9. The Committee will also consider and advise, as appropriate, on:
    - (a) A corporate approach to best value in Procurement and ensuring all departments of the Council comply with these principles;
    - (b) Value for money studies following consideration by those bodies with appropriate responsibility for the specific area of work;
    - (c) The use of procurement to support the Council's wider Equalities, Environmental, In-sourcing Services, Social and Community Benefit objectives
  10. The Committee will be responsible for considering any procurements that arise from the acceptance of an Expression of Interest under Section 81 of the Localism Act 2011.

## **Type of Committee**

Cabinet Procurement and Insourcing Committee is an Executive committee under delegated authority of the Elected Mayor.

## **Membership**

The membership of the Committee is appointed by the Elected Mayor and will include the Cabinet Member for Finance, Insourcing and Customer Service and X number of Cabinet members.

## **Chairing arrangements**

This Committee is chaired by the Cabinet Member for Finance, Insourcing and Customer Service.

In the absence of the Chair, and subject to availability, the Elected Mayor will Chair this Committee.

## **Quorum and Voting Arrangements**

The quorum for a meeting of this Committee is two members of the Cabinet which must include the Chair. If neither of them are present the meeting will not be quorate.

## **Substitutes**

Substitutes to the Committee will be appointed by the Elected Mayor for the purposes of establishing a quorum and will have the same voting rights as regular committee members.

## **Order of Business**

- (a) Receive apologies;
- (b) Receive any declarations of interest from elected members;
- (c) Consider any items of urgent business
- (d) Approve the minutes of the previous meeting;
- (e) Review procurement pipeline to ensure that appropriate plans and resources are in place to re-procure or insource existing contracts before they expire

- (f) Receive questions from, and provide answers to, members of the public on matters covered on the agenda;
- (g) Receive questions from, and provide answers to Councillor questions on matters covered on the agenda;
- (h) Consider any matters delegated by Cabinet.
- (i) Consider reports as set out in the agenda.
- (j) Receive details of any procurement related decisions taken by Officers as key decisions under delegated authority.
- (k) Consider any report that any two of the Council's statutory Officers, acting within their statutory duties, decide ought to be considered by the Committee.

### **Who may attend?**

Meetings of the Committee will normally be open to the public, unless confidential or exempt information is to be discussed.

### **Location**

This Committee meets at the Council's main offices or any other suitable location.

You can also view meetings online in accordance with the Access to Information Procedure Rules in Part 6, Section C of the Council's Constitution with the Protocol on Recording and Live Streaming Council Meetings set out in Part 6, Section F of the Constitution.

### **Questions to the Committee**

A member of the public who lives, works, or studies in the Borough can ask a question of the Committee with one supplementary question relating to an item on the agenda.

A Councillor may ask a question of the Committee with one supplementary question relating to an item on the agenda.

The total amount of time for questions with notice at the Committee will be no more than 15 minutes.

If the Chair agrees, a member of the public can ask a question at the Committee without having given notice. If a question without notice is asked, the Chair will explain that it might not be possible to give a full answer at the meeting and that a written response will be provided.

**Appendix 3 - Terms of Reference of Council Committees etc  
Cabinet Procurement & Insourcing Committee**



### **Frequency of meetings**

The Committee meets on dates set out in the Council's meetings calendar.

### **Papers and Notice**

The agenda and any papers for the Committee will be issued at least 5 working days in advance of the meeting, except in the case of matters of urgency.

### **Review**

The terms of reference will be reviewed on an annual basis, or as necessary, to support the functions and objectives of this Committee. Updates to the terms of reference will be agreed annually at the Committee's first meeting of the municipal year.

Last reviewed: Date xx

## Appendix 3 - Terms of Reference of Council Committees etc Constitution Committee

### Functions

Constitution Committee is responsible for the functions set out below:

1. Shall review areas in the Constitution to ensure that they are fit for purpose and propose appropriate changes;
2. Receive requests to review certain areas of the Constitution;
3. Consider changes proposed by Members, Officers and Committees;
4. Recommend proposed changes to Council for approval.

The Constitution Committee will set its own work programme. The following persons / bodies can request that it considers a particular area of the Constitution for review:

- (a) The Mayor
- (b) Full Council
- (c) Party Whips
- (d) The Monitoring Officer

The Constitution Committee can invite any Member or Officer to speak on a particular item under consideration (e.g. the s151 Officer if the Committee is looking at the rules relating to the setting of the budget).

### Type of Committee

This is a non-executive committee established by Full Council to discharge regulatory functions.

### Membership

Membership of this Committee is appointed in accordance with political balance at Full Council and shall be:

- (a) One member of the Executive who will be responsible for reporting the view of Cabinet to the Committee;

- (b) One member of the Majority Group who is not a member of the Executive who will be responsible for reporting the views of the Majority Group to the Committee;
- (c) One member from each Opposition Group who will be responsible for reporting the views of Opposition Groups to the Committee;
- (d) One member of the Audit Committee; and
- (e) One member of the Scrutiny Panel

### **Chairing arrangements**

The Chair and Vice Chair will be appointed either at the Annual Meeting of Full Council or at the first meeting of the Committee in each municipal year.

In the absence of the Chair or Vice Chair, and subject to being quorate, the Committee members can agree who may preside over the meeting based on the number of those present in person.

### **Quorum and Voting Arrangements**

The Quorum for the Audit Committee shall be three elected Councillors.

### **Substitutes**

Substitutes to the Committee will be appointed by Full Council for the purposes of establishing a quorum and will have the same voting rights as regular committee members.

### **Order of Business**

- (a) Receive apologies;
- (b) Receive any declarations of interest from Councillors;
- (c) Approve the minutes of the previous meeting
- (d) Receive questions from, and provide answers to, members of the public on matters covered on the agenda;
- (e) Receive questions from, and provide answers to Councillor questions on matters covered on the agenda;
- (f) Consider reports as set out in the agenda.
- (g) Consider any items of urgent business.

### **Who may attend?**

Meetings of the Committee will normally be open to the public, unless confidential or exempt information is to be discussed.

### **Location**

This Committee meets at the Council's main offices or any other suitable location.

You can also view meetings online in accordance with the Access to Information Procedure Rules in Part 6, Section C of the Council's Constitution with the Protocol on Recording and Live Streaming Council Meetings set out in Part 6, Section F of the Constitution.

### **Questions to the Committee**

A member of the public who lives, works, or studies in the Borough can ask a question of the Committee with one supplementary question relating to an item on the agenda.

A Councillor may ask a question of the Committee with one supplementary question relating to an item on the agenda.

The total amount of time for questions with notice at the Committee will be no more than 15 minutes.

If the Chair agrees, a member of the public can ask a question at the Committee without having given notice. If a question without notice is asked, the Chair will explain that it might not be possible to give a full answer at the meeting and that a written response will be provided.

### **Frequency of meetings**

The Committee meets on dates set out in the Council's meetings calendar.

### **Papers and Notice**

The agenda and any papers for the Committee will be issued at least 5 working days in advance of the meeting, except in the case of matters of urgency.

Last reviewed: Date xx

### **Appendix 3 - Terms of Reference of Council Committees etc Corporate Committee**

#### **Functions**

The Corporate Committee is responsible for maintaining oversight of the Council's regulatory functions, planning, elections and human resources. The Committee is also responsible for any other Council function that has not been specifically allocated to Full Council or any other committee.

The Corporate Committee is responsible for the functions set out below:

#### Regulatory Framework

1. To discharge all non-executive functions not allocated to the Council or another Committee.
2. To appoint a Planning Sub-Committee and approve its terms of reference, procedures and protocols including the adoption of a Planning Code of Practice.
3. To appoint any Sub-Committees within its remit deemed necessary to perform its functions and approve their terms of reference, procedures and protocols.
4. To develop, review, monitor and maintain a strategic overview of the Council's regulatory function.
5. To consider the functions relating to health and safety under any relevant statutory provision within the meaning of Part 1 Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as an employer.
6. To consider Polling District and Place Reviews undertaken in accordance with the Representation of People Act 1983.
7. To develop, monitor, review and make recommendations to Full Council on the adoption of byelaws.
8. To consider recommendations to other bodies of the Council on policy development and responses to Government consultations within the remit of the Committee or its Sub-Committees.
9. To approve any Member training deemed necessary for the Committee or its Sub-Committees.

## Human Resources

1. To maintain a strategic overview of Human Resources matters, including adopting any proposed changes to current policies which may affect the terms and conditions of staff employed by the Council.

### **Type of Committee**

Corporate Committee is a non-executive committee established by Full Council to discharge regulatory functions.

### **Membership**

Membership of this Committee is appointed in accordance with political balance at Full Council.

### **Chairing arrangements**

The Chair and Vice Chair of this committee is appointed at Full Council. In the absence of the Chair or Vice Chair, and subject to being quorate, the Committee members can agree who may preside over the meeting based on the number of those present in person.

### **Quorum and Voting Arrangements**

The Quorum for the Corporate Committee shall be four elected Councillors.

### **Substitute**

Substitutes to the Committee will be appointed by Full Council for the purposes of establishing a quorum and will have the same voting rights as regular committee members.

### **Order of Business**

- (a) Receive apologies;
- (b) Receive any declarations of interest from Councillors;
- (c) Approve the minutes of the previous meeting
- (d) Receive questions from, and provide answers to, members of the public on matters covered on the agenda;
- (e) Consider reports as set out in the agenda.
- (f) Consider any items of urgent business.

### **Who may attend?**

Meetings of the Committee will normally be open to the public, unless confidential or exempt information is to be discussed.

### **Location**

This Committee meets at the Council's main offices or any other suitable location.

You can also view meetings online in accordance with the Access to Information Procedure Rules in Part 6, Section C of the Council's Constitution with the Protocol on Recording and Live Streaming Council Meetings set out in Part 6, Section F of the Constitution.

### **Questions to the Committee**

A member of the public who lives, works, or studies in the Borough can ask a question of the Committee with one supplementary question relating to an item on the agenda.

A Councillor may ask a question of the Committee with one supplementary question relating to an item on the agenda.

The total amount of time for questions with notice at the Committee will be no more than 15 minutes.

If the Chair agrees, a member of the public can ask a question at the Committee without having given notice. If a question without notice is asked, the Chair will explain that it might not be possible to give a full answer at the meeting and that a written response will be provided.

### **Frequency of meetings**

The Committee meets on dates set out in the Council's meetings calendar.

### **Papers and Notice**

The agenda and any papers for the Committee will be issued at least 5 working days in advance of the meeting, except in the case of matters of urgency.

## **Review**

The terms of reference will be reviewed on an annual basis, or as necessary, to support the functions and objectives of this Committee. Updates to the terms of reference will be agreed annually at the Committee's first meeting of the municipal year.

Last reviewed: Date xxx



### **Appendix 3 - Terms of Reference of Council Committees etc Council Joint Committee**

#### **Functions**

The committee shall meet to carry out the following functions in relation to employees of the Council:

1. To promote cooperation between the Council as an employer with its employees through their Trades Unions through meaningful communication, consultation and negotiation.
2. To keep the employer and employees informed on matters which concern them.
3. To seek views on employment practices and procedures and to seek prior agreement of proposed changes.
4. To seek views on health and safety issues.
5. To monitor compliance with regulatory and statutory requirements and reinforce the Council's commitment towards equality in employment.
6. To monitor the employment element of the Council's equalities policies and to advise the Council of suitable remedies to address possible complex employment issues.
7. To make recommendations upon equalities matters to Full Council, Cabinet, or Chief Officers, as appropriate, or to the appropriate external body.
8. To settle differences in interpretation and/or application of national, provincial or local agreements which had not been resolved at Local Joint Committees, the Corporate Trade Unions/HR Forums or which have corporate implications.
9. To refer differences not resolved by the CJC to a Provincial Disputes Procedure.

The CJC will not discuss any matter which specifically concerns an individual employee or former employee.

#### **Type of Committee**

The committee is an advisory committee.

## **Membership**

This meeting is open to only members of the committee and designated senior officers.

The committee will ideally consist of an equal number of employer and trade union members (so far as this is compatible with political balance rules) each representing one of the following:

- (a) The Cabinet (to include the Cabinet Councillor with responsibility for Human Resources);
- (b) Councillor
- (c) Chair of the Council's Corporate Committee;
- (d) Representative of Building and Crafts Convenor;
- (e) Representative of the General Municipal Boilermakers and Allied Trades Union (GMB) Branch;
- (f) Representative of UNITE;
- (g) Representative of the UNISON Branch.

## **Chairing arrangements**

This committee is chaired by the Cabinet Member for Employment, Human Resources and Equalities.

There are no vice chairing arrangements in place for this Committee.

## **Quorum and Voting Arrangements**

The Quorum for the Council Joint Committee is as appointed by Full Council.

## **Substitutes**

Substitutes to the Committee will be appointed by Full Council for the purposes of establishing a quorum and will have the same voting rights as regular committee members.

## **Order of Business**

- (a) Apologies for Absence

- (b) Declarations of Interest
- (c) Minutes of the Previous Meeting and the actions tracker
- (d) Employee items
- (e) Employer items

### **Who may attend?**

Meetings of the Committee will normally be open to the public, unless confidential or exempt information is to be discussed.

### **Location**

The meeting is not open to the public.

### **Questions to the Committee**

The Committee does not accept questions from the public or Councillors.

### **Frequency of meetings**

The Committee meets on a quarterly basis as set out in the Council's meetings calendar.

### **Papers and Notice**

The agenda and any papers for the Committee will be issued at least 5 working days in advance of the meeting, except in the case of matters of urgency. This is not a public meeting.

### **Review**

The terms of reference will be reviewed on an annual basis, or as necessary, to support the functions and objectives of this Committee. Updates to the terms of reference will be agreed annually at the Committee's first meeting of the municipal year.

Last reviewed: Date xxx

### **Appendix 3 - Terms of Reference of Council Committees etc Health and Wellbeing Board**

#### **Functions**

The Hackney Health and Wellbeing Board is a strategic, multi agency partnership board, established under the Health and Social Care Act (2012). It brings together the Local Authority, the Integrated Commissioning Board, with local Healthwatch and other partners, in order to improve the commissioning of health and social care services and improve the health of the local population. Alongside its duty to improve commissioning of these, the Board also has responsibility for promoting integration between health and social care.

The Board brings together senior stakeholders and local representatives to strategically plan the commissioning of the right health and social care services for adults and children in Hackney, highlighting the most cost-effective ways to enable Hackney residents to live longer, healthier, safer, happier lives. The Board promotes the integration of services where this will promote more accessible, efficient and cost effective solutions to the challenges that the residents of Hackney face.

To carry out the duties and responsibilities of a Health and Wellbeing Board as set out in the Health and Social Care Act 2012, in particular:

- (a) To encourage integrated working between commissioners of NHS, public health and social care services for the advancement of the health and wellbeing of the local population;
- (b) To provide advice, assistance or other support in order to encourage partnership arrangements such as the development of pool budgets or make lead commissioning arrangements under Section 75 of the NHS Act;
- (c) To, for the purpose of advancing the health and wellbeing of the people in its area, encourage persons who arrange for the provision of health or social care services in its area to work in an integrated manner;
- (d) To provide advice, assistance or other support as it thinks appropriate for the purpose of encouraging arrangements under Section 75 of the NHS Act. These are arrangements under which, for example, NHS Bodies and local authorities agree to exercise specified functions of each other or pool funds;

- (e) To discharge the functions of the Integrated Commissioning Board and the Local Authority in preparing joint strategic needs assessments (JSNA) and joint health wellbeing strategies (JHWS);
- (f) To, where appropriate, recommend Full Council to extend its functions relating to wider determinants of health, such as housing, that affect the health and wellbeing of the population. To inform the Local Authority of its views on whether the authority is discharging its duty to have regard to the JSNA and JHWS in discharging its functions;
- (g) To discharge any non-executive function to enable it to carry out its statutory duties as Full Council may from time to time choose to delegate.
- (h) To prepare and publish a pharmaceutical needs assessment.
- (i) A duty to exercise functions with regard to the need to reduce inequalities between patients in outcomes and access to services.

Additional, non-statutory functions of the HWB include:

- (a) Lead and have oversight of system action to improve the health of the local population (beyond patients and service users) and reduce health inequities, through
  - Tackling the wider determinants of health by promoting and embedding Health in All Policies across system partners
  - Oversight of the following strategies and plans that include key aims to improve health and/or reduce inequalities, including
    - a. Community Strategy
    - b. Public health strategy
    - c. Hackney Autism Strategy
    - d. Alcohol Strategy
    - e. Mental health Priorities
    - f. Dementia strategy
    - g. Tobacco Strategy
    - h. Ageing Well Strategy
    - i. Serious Violence Action Plan.
- (b) Ensure a Health and Wellbeing Board work plan is implemented, reviewed and updated.
- (c) Establish relevant sub-groups or sub committees, determine their work programmes and ensure these are kept on track.
- (d) Ensure that Cabinet, the Integrated Commissioning Board and other members' boards are kept informed of progress and work of the board.

- (e) To receive the annual public health report/public health issues.
- (f) Have oversight of Hackney HealthWatch Plans and receive its Annual Report.
- (g) Communicate the work of the Board to all Hackney residents and other stakeholders, through its website and publications.
- (h) Agree and maintain a procedure for questions from members of the public.

### **Type of Committee**

The Hackney Health and Wellbeing Board is a strategic, multi-agency partnership board, established under the Health and Social Care Act (2012).

### **Membership**

The 2012 Act prescribes a core membership of the Health and Wellbeing Board of:

- (a) At least one elected representative, nominated by either the Leader of the council, the Mayor, or in some cases by the local authority;
- (b) A representative from each ICB whose area falls within or coincides with, the local authority area;
- (c) The local authority directors of adult social services, children's services and public health;
- (d) A representative from the local Healthwatch organisation;

The extended membership includes representatives from:

- (a) The Police;
- (b) The Community and Voluntary Sector;
- (c) Primary Care Networks;
- (d) The Housing Service;
- (e) Education, and;
- (f) Relevant Council Cabinet members

### **Chairing arrangements**

The Health and Wellbeing Board is jointly chaired by the Cabinet member with the relevant portfolio responsibility for Public Health and the Integrated Commissioning Board Clinical Lead.

In the absence of a Co-Chair, and subject to being quorate, the Committee members can agree who may preside over the meeting based on the number of those present in person.

### **Quorum and Voting Arrangements**

The quorum for the Board will be at least 4 members, to include at least one Co-Chair and a Councillor.

### **Substitutes**

There is an expectation that Board members will prioritise attendance. If a member is unable to attend the meeting they should nominate a substitute. This substitute should have delegated authority to make the same level of decision as the member they are representing.

### **Order of Business**

- (a) Receive apologies;
- (b) Receive any declarations of interest from members;
- (c) Approve the minutes of the previous meeting;
- (d) Review the action log
- (e) Consider reports as set out in the agenda.
- (f) Consider any items of urgent business

### **Who may attend?**

Meetings of the Committee will normally be open to the public, unless confidential or exempt information is to be discussed.

### **Location**

This Committee meets at the Council's main offices or any other suitable location.

You can also view meetings online in accordance with the Access to Information Procedure Rules in Part 6, Section C of the Council's Constitution with the Protocol on Recording and Live Streaming Council Meetings set out in Part 6, Section F of the Constitution.

### **Questions to the Committee**

A member of the public who lives, works, or studies in the Borough can ask a question of the Committee with one supplementary question relating to an item on the agenda.

A Councillor may ask a question of the Committee with one supplementary question relating to an item on the agenda.

**Appendix 3 - Terms of Reference of Council Committees etc**  
**Health and Wellbeing Board**

The total amount of time for questions with notice at the Committee will be no more than 15 minutes.

If the Chair agrees, a member of the public can ask a question at the Committee without having given notice. If a question without notice is asked, the Chair will explain that it might not be possible to give a full answer at the meeting and that a written response will be provided.

### **Frequency of meetings**

The Committee meets on dates set out in the Council's meetings calendar.

### **Papers and Notice**

The agenda and any papers for the Committee will be issued at least 5 working days in advance of the meeting, except in the case of matters of urgency.

### **Review**

The terms of reference will be reviewed on an annual basis, or as necessary, to support the functions and objectives of this Committee. Updates to the terms of reference will be agreed annually at the Committee's first meeting of the municipal year.

Last reviewed: Date xxx



### **Appendix 3 - Terms of Reference of Council Committees etc Licensing Committee**

#### **Functions**

The Licensing Committee is the statutory body established by the Licensing Act 2003. It is also responsible for other statutory licensing functions. The Committee is responsible for developing and monitoring the Council's licensing function, which includes making recommendations on the Council's licensing and gambling policies. It has established Licensing Sub-Committees which are responsible for considering and determining applications, including those applications made under the Licensing Acts and the Gambling Act 2005.

The Licensing Committee will have responsibility for the functions set out below:

1. To develop, review, monitor and maintain a strategic overview for all of the Council's Licensing function;
2. To discharge functions under the Licensing Act 2003, including the setting of fees under section 197A of the Licensing Act 2003, the Licensing Act 1964 and any other relevant legislation;
3. To discharge functions under the Gambling Act 2005 as delegated to the Licensing Committee by virtue of Section 154 of that Act or otherwise and also the function of setting fees under Section 212 of that Act;
4. To discharge functions under the Local Government (Miscellaneous Provisions) Act 1982, as amended;
5. To discharge functions under Part II of the London Local Authorities Act 1991;
6. To establish and appoint Licensing Sub-Committees, and approve the delegations of functions to the Sub-Committees and any additional Sub-Committee hearing procedures over and above the Council's Procedure Rules;
7. To develop and submit to Full Council for approval a Licensing Policy Statement;
8. To develop and submit to Cabinet and Full Council for approval a Gambling Licensing Policy Statement;
9. To develop and submit to Full Council for approval a Sex Establishment Licensing Policy;
10. To maintain an overview of the Council's statement of licensing policies and make recommendations to Full Council as appropriate during review;

11. To develop and adopt a Licensing Code of Practice;
12. To receive performance monitoring information on matters related to the Council's Licensing functions and to monitor appeals brought against the decisions of the Sub-Committees;
13. To receive reports on management of the Borough's night-time economy and enforcement issues;
14. To receive reports and maintain oversight of legislative changes that impact upon the Council's licensing functions and procedures;
15. To consider and make recommendations to Full Council, Cabinet or any of their committees, or any other relevant body, in respect of licensing functions and procedures; and
16. To maintain an overview of licensing training for Members.

### **Type of Committee**

Licensing Committee is a non-executive committee established by Full Council to discharge regulatory functions.

### **Membership**

Membership of this Committee is appointed in accordance with political balance at Full Council.

### **Chairing arrangements**

The Chair and Vice Chair of this committee is appointed at Full Council. In the absence of the Chair or Vice Chair, and subject to being quorate, the Committee members can agree who may preside over the meeting based on the number of those present in person.

### **Quorum and Voting Arrangements**

The quorum for the Licensing Committee shall be 4 elected Councillors.

### **Substitutes**

There are no substitute arrangements for this committee.

### **Order of Business**

- (a) Receive apologies;
- (b) Receive any declarations of interest from Councillors;

- (c) Approve the minutes of the previous meeting
- (d) Receive questions from, and provide answers to, members of the public on matters covered on the agenda;
- (e) Consider reports as set out in the agenda.
- (f) Consider any items of urgent business.

### **Who may attend?**

Meetings of the Committee will normally be open to the public, unless confidential or exempt information is to be discussed.

### **Location**

This Committee meets at the Council's main offices or any other suitable location.

You can also view meetings online in accordance with the Access to Information Procedure Rules in Part 6, Section C of the Council's Constitution with the Protocol on Recording and Live Streaming Council Meetings set out in Part 6, Section F of the Constitution.

### **Questions to the Committee**

A member of the public who lives, works, or studies in the Borough can ask a question of the Committee with one supplementary question relating to an item on the agenda.

A Councillor may ask a question of the Committee with one supplementary question relating to an item on the agenda.

Questions to the Licensing Committee may not relate to a specific licensing application.

The total amount of time for questions with notice at the Committee will be no more than 15 minutes.

If the Chair agrees, a member of the public can ask a question at the Committee without having given notice. If a question without notice is asked, the Chair will explain that it might not be possible to give a full answer at the meeting and that a written response will be provided.

### **Frequency of meetings**

The Committee meets on dates set out in the Council's meetings calendar.

### **Papers and Notice**

The agenda and any papers for the Committee will be issued at least 5 working days in advance of the meeting, except in the case of matters of urgency.

### **Review**

The terms of reference will be reviewed on an annual basis, or as necessary, to support the functions and objectives of this Committee. Updates to the terms of reference will be agreed annually at the Committee's first meeting of the municipal year.

Last reviewed: Date xxx

### Appendix 3 - Terms of Reference of Council Committees etc Licensing Sub-Committees

#### Functions

The Licensing Sub-Committees are responsible for determining applications which fall within the functions of the Licensing Committee. Licensing Sub-Committees will have specific responsibility for the functions set out below.

#### Licensing Act 2003

1. To determine applications for premises licenses, club premises certificates and provisional statements where a relevant representation is received.
2. To determine applications to vary premises licences and club premises certificates where a relevant representation is received.
3. To determine applications for personal licenses where the police have served an objection notice, or the applicant has an unspent conviction.
4. To determine applications to vary a designated premises supervisor where a police objection is received.
5. To determine applications for transfer of premises licences where a police objection is received.
6. To determine applications to review premises licences and club premises certificates.
7. To determine applications for interim authorities where a police objection is received.
8. To determine whether to issue a counter notice to a temporary event notice where a police and/or environmental health authority objection is received.
9. To determine applications for expedited summary reviews of premises licences.
10. To review premises licences following receipt of a notice from the Magistrates Court of a closure order.

#### Gambling Act 2005

11. To determine applications for a premises licence and provisional statement where a relevant representation is received.

12. To determine applications to vary premises licence and provisional statement where a relevant representation is received.
13. To determine applications for transfer of premises licence where a relevant representation is received.
14. To determine applications to review a premises licence.
15. To determine applications for a club gaming permit and club machine permit where a relevant representation is received.
16. To determine whether to issue a counter notice to a temporary use notice where a relevant representation is received.

#### Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 as amended

17. To determine new applications for a sex establishment licence.
18. To determine renewal applications for a sex establishment licence where a relevant representation is received and not withdrawn.
19. To determine applications to transfer a sex establishment licence where a relevant representation is received and not withdrawn.

#### Part II of the London Local Authorities Act 1991

20. The determination of all applications and registrations for massage and special treatment licenses where a relevant representation is received

### **Type of Committee**

Licensing Sub-Committee is a non-executive committee established by the Licensing Committee to discharge regulatory functions.

### **Membership**

Membership of these sub-committees are drawn from the membership of the Licensing Committee, and its substitutes, as required. Political balance is not required to be maintained.

### **Chairing arrangements**

The Chair of the Sub-Committee is appointed at each sub-committee hearing.

### **Quorum and Voting Arrangements**

The quorum for the Licensing Sub-Committee shall be 2 elected Councillors.

## **Substitutes**

Any substitutes for these Sub-Committee will be appointed from the pool of members of the Licensing Committee.

## **Order of Business**

- (a) Receive apologies;
- (b) Receive any declarations of interest from Councillors;
- (c) Approve the minutes of the previous meeting
- (d) Consider applications as set out in the agenda.
- (f) Consider Temporary Event Notices

## **Who may attend?**

Meetings of the Sub-Committee will normally be open to the public, unless confidential or exempt information is to be discussed.

## **Location**

Until further notice, this Sub-Committee meets remotely.

You can also view meetings online in accordance with the Access to Information Procedure Rules in Part 6, Section C of the Council's Constitution with the Protocol on Recording and Live Streaming Council Meetings set out in Part 6, Section F of the Constitution.

## **Speaking at the Committee**

A member of the public who lives, works or is a member of a body representing local residents or local business can register to speak at a Licensing Sub-Committee hearing providing they have made a relevant representation to the Licensing Authority.

A Councillor may register to speak at a Licensing Sub-Committee hearing.

The arrangements to speak at a Licensing Sub-Committee hearing is set out in the hearing procedure.

## **Frequency of meetings**

The Sub-Committee meets on dates set out in the Council's meetings calendar.

## **Papers and Notice**

The agenda and any papers for the Sub-Committee will be issued at least 5 working days in advance of the meeting, except in the case of matters of urgency.

## **Review**

The terms of reference will be reviewed on an annual basis, or as necessary, to support the functions and objectives of this Committee. Updates to the terms of reference will be agreed annually at the Committee's first meeting of the municipal year.

Last reviewed: Date xxx



## Appendix 3 - Terms of Reference of Council Committees etc Pensions Board

### Functions

The Pensions Board is established by Hackney Council under the powers of the Public Service Pensions Act 2013 and the Local Government Pension Scheme (Amendment) (Governance) Regulations 2015 (“the Regulations”). The Council as administering authority may determine the procedures applicable to the Pensions Board in accordance with the Regulations including as to the establishment of Sub-Committees, formation of joint Committees and payment of expenses. The Constitution applies to the Pensions Board unless specifically excluded by the Terms of Reference.

### Powers of the Pensions Board

The Pensions Board will exercise all its powers and duties in accordance with legislation and the Terms of Reference. The Pensions Board shall have the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of its functions.

### Role of the Pensions Board

Under the Public Service Pensions Act 2013 by sections 5 (1) and (2) the role of the Pensions Board is to assist Hackney Council as Scheme Manager of the London Borough of Hackney Pension Fund:

1. To secure compliance with the Local Government Pension Scheme (LGPS) Regulations and any other legislation relating to the governance and administration of the Scheme, and any requirements imposed in relation to the LGPS by the Pensions Regulator.
2. To ensure the effective and efficient governance and administration of the London Borough of Hackney Pension Fund.

The Pensions Board provides oversight of these matters and, accordingly, is not a decision-making body in relation to the management of the Pension Fund. The Pension Fund’s management powers and responsibilities which have been, and may be, delegated by the Council to Committees, Sub-Committees and Officers of the Council, remain solely the responsibility of those Committees, Sub-Committees and officers including but not limited to the setting and delivery of the Fund's strategies, the allocation of the Fund's assets and the appointment of contractors, advisors and fund managers.

The Pensions Board will ensure that in performing their role it is:

- (a) Undertaken effectively and efficiently;
- (b) Complies with relevant legislation; and
- (c) Undertaken by having due regard to and in the spirit of the Code of Practice on the governance and administration of public service pension schemes issued by the Pensions Regulator and any other relevant statutory or non-statutory guidance.

The Board must provide minutes of each meeting to the following Pensions Committee, copied to the Group Director, Finance and Corporate Resources, and may make reports and recommendations to the Pensions Committee insofar as they relate to the role of the Pensions Board. Any such reports or recommendations must be provided at least 15 working days in advance of the next Pensions Committee to the Director, Financial Management and Group Director, Finance and Corporate Resources.

In addition, an annual report of the Pensions Board (as prepared by the Chair of the Pensions Board), must be provided to the Lead Councillor for Finance; the Group Director of Finance and Corporate Resources; the Director, Financial Management; Director of Legal, Democratic and Electoral Services; the Pension Fund Committee and Council as well as being published in the Fund's Annual Report and Accounts.

In the exceptional circumstances that the Board considers that a matter brought to the attention of the Pensions Committee and Group Director, Finance and Corporate Resources has not been acted upon or resolved to their satisfaction by the Pensions Committee and/or Group Director, Finance and Corporate Resources within a reasonable period. The Pensions Board will provide a report to the Council.

#### Composition of the Pensions Board

The Appointments Panel will oversee the appointment process and decide which individuals should be appointed to the Pensions Board. The Appointments Panel will consist of:

- (a) Lead Councillor for Finance
- (b) Group Director, Finance and Corporate Resources
- (c) Director of Financial Management
- (d) Director of Legal, Democratic and Electoral Services.

## **Membership**

The Pensions Board shall consist of 4 or 5 members and be constituted as follows:

- (a) Two Employer Representatives;
- (b) Two Scheme Member Representatives;
- (c) One Independent Member (optional).

Substitutes for the Employer or Scheme Member Representatives are not permitted. The Independent Member, if appointed, may have an alternate who will carry out Pensions Board business if the Independent Member is not available to do so.

## **Chairing arrangements**

The Appointments Panel will appoint a Chair and a Vice Chair from the membership of the Pensions Board.

Where the Appointments Panel do not consider that any of the members of the Board to have the requisite knowledge and skills for the role of Chair at the point in time they are to appoint the Chair, they will appoint an Independent Member to the Pensions Board who will also undertake the role of Chair to the Pensions Board. The Independent Member may have an Alternate who can undertake the role of Chair in his absence.

The appointments to Chair and Vice Chair will be reviewed at such times as considered appropriate by the Appointments Panel, unless the Chair is an Independent Member, in which case the position will be linked to the term of appointment for the Independent Member.

## **Quorum and Voting Arrangements**

A meeting of the Pensions Board will only be quorate when two of the four Employer and Scheme Member Representatives are present, and where the Board has an Independent Member they must also be present.

A meeting that is (or becomes at any point) not quorate will cease immediately.

Scheme Member and Employer Representatives will have individual voting rights. Any other person attending a meeting will not have a right to vote. Where the Chair is a Scheme Member or Employer Representative, they will have the deciding vote in cases where an equality of votes exists.

Any decision being reported to Council must receive agreement from a majority of voting members. It is expected that the Pensions Board will as far as possible reach a consensus in all voting matters.

The results of any voting outcomes will be reported in the Board minutes.

### **Substitutes**

Substitutes to the Committee will be appointed by Full Council for the purposes of establishing a quorum and will have the same voting rights as regular committee members.

### **Order of Business**

- (a) Receive apologies;
- (b) Receive any declarations of interest from elected members;
- (c) Approve the minutes of the previous meeting;
- (d) Receive questions from, and provide answers to, members of the public on matters covered on the agenda;
- (e) Receive questions from, and provide answers to Councillor questions on matters covered on the agenda;
- (f) Consider reports as set out in the agenda.
- (g) Consider any items of urgent business

### **Who may attend?**

Meetings of the Board will normally be open to the public, unless confidential or exempt information is to be discussed.

### **Location**

This Board meets at the Council's main offices or any other suitable location.

You can also view meetings online in accordance with the Access to Information Procedure Rules in Part 6, Section C of the Council's Constitution with the Protocol on Recording and Live Streaming Council Meetings set out in Part 6, Section F of the Constitution.

### **Frequency of meetings**

The Board will meet a minimum of twice each calendar year. The Board meets on dates set out in the Council's meetings calendar.

[Appendix 3 - Terms of Reference of Council Committees etc Pensions Board](#)

Urgent business of the Pensions Board between meetings may, in exceptional circumstances, be conducted via communications between members of the Pensions Board including telephone conferencing and emails.

### **Papers and Notice**

The agenda and any papers for the Committee will be issued at least 5 working days in advance of the meeting, except in the case of matters of urgency.

### **Review**

The terms of reference will be reviewed on an annual basis, or as necessary, to support the functions and objectives of this Committee. Updates to the terms of reference will be agreed annually at the Committee's first meeting of the municipal year.

Last reviewed: Date xxx

### **Appendix 3 - Terms of Reference of Council Committees etc Pensions Committee**

#### **Functions**

Pensions Committee is responsible for the functions set out below:

1. To act as Trustees of the Council's Pension Fund, consider pension matters and meet the obligations and duties of the Council under the Superannuation Act 1972, and the various pension legislation.
2. To act as Scheme Manager for the Pension Fund.
3. To make arrangements for the appointment of and to appoint suitably qualified pension fund administrators, actuaries, advisers, investment managers and custodians and periodically to review those arrangements.
4. To formulate and publish a Statement of Investment Principles.
5. To set the overall strategic objectives for the Pension Fund, having taken appropriate expert advice, and develop a medium-term plan to deliver the objectives.
6. To determine the strategic asset allocation policy, the mandates to be given to the investment managers and the performance measures to be set for them.
7. To make arrangements for the triennial actuarial valuation, monitor liabilities and to undertake any asset/liability and other relevant studies as required.
8. To monitor the performance and effectiveness of the investment managers and their compliance with the Statement of Investment Principles.
9. To set an annual budget for the operation of the Pension Fund and to monitor income and expenditure against the budget.
10. To receive and approve an Annual Report on the activities of the Fund prior to publication
11. To make arrangements to keep members of the Pension Fund informed of performance and developments relating to the Pension Fund on an annual basis.
12. To keep the terms of reference under review.
13. To determine all matters relating to admission body issues.

14. To focus on strategic and investment related matters at two additional Pensions Committee meetings.
15. To review the Pension Fund's policy and strategy documents on a regular cycle and review performance against the Fund's objectives within the business plan.
16. To maintain an overview of pensions training for Members.

### **Type of Committee**

Pensions Committee is a non-executive committee established by Full Council to discharge regulatory functions.

### **Membership**

Membership of this Committee is appointed in accordance with political balance at Full Council.

The Pensions Committee will also co-opt a non-voting employer representative and a non-voting scheme representative.

### **Chairing arrangements**

The Chair and Vice Chair of this committee is appointed at Full Council. In the absence of the Chair or Vice Chair, and subject to being quorate, the Committee members can agree who may preside over the meeting based on the number of those present in person.

### **Quorum and Voting Arrangements**

The Quorum for the Pensions Committee shall be two elected Councillors.

### **Substitutes**

Substitutes to the Committee will be appointed by Full Council for the purposes of establishing a quorum and will have the same voting rights as regular committee members.

### **Order of Business**

- (a) Receive apologies;
- (b) Receive any declarations of interest from Councillors;
- (c) Approve the minutes of the previous meeting

- (d) Receive questions from, and provide answers to, members of the public on matters covered on the agenda;
- (e) Consider reports as set out in the agenda.
- (f) Consider any items of urgent business.

### **Who may attend?**

Meetings of the Committee will normally be open to the public, unless confidential or exempt information is to be discussed.

### **Location**

This Committee meets at the Council's main offices or any other suitable location.

You can also view meetings online in accordance with the Access to Information Procedure Rules in Part 6, Section C of the Council's Constitution with the Protocol on Recording and Live Streaming Council Meetings set out in Part 6, Section F of the Constitution.

### **Questions to the Committee**

A member of the public who lives, works, or studies in the Borough can ask a question of the Committee with one supplementary question relating to an item on the agenda.

A Councillor may ask a question of the Committee with one supplementary question relating to an item on the agenda.

The total amount of time for questions with notice at the Committee will be no more than 15 minutes.

If the Chair agrees, a member of the public can ask a question at the Committee without having given notice. If a question without notice is asked, the Chair will explain that it might not be possible to give a full answer at the meeting and that a written response will be provided.

### **Frequency of meetings**

The Committee meets on dates set out in the Council's meetings calendar.

### **Papers and Notice**

The agenda and any papers for the Committee will be issued at least 5 working days in advance of the meeting, except in the case of matters of urgency.



## **Review**

The terms of reference will be reviewed on an annual basis, or as necessary, to support the functions and objectives of this Committee. Updates to the terms of reference will be agreed annually at the Committee's first meeting of the municipal year.

Last reviewed: Date xxx

### Appendix 3 - Terms of Reference of Council Committees etc Planning Sub-Committee

#### Functions

In these terms of reference, the following expressions shall have the following meanings:

#### Major Applications

Any application in excess of 2,000 sq. m or more than 15 residential units save for any section 73 Application.

#### Non-Major Applications

Any application that does not fall within the definition of Major Applications, and which for the avoidance of doubt includes residential schemes of up to 15 units requiring affordable housing which comply with policy and / or educational contributions according to agreed planning formulae and / or car free developments/green travel plans; non-residential proposals of less than 2,000 sq. m. requiring a legal agreement under section 278 of the Highways Act 1980.

#### Section 73 Applications

Any application made under section 73 of the Town and Country Planning Act 1990.

1. The Planning Sub-Committee will consider the following categories that are recommended for approval (categories 1-5) or refusal or as a consultation response or endorsement or notification (as applicable) (categories 1(d), 1(e), 2, 4, 5, and 7 below under any legislative provisions that can relate to development (“the Planning Acts”) subject to the exemptions in 6.
  - (a) Major Applications;
  - (b) Involve a significant departure from the approved Hackney Development Plan;
  - (c) Any application requiring a legal agreement with the exception of the following:

- (i) Legal agreements for any Non-Major Applications or Section 73 Applications (where the original condition was not specifically imposed by Members of the Sub-Committee in response to objectors).
    - (ii) Variation of legal agreements relating to the applications in (c)(i) or where it does not substantially vary the nature of the proposed development.
  - (d) Any application submitted by or on behalf of a Councillor or Officer of the Council (or their spouse or partner or dependent).
  - (e) Any other planning matter which at the discretion of the Head of Planning should be considered by the Planning Sub-Committee, paying particular regard to applications which have received substantial public response, a substantial number of objections or in circumstances where an application has been appealed to Planning Inspectorate or called in by any body and the Head of Planning considers that Planning Sub-Committee should endorse a decision/course of action.
2. Responses to consultation by authorities on applications with significant cross borough impacts.
  3. Involving the total or partial (substantial) demolition of any listed building, which is not accompanied by an application for redevelopment.
  4. Any 'Council's own' application involving more than 100 sq. m of floor space, a change of use, more than 5 residential units, (or) which have received any individual letters of objection or a petition raising material planning issues.
  5. Any application upon the written request of at least 5 members of the Planning Sub-Committee or 10 or more members of the Council, stating the planning reasons for this call-in and which request is received by the Head of Planning prior to the expiry of the publicity time period for such an application.
  6. The following are where applicable (subject to any of the above categories applying or Planning Sub-Committee resolving otherwise in regards to a particular matter) not to be determined / considered by the Planning Sub Committee (being dealt with instead under delegated powers):

- (a) Section 73 applications unless approval is being sought to amend a condition specifically imposed by Members of sub-committee in response to objections of the original application;
  - (b) Non-major applications;
  - (c) Any minor alterations, additions or deletions to the recommended heads of terms and/or recommended conditions as originally approved by Planning Sub-Committee (and if applicable to authorise any such changes requested by the GLA or other government / statutory body) after consultation with the Chair of PSC (or in their absence the Vice-Chair);
  - (d) All other planning matters, including all enforcement matters, whether recommended for approval or refusal, as set out under the Planning Acts, to be delegated to the Group Director, Climate, Homes and Economy.
7. The Planning Sub-Committee may meet to consider pre-application planning proposals in accordance with any pre-application meeting terms of reference. No decisions will/can be taken at the pre-application meeting with the consideration/determination of any consequent application subject to these Planning Sub-Committee terms of reference.

### **Type of Committee**

This is a non-executive Committee established by Full Council to discharge regulatory functions.

### **Membership**

Membership of this Committee is appointed in accordance with political balance at Full Council.

### **Chairing arrangements**

The Chair and Vice Chair of this Committee is appointed at Full Council. In the absence of the Chair or Vice Chair, and subject to being quorate, the Committee members can agree who may preside over the meeting based on the number of those present in person.

## **Quorum and Voting Arrangements**

The quorum for a meeting of this Committee is three members which must include the Chair.

The Chair (or the Vice-Chair, in the Chair's absence) will read out the recommendation summary as set out in the planning application report(s) and Committee members will be invited to raise their hand to vote on the recommendation.

## **Substitutes**

Substitutes to the Committee will be appointed by Full Council for the purposes of establishing a quorum and will have the same voting rights as regular committee members. There are six substitute members for the Committee and reflect the political balance of the Council.

## **Order of Business**

- (a) Apologies for Absence
- (b) Declarations of Interest
- (c) To consider any proposal/questions referred to the sub-committee by the Council's Monitoring Officer
- (d) Minutes of the Previous Meeting
- (e) Planning application(s)\*
- (f) Delegated Decisions
- (g) Any Other Business the Chair Considers to be Urgent

\*If there is more than one planning application under consideration at the meeting their order of priority on the agenda will be determined by the Planning Service before the publication of meeting papers.

## **Who may attend?**

Meetings of the Committee are open to the press and public.

## **Location**

This Committee meets at the Council's main offices or any other suitable location.

You can also view meetings online in accordance with the Access to Information Procedure Rules in Part 6, Section C of the Council's Constitution with the Protocol on Recording and Live Streaming Council Meetings set out in Part 6, Section F of the Constitution.

### **Speaking at the Committee**

Persons who have submitted a previous written representation to the Council in respect of a planning application, a nominated agent or any local Councillor can register to speak at the meeting at which the application is considered by the Committee. These persons must contact the Governance Officer the day before the meeting by 4:00pm to register to speak (or 4:00pm on the last clear working day before the meeting if the meeting is held on a Monday).

### **Papers and Notice**

The agenda and any papers for the Committee will be issued at least 5 working days in advance of the meeting, except in the case of matters of urgency.

### **Review**

The terms of reference will be reviewed on an annual basis, or as necessary, to support the functions and objectives of this Committee. Updates to the terms of reference will be agreed annually at the Committee's first meeting of the municipal year.

Last reviewed: Date xxx

### Appendix 3 - Terms of Reference of Council Committees etc Standards Committee

#### Functions

The Standards Committee is responsible for promoting and maintaining high ethical standards at the Council. The Standards Committee is responsible for the following functions:

1. To review and maintain oversight of the Council's ethical framework and procedures and make reports and recommendations accordingly;
2. To review and maintain oversight of the conduct of councillors and co-opted members of the Council and assist them in upholding high ethical standards;
3. To advise Full Council and its Committees on the adoption of a Members' Code of Conduct, codes of practice and protocols relating to ethical governance matters;
4. To hear and consider complaints made against councillors and co-opted members under the Code of Conduct, codes of practice or protocols;
5. To adopt procedures for considering complaints made under the Code of Conduct, codes of practice or protocols;
6. To consider whether to grant applications for dispensation to councillors and co-opted Members, in accordance with Members' Code of Conduct; and
7. To maintain oversight of ethical governance training provided to Members and co-opted members and make reports and recommendations accordingly.

There are two sub-committees of the Standards Committee:

#### Standards Assessment Sub-Committee

To consider allegations that a member or co-opted member (herein referred to as Subject Member) has failed to comply with the Member's Code of Conduct as may be referred to the Assessment Sub-Committee by the Monitoring Officer to determine whether:

- (a) No further action should be taken because the complaint does not reach the required threshold;
- (b) To refer the complaint for local resolution; or
- (c) To refer the complaint for formal investigation.

### Quorum

The quorum of the Assessment Sub-Committee is three Councillor Members of the Standards Committee in a voting capacity.

### Notes:

One or more Co-opted Members of Standards Committee will be invited to attend the Sub-Committee and contribute to the proceedings in a non voting capacity.

The Independent Person to Standards Committee will be invited to attend the Sub-Committee and contribute to the proceedings in a non voting capacity.

Any member of the Standards Committee, against whom a Code of Conduct complaint has been made, shall not be selected as a member of the Assessment Sub-Committee until consideration of their complaint has been concluded.

Where possible the composition of the Assessment Sub-Committee will be politically balanced.

### **Standards Hearing Sub-Committee**

- (a) To conduct hearings into allegations referred for formal investigation into an alleged breach of the Member Code of Conduct, whether initiated by either the Monitoring Officer or the Assessment Sub-Committee, concludes that there have been one or more failures to comply with the Member Code of Conduct and the Monitoring Officer has determined that the matter should be referred to the Hearing Sub-Committee for consideration.
- (b) Where the Hearing Sub-Committee determines that the Subject Member has failed to comply with the Members' Code of Conduct to determine what, if any, lawful sanction should be imposed and where appropriate make recommendations as to sanction to Full Council, the Elected Mayor, Group Leader or other persons
- (c) In consequence of the hearing and determination of any allegation to make such recommendations to Full Council as the Hearing Sub-Committee considers appropriate having regard to the need to promote and maintain standards of conduct amongst members.

### Quorum

The quorum of the Hearing Sub-Committee is three Councillors who are Members of the Standards Committee in a voting capacity.



### Notes:

One or more Co-opted Members of the Standards Committee will be invited to attend the Sub-Committee and contribute to the proceedings in a non voting capacity.

The Independent Person to Standards Committee will be invited to attend the Sub-Committee and contribute to the proceedings in a non voting capacity.

Any member of the Standards Committee, against whom a Code of Conduct complaint has been made, shall not be selected as a member of the Hearing Sub-Committee until consideration of their complaint has been concluded.

Where possible the composition of the Hearing Sub-Committee will be politically balanced.

### **Type of Committee**

Standards Committee is a non-executive committee established by Full Council to discharge regulatory functions.

### **Membership**

Membership of this Committee is appointed in accordance with political balance at Full Council.

### **Chairing arrangements**

The Chair and Vice Chair of this committee is appointed at Full Council. In the absence of the Chair or Vice Chair, and subject to being quorate, the Committee members can agree who may preside over the meeting based on the number of those present in person.

### **Quorum and Voting Arrangements**

The Quorum for the Standards Committee shall be 3 elected Councillors.

### **Substitutes**

Substitutes to the Committee will be appointed by Full Council for the purposes of establishing a quorum and will have the same voting rights as regular committee members.

### **Order of Business**

- (a) Receive apologies;
- (b) Receive any declarations of interest from Councillors;

- (c) Approve the minutes of the previous meeting
- (d) Receive questions from, and provide answers to, members of the public on matters covered on the agenda;
- (e) Consider reports as set out in the agenda.
- (f) Consider any items of urgent business.

### **Who may attend?**

Meetings of the Committee will normally be open to the public, unless confidential or exempt information is to be discussed.

### **Location**

This Committee meets at the Council's main offices or any other suitable location.

You can also view meetings online in accordance with the Access to Information Procedure Rules in Part 6, Section C of the Council's Constitution with the Protocol on Recording and Live Streaming Council Meetings set out in Part 6, Section F of the Constitution.

### **Questions to the Committee**

A member of the public who lives, works, or studies in the Borough can ask a question of the Committee with one supplementary question relating to an item on the agenda.

A Councillor may ask a question of the Committee with one supplementary question relating to an item on the agenda.

The total amount of time for questions with notice at the Committee will be no more than 15 minutes.

If the Chair agrees, a member of the public can ask a question at the Committee without having given notice. If a question without notice is asked, the Chair will explain that it might not be possible to give a full answer at the meeting and that a written response will be provided.

### **Frequency of meetings**

The Committee meets on dates set out in the Council's meetings calendar.

### **Papers and Notice**

The agenda and any papers for the Committee will be issued at least 5 working days in advance of the meeting, except in the case of matters of urgency.

### **Review**

The terms of reference will be reviewed on an annual basis, or as necessary, to support the functions and objectives of this Committee. Updates to the terms of reference will be agreed annually at the Committee's first meeting of the municipal year.

Last reviewed: Date xxx