

## **SUPPLEMENTARY 1**

### **THE EAST LONDON WASTE AUTHORITY**

**Monday, 1 February 2010**

**Agenda Item 4.      Governance Arrangements - Constitution Review  
(Pages 1 - 48)**

Contact Officer:    Tony Jarvis  
Telephone:         020 8227 4965  
E-mail:             Tony.jarvis@lbbd.gov.uk

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(Contact Officer: Eldred Taylor-Camara - Tel. 020 8227 3344)

## EAST LONDON WASTE AUTHORITY

01 FEBRUARY 2010

### MONITORING OFFICER'S REPORT

<b>ELWA CONSTITUTION - PROPOSED AMENDMENTS FOLLOWING THE GOVERNANCE REVIEW</b>	<b>FOR CONSIDERATION</b>
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#### **1 Purpose**

- 1.1 To propose amendments to the ELWA constitution to reflect changes agreed by the Authority at its meeting held on 29th September 2009.
- 1.2 Further amendments will be brought forward in due course to generally update the Constitution on other matters and named individuals.

#### **2 Background**

- 2.1 In February 2009, the Authority engaged the services of consultants (Stanton Maris) to review the Authority's governance structure. It was felt that the present governance structures have served the Authority well during the procurement and investment phases of the PFI contract. However, ELWA has shifted from its developmental stage and is now managing an established waste disposal business. Accordingly it needs to review its structures to ensure they are fit for purpose going into the future. After reviewing ELWA's structures and Constitution, the consultants prepared a report in which they proposed changes to ELWA's structure.
- 2.2 At its meeting held on 29th September 2009, the Authority gave support to the general recommendations in the Consultants' report and agreed to make certain amendments to the Constitution to reflect the organisational and governance changes recommended by the consultants. The decisions of the Authority appear in Appendix A.
- 2.3 One of the recommendations was that the Monitoring Officer should draft amendments to reflect the Authority's decisions. The tracked amendments proposed by the Monitoring Officer are set out in Appendix B (Parts A, B, C and G only – other parts of the constitution are not materially affected and are therefore not included).
- 2.4 Members are asked to note in particular the suggested amendments to Article 1 (Part B) which reflect the key governance changes.
- 2.5 Members decided that the Chair and Vice Chair should each hold office for two years and also that appointments to the Chair and Vice Chair should be staggered. The drafting of Clauses 4.1 to 4.8 (Chair and Vice-Chair) attempt to capture Members' wishes and are submitted for consideration and approval.
- 2.6 Parts C and G reflect the consequential amendments to responsibilities and delegations in the management of ELWA.

### 3 Legal Implications

3.1 This report was prepared by the Monitoring Officer/Legal Adviser to the Authority and the legal implications are set out in body of the report.

### 4 Financial Implications

4.1 The financial implications associated with these amendments were reported to the Authority in the meeting of 29th September 2009.

### 5 Recommendations

The Authority is asked to consider and approve the amendments to the Authority's Constitution as set out in Appendix B.

Eldred Taylor-Camara  
**MONITORING OFFICER/LEGAL ADVISER**

<b>Appendices</b>		
A	Extract from the Minutes of the Authority meeting held 29/09/09	
B	Tracked amendments proposed by the Monitoring Officer to Parts A, B, C	
<b>Background Papers</b>		
29/09/09	Report and Minute 19/2009	Governance Review Next steps and Constitution update
Sept 2006	ELWA Constitution	

Background documents to this report subject to Section 100D of The Local Government Act 1972

Extract from the Minutes of the East London Waste Authority's Meeting held on  
Tuesday 29 September 2009

**15 Governance Review – Next Steps and Constitution Update**

At the request of the Chair, we have agreed to take the Managing Director's report and appendix on the open Agenda.

We have received commentary and been asked to consider and make decisions in connection with the future governance and management of the Authority. The Managing Director has advised us of the staffing, legal and financial implications.

With regard to the recommendations, we have specifically agreed to make changes to the Constitution as follows:

1. a) that the Chair and Vice Chair should be from different boroughs;  
b) the appointment of Chair and Vice Chair should be for a period of two years and staggered to ensure that both do not change at the same time in future; and  
c) the appointments are by rotation – sequence to be set in advance.
2. we have considered the appointment of the "A" director in respect of ELWA Limited and agreed that this appointment should operate in a similar way to the above.
3. that the role of the interim Managing Director should continue as at present for the time being but that a full-time Managing Director in the employ of the Authority should be established.
4. regularise the position such that the Environment Directors from each of Constituent Councils become members of the ELWA Management Board without specific operational or functional roles and that the Board members are expected to chair and lead working groups and support the strategic activities of the Authority, with the Managing Director continuing to chair the Board. The Authority's Finance Director's appointment will continue as presently operated under the terms of Section 151 of the Local Government Act 1972.

The Managing Director has agreed to prepare further report in order for us to agree specific salary and consider personal issues. He will also write to the Boroughs' Chief Executives explaining what ELWA is minded to do in respect of the ELWA Management Board. There was a need to strengthen the policy and strategy role within the organisation at the estimated cost of £55,000, and this was agreed.

We have agreed to delegate authority to the Managing Director in order for him to take steps with the Monitoring Officer to progress these arrangements and prepare appropriate job description(s) for consideration and changes to the Constitution.

We have agreed to receive further reports with a view to amending the constitution for the forthcoming Municipal Year including the future management structure.

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**Part A**  
**Summary and Explanation**

# ELWA'S CONSTITUTION

## INTRODUCTION

This Constitution sets out how the East London Waste Authority (ELWA) operates, how decisions are made and the procedures that are followed to ensure that decisions are efficient, transparent and accountable to local people. Some of the processes are required by law, while others are a matter of local choice.

It aims to:

- explain how ELWA operates, how decisions are made and the procedures which are in place to ensure efficient, effective, transparent and accountable decision taking
- ensure that high standards of conduct are exercised by Members and officers
- ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions
- provide a means of improving the delivery of services to the community.

Where the Constitution permits ELWA to choose between different courses of action, ELWA will always choose the option which it thinks is closest to these aims.

The whole Constitution is a lengthy and comprehensive document so this Part gives a very brief overview of ELWA's operation, its make-up and citizens' rights.

The Constitution is then divided into other Parts that explain the elements in more detail.

A copy of the whole Constitution can be inspected at ELWA's offices, 1<sup>st</sup> Floor, Arden House, 198 Longbridge Road, Barking, IG11 8SY between 9.30 a.m. - 4.00 p.m. Monday to Friday (excluding Bank Holidays). Alternatively, the document can be found on ELWA's web site ([www.eastlondonwaste.gov.uk](http://www.eastlondonwaste.gov.uk)).



## **A BRIEF OVERVIEW OF ELWA**

### **The Authority**

ELWA was established on 1 January 1986 as a Statutory Waste Disposal Authority (WDA) by the Waste Regulation and Disposal (Authorities) Order 1985. ELWA began to carry out its functions on 1 April 1986, following the abolition of the Greater London Council.

ELWA is responsible for waste disposal in its area, which covers the four constituent London Borough Councils of Barking & Dagenham, Havering, Newham and Redbridge. The boroughs have a combined population of approximately 900,000 people living in over 340,000 households. ELWA receives around 500,000 tonnes of waste each year from the councils and their residents.

The principal legislation which governs ELWA's duties and activities is the Environmental Protection Act 1990 (the "EPA").

### **Members**

ELWA is comprised of eight Members, with two Members appointed annually by each of the Constituent Councils and notified in writing to the Authority. These Members are councillors within their respective Boroughs. Although the eight Members of ELWA are appointed by the Councils they are required, when representing ELWA, to act in the interests of ELWA - as a WDA - and its residents and not of their respective Councils or political affiliations.

All ELWA members:

- (i) are, collectively, the ultimate policy-makers and those responsible for strategic and corporate management functions of ELWA as a WDA;
- (ii) participate in the governance and management of ELWA;
- (iii) are available to represent ELWA on other bodies; and
- (iv) have a duty to maintain the highest standards of conduct and ethics and follow a Code of Conduct.

Term of office

The term of office of each appointed member of the Authority shall be until the next annual meeting of the constituent Council making the appointment, or until notification in writing by a constituent Council of a change in their appointment(s) before their next annual Council meeting.

Members have rights of access to such documents, information, land and buildings of ELWA as are necessary to enable them to carry out their functions.

Members will not make public information that is confidential or exempt without the prior consent of ELWA, or divulge information given in confidence to anyone other than an individual entitled to know it. For these purposes, "confidential" and "exempt" information is defined in Article 2 (Access to Information) in Part B of the Constitution.

Members are entitled to receive allowances for their work on ELWA in accordance with their respective Council's Members' Allowances Scheme. Details of each Scheme are available from the respective Councils .

### **The Management Board**

ELWA has also established a Management Board to maintain a general overview of the state of health of the Authority and its ability to deliver adequate waste disposal arrangements for the area covered by the Constituent Councils.

The Management Board is made up of the following officers:

Managing Director (Chair)  
The four Constituent Council Directors responsible for Environmental issues  
Finance Director  
Head of Operations

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## CITIZENS' RIGHTS

Citizens have a number of rights in their dealings with local authorities and some are relevant to ELWA. For example, they have the right to:

- contact their local councillor about any matters of concern to them;
- obtain a copy of this Constitution;
- attend ELWA meetings (except when exempt or confidential matters are being discussed);
- see reports and background papers for formal Authority meetings (except in respect of exempt or confidential information) and any record of decisions made at these meetings;
- complain to ELWA about a related service they have received;
- complain to the Local Government Ombudsman if they think ELWA has not followed its procedures properly. (*However, they should only do this after using ELWA's own complaints procedure*);
- complain to the Standards Board for England if they have evidence which they think shows that an ELWA Member has not followed the Code of Conduct for Members; and
- inspect ELWA's accounts and make their views known to ELWA's external auditor.

ELWA welcomes participation by its citizens in its work. In doing so, citizens are asked to act responsibly and must not be violent, abusive or threatening to Members or staff. Also they must not wilfully harm anything owned by ELWA, its Members or staff. In the event of any such behaviour occurring, ELWA may withdraw services to the person concerned and/or pursue legal action against them.

**MEMBERS  
2009/10**

Councillor Steven Kelly	Chair and Councillor of the London Borough of Havering
Councillor Barry Tebbutt	Vice-Chair and Councillor of the London Borough of Havering
Councillor Ian Corbett	Councillor of the London Borough of Newham
Councillor Patrick Murphy	Councillor of the London Borough of Newham
Valerie Rush	Councillor of the London Borough of Barking & Dagenham
Councillor Gerald Vincent	Councillor of the London Borough of Barking & Dagenham
Councillor Michelle Dunn	Councillor of the London Borough of Redbridge
Councillor Elaine Norman	Councillor of the London Borough of Redbridge

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**Part B**

**Articles**

**Meetings**

# ARTICLE 1

## AUTHORITY MEETINGS

In terms of Authority meetings, ELWA agrees a programme of meetings for the coming municipal year (May to April) approximately four months in advance. Occasionally it is necessary for additional meetings to be arranged during the year, mainly to consider issues that cannot reasonably wait until the next programmed meeting. Details of ELWA's programme of meetings is available on its website ([www.eastlondonwaste.gov.uk](http://www.eastlondonwaste.gov.uk)) or by contacting the Office Manager on 020 8270 4964.

Authority meetings are open to the public, unless exempt or confidential matters are being discussed (see paragraph 10 of Article 2 of Part B for further details). Attendance by the public is encouraged.

### 1 Role

1.1 Authority meetings are the main decision-making forum for ELWA matters. At these meetings, the Authority sets its overall corporate direction, policy framework and financial limits, within which all ELWA's operations and policies are carried out.

### 2 Functions

2.1 There are certain matters which, by law, can only be carried out by the Authority. These are set out in Part C of the Constitution.

2.2 All local choice functions that the Authority has decided it should undertake itself rather than to delegate to Officers are also set out in Part C.

### 3 Membership

3.1 Authority meetings shall be attended by the eight Members of the Authority (two appointed by each of the constituent Councils).

3.2 Meetings of the Authority shall be presided over by the Chair who shall be responsible for:

- (a) upholding and promoting the purposes of the Constitution, and interpreting it (with the assistance of the Managing Director and the Monitoring Officer).
- (b) ensuring that its business can be carried out efficiently and with regard to the rights of Members and the interests of the community.

### 4 Chair and Vice-Chair



- 4.1 The Chair and Vice-Chair shall be appointed at each Annual General Meeting of the Authority.
- 4.2 Appointments to the positions of Chair and Vice-Chair shall be made by the Authority by resolution passed by a majority of the Members of the Authority [present at the Annual General Meeting] Provided at least one Member from three of the Constituent Councils shall vote in favour]
- 4.3 The appointments of the Chair and Vice-Chair shall be the first business transacted at the annual meeting of the Authority.
- 4.4 The Chair and Vice-Chair shall each hold office until the next Annual General Meeting of the Authority or until the Authority is notified in writing by the Constituent Council of which the Chair/Vice-Chair is a representative that the appointment of the Member occupying the position of Chair or Vice-Chair has changed.
- 4.5 Where the Authority is notified in writing by the Constituent Council of which the Chair is a representative, that the appointment of the Member occupying the position of Chair has changed, the position of Chair shall be occupied by the Vice-Chair who shall remain in office until the next Annual General Meeting of the Authority.
- 4.6 Where the Authority is notified in writing by the Constituent Council of which the Vice Chair is a representative, that the appointment of the Member occupying the position of Vice Chair has changed, the Authority shall appoint another Member from among its membership to occupy the position of Vice Chair until the next Annual General Meeting of the Authority.
- 4.7 In making the appointments to the positions of Chair and Vice Chair, the Authority shall endeavour as best as possible to ensure that the positions of Chair and Vice Chair are not occupied in any one year by the two Member representatives of the same Constituent Council..
- 4.8 Subject to clauses 4.5, 4.6 and 4.7 above **[or unless there are other good reasons which the Authority deems necessary]** the Members holding the positions of Chair and Vice-Chair in any one year shall be eligible to be appointed or re-appointed to the positions of Chair and Vice-Chair respectively at the next Annual General Meeting of the Authority following their first appointment Provided always that no Member shall be re-appointed to the position of Chair and Vice-Chair.as the case may be for any period exceeding two consecutive years.

## **5 Employee Support**

- 5.1 The Managing Director is responsible for ensuring appropriate support for all Member meetings.

## **6 Accessibility**

- 6.1 ELWA wishes to be as open as possible in its dealings and the press and public are encouraged to attend meetings. Occasionally there will be some matters which are legally restricted from the public eye, (for example, if discussing issues concerning a member of staff), but wherever possible issues are discussed in the open forum.

Further details of the types of matters that are considered in private are contained in Article 2.

## **7 Venues**

- 7.1 Meetings are generally held at the Civic Centre, Dagenham but may, from time to time, be held at an alternative venue within one of the four constituent boroughs.
- 7.2 Public accessibility and appropriateness (particularly for people with limited mobility) are key factors in determining the suitability of venues for meetings.

## **8 Calendar and Timing of Meetings**

- 8.1 Where possible, meetings are programmed in advance. A programme of meetings for the coming municipal year is agreed by ELWA approximately four months prior.
- 8.2 Meetings are usually held on Mondays, commencing at 1.00 p.m., and should last no longer than 3 hours.
- 8.3 If business has not been concluded by this time, the proceedings may be extended for a reasonable further period, with the agreement of at least 75% of the Members present. Any unfinished business will be referred to the next meeting.

## **9 Business at Ordinary Meetings**

- 9.1 Ordinary meetings of the Authority will take place in accordance with the programme of meetings. The business carried out at Ordinary meetings may include the following:
- (a) elect a person to preside if the Chair and Vice-Chair are not present;
  - (b) receive apologies for absence from Members;
  - (c) approve the minutes of the last meeting;
  - (d) consider and set the Authority's overall priorities, plans, policy framework and related targets;
  - (e) set the annual Levy on the constituent Councils and the Authority's Capital and Revenue budgets. This includes:
    - the allocation of financial resources to different services and projects

- proposed contingency and reserve funds and borrowing limits; and
  - the control of its capital expenditure.
- (f) consider and approve issues relating to the Authority's integrated waste management service (IWMS) contract with ELWA Limited;
- (g) approve the Programme of Meetings and agree any changes;
- (h) make any changes to the appointment of representatives to outside bodies and partnerships;
- (i) agree any changes to the Constitution and associated Rules, Schemes, Codes and Protocols relating to the way in which the Authority operates;
- (j) oversee the management of the Authority, including holding all the component parts to account for their actions and performance;
- (k) receive and consider reports from officers as appropriate;
- (l) consider and approve appropriate statutory and non-statutory plans (e.g. the Best Value Performance Plan);
- (m) receive petitions (*see paragraph 24*);
- (n) consider motions;
- (o) deal with any other matters of significance or importance at the discretion of the Chair.

The order of business will be in accordance with the agenda for each meeting. However, at the discretion of the Chair the order may be varied at the meeting. Any matters which are exempt from publication will generally appear later on the agenda.

## **10 Annual General Meeting (AGM)**

10.1 The AGM of the Authority will be held in May or June of each year.

10.2 At each AGM, the first business shall be the appointment of a Chair and Vice-Chair for the coming year from amongst the membership. Once appointed, the newly appointed Chair shall preside at the meeting.

10.3 To avoid any doubt, the person presiding at the commencement of the AGM shall be the preceding year's Chair or, in the absence of the Chair, the Vice-Chair or, in the absence of both, another Member chosen by those present.

10.4 Following the appointment of the Chair and Vice-Chair, the AGM will consider such other business as is included on the agenda.

10.5 The Authority shall at its AGM, nominate from its membership, one Member from each of the constituent boroughs to answer questions on behalf of the Authority, put by other Members of the constituent Councils in the course of council proceedings, pertaining to the discharge of the Authority's functions.

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## **11 Extraordinary General or Special Meetings**

- 11.1 An Extraordinary General (otherwise known as “special”) Meeting of the Authority may be called at any time by the Chair.
- 11.2 Any two Members of the Authority may also, by signed requisition, request the Chair to call an Extraordinary General Meeting.
- 11.3 If the Chair refuses to call an Extraordinary General Meeting of the Authority after a requisition for that purpose or without so refusing, does not call such a meeting within seven days of the requisition being presented to him, then on that refusal or the expiry of those seven days, as the case may be, any two Members of the Authority may then call an Extraordinary General Meeting.
- 11.4 The arrangements for these meetings are the same as for ordinary meetings.

## **12 Informal Member Meetings**

- 12.1 From time to time, the Authority may arrange and hold Informal Meetings of all Members.
- 12.2 These meetings are typically arranged in order that consideration can be given, in an all-Member forum, to one or more major issue affecting the Authority which requires deliberation prior to formal consideration being given at an Authority meeting.
- 12.3 Informal meetings do not have any decision-making powers and the provisions of the Local Government (Access to Information) Act 1985 do not apply. In all other respects, the arrangements for these meetings are the same as for ordinary meetings.

## **13 Quorum**

- 13.1 A quorum is the number of Members needed to enable a meeting to proceed. If a meeting is not quorate, the business will be adjourned to the next ordinary meeting or, if necessary, to an Extraordinary (special) meeting.
- 13.2 An inquorate meeting can, if it feels there is any merit in doing so, discuss issues but strictly on an informal basis only. The minutes will make only brief reference to any such discussions.
- 13.3 Subject to paragraph 45 of Schedule 12 of the Local Government Act 1972, no business will be transacted at a meeting of the Authority unless at least four Members of the Authority are present and the Members present comprise representatives of at least three of the constituent Councils.

## **14 Agenda Papers**

- 14.1 Unless otherwise stated in the Articles for particular meetings, agenda papers will be in the Managing Director’s name and will indicate an appropriate contact for any queries.

14.2 Agendas, reports and minutes will generally be in an agreed corporate style, details of which are the responsibility of the Managing Director.

14.3 Notices of meetings and agendas will be circulated in advance having regard (where appropriate) to the requirements of the Local Government (Access to Information) Act 1985 or any subsequent legislation. In general, this means that the papers will be available at least five clear working days before a meeting.

## **15 Reports**

15.1 Reports will provide reasoned options, where appropriate, ensuring that Members are made fully aware of all the implications and alternatives, and the advantages and disadvantages associated with each. Reports will also include, where appropriate, the views of other Members, Officers, constituent Council officers and/or experts (including outside representatives if relevant), together with the professional advice/recommendations of the appropriate lead officer.

15.2 Reports will be in the name of the appropriate lead officer but will include the author as the point of contact for further information or queries.

15.3 Late reports will generally not be allowed. If there are unavoidable, genuine circumstances, their consideration will be at the discretion of the Chair. The relevant lead officer will be required to justify the reason for special consideration in writing.

15.4 Background papers will be made available for public inspection in accordance with statutory requirements. This responsibility lies with the relevant lead officer.

## **16 Voting**

16.1 Decision-making is determined by a majority of the Members present at the meeting.

16.2 Voting is generally by show of hands.

16.3 The Chair, or other person presiding, will have a second and casting vote where votes for and against a proposal are equal.

16.4 Any Member may ask for a vote to be recorded before it is taken provided they have the support of three other Members. Individual votes will then be taken by way of a roll call and recorded in the minutes. In this situation, Members will be asked to vote "for" or "against"; alternatively they may, if they wish, "abstain".

## **17 Minutes**

17.1 Minutes will be concise but sufficiently detailed to enable each matter discussed to be clearly understood by a lay person.

17.2 Minutes will be circulated to Members with the agenda for the next meeting for confirmation as a correct record at that meeting.

- 17.3 Minutes of all meetings will generally be confirmed as a correct record at the next scheduled meeting. If appropriate, or if necessary, this may be done at an earlier special meeting. The minutes will be signed by the Chair, or other person presiding at the meeting, when they are confirmed.
- 17.4 Minutes will be made available for public inspection in accordance with statutory requirements.
- 17.5 The minutes will be the formal record of attendance at meetings by Members.

## **18 General Questions**

- 18.1 Questions relating to any matter on the agenda or otherwise may be raised at the meeting at the appropriate stage, subject to the discretion of the Chair who will ensure that questions are appropriate and relevant. All Members will be given an equal and fair opportunity to ask questions.
- 18.2 Wherever possible, answers will be given at the meeting by the appropriate Member or officer. In the event that it is not possible to do so, a written response will be sent to the questioner, with copies to all Members, as soon as possible.

## **19 Conduct/Disturbance at Meetings**

- 19.1 It is the responsibility of the Chair to keep order at meetings.
- 19.2 Members are expected to behave in a professional manner and to respect the ruling of the Chair.
- 19.3 If a Member persistently misconducts him or herself by behaving irregularly, offensively or improperly, or by disregarding the Chair and knowingly or deliberately obstructing the business, the Chair, or any other Member, may move that the Member no longer be heard. If seconded, the matter will be put to the vote and determined without discussion. The Member concerned cannot vote in these circumstances.
- 19.4 If the Member concerned continues his/her misconduct, the Chair may either move that the Member leaves the meeting or that the meeting be adjourned for a period which the Chair feels will be appropriate to contain the problem. Such motions must be seconded and determined as above.
- 19.5 If a member of the public interrupts a meeting, the Chair will ask them not to do so and warn them that if the interruption continues, the person will be required to leave. If the person continues to interrupt, the Chair can order him/her to leave the meeting. If necessary, the assistance of staff will be sought to escort the person off the premises.
- 19.6 Where there is a general disturbance in any part of the room where a meeting is being held, the Chair can, at his/her discretion, order that it be cleared. If the general disturbance is considered by the Chair to be such that the meeting cannot reasonably continue, he/she shall adjourn the meeting for a certain period or until another day, whichever is felt to be most appropriate in the circumstances.

19.7 The Police will be called to assist in any situation, if necessary.

## **20 Members' Interests**

20.1 Having regard to statutory requirements and Members' Codes of Conduct, if a Member has a personal interest in a matter for consideration (i.e. one which affects the Member more than most other people in the area) they must declare it and say what that interest is before any meeting where the issue is to be discussed or as soon as it comes to light. However, they can still take part in the meeting and vote unless the personal interest is also a prejudicial interest (see below).

20.2 A Member with a prejudicial interest in any matter (i.e. where a member of the public would view the personal interest as being so significant that it is likely to prejudice the Member's decision) must declare what the interest is (if they have not already done so) and withdraw from the meeting (by leaving the room).

20.3 The minutes will record the declaration and, if appropriate, that the Member left the meeting. A record will also be kept in a book provided for this purpose by the Managing Director for public inspection at ELWA's offices.

## **21 Speaking by the Public at Meetings**

21.1 Members of the public will not normally be allowed to speak at meetings. However, members of the public may speak on a specific issue at the discretion of the Chair.

## **22 Press Briefings**

22.1 ELWA wishes to conduct its business in an open and informative manner. Where considered appropriate, press briefings will be arranged through the Managing Director to explain particularly important or sensitive issues and to give an opportunity for questions to be asked.

## **23 Photography, Live Broadcasts and Tape Recordings of Proceedings**

23.1 The Chair has discretion to allow photographs to be taken or for proceedings to be transmitted by television, video recording, radio broadcast or any other means, if this is felt to be appropriate.

## **24 Petitions**

24.1 All petitions sent to the Authority which contain at least 50 signatories from separate households will be reported to the Authority.

24.2 Before a petition is presented to the Authority, the Managing Director will arrange an informal meeting to discuss the petition and appropriate action in response. The lead petitioners and appropriate Members will be invited to attend. The Managing Director may attend the meeting himself and/or be represented by a relevant officer. The Managing Director will then prepare a report to accompany the submission of the petition to the Authority; this will set out the outcome of the informal meeting and detail any action which has been taken, or which is proposed, in response to the petition.

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24.3 The lead signatory will be invited to speak at the Authority meeting for the purpose of introducing the petition should he/she wish - a maximum of five minutes will be allowed for this.

24.4 Petitions with fewer than 50 signatories will be accepted by the Managing Director but not reported to the Authority.

## **25 Urgent Action**

25.1 In exceptional circumstances and where delay would be prejudicial to the interests of the Authority, Officers are authorised to take action which is not otherwise delegated to them subject to:-

- (a) consultation with the Chair and the Vice-Chair. Should either the Chair or Vice-Chair be unavailable, then consultation with the other shall be sufficient. In the event that the necessary decision cannot be obtained through this procedure within 24 hours, the matter may be dealt with provided that at least two other Members are consulted;
- (b) compliance with the Constitution and, in particular, relevant Rules where appropriate; and
- (c) the action taken being reported to the next appropriate meeting.

## **26 Inspection of Documents by Members**

26.1 A Member of ELWA may inspect any document that is in the possession of, or under the control of, the Authority provided that either:

- (a) the Member can justify that it is reasonably necessary to perform his/her duties as a member of the Authority, or
- (b) the document contains material relating to any business to be transacted or which has been transacted at a meeting. They are not, however, entitled to inspect any document if it relates to a matter in which the Member is professionally interested or in which he/she has a direct or indirect financial interest in accordance with the statutory interpretation.

26.2 If the Managing Director is of the opinion that the document in question is not required to be open to inspection under the provisions of the Local Government (Access to Information) Act 1985 (exempt information not to be provided to Members), a Member will not be able to inspect the document.

26.3 This provision does not entitle the Managing Director to refuse a Member access to documents which they have a legal right to inspect.

## **27 Confidentiality**

27.1 Where the contents of any document are expressed to be restricted from publication, Members and officers must respect such confidentiality.

## **28 Attendance at Meetings by Constituent Borough Councillors**

28.1 A Councillor who is a member of a constituent Council but not appointed to ELWA may attend any meeting of the Authority but they cannot vote at that meeting. They may, however, take part in the discussion and may stay for the whole meeting unless asked to leave for specific reasons that will be explained by the Chair and recorded in the minutes.

28.2 Agenda papers for meetings will be circulated to any Councillor at their request subject to the conditions set out in paragraph 26 and to the restrictions around reports dealing with certain human resource issues (see "Protocol - Dealing with Human Resource Issues" at Appendix B).

## **29 Implementing Decisions**

29.1 Decisions of the Authority can be acted upon after the meeting subject to any restriction placed at the time.

## **30 Requirement to Attend Meetings**

30.1 If a Member fails to attend one of three consecutive meetings of the Authority, unless the failure was due to a reason approved by the Authority, the Authority will recommend to the relevant constituent Council that the Member be replaced and not considered for re-appointment by the Council to the Authority for a period of at least two years.

## **31 Sealing**

31.1 The Common Seal of the Authority shall be kept in a safe place in the custody of the Managing Director or his/her nominated postholder.

31.2 The Seal shall be attested by the Managing Director or his/her nominated postholder and a register kept recording details of all documents sealed.

## **ARTICLE 2**

### **ACCESS TO INFORMATION**

#### **1 Scope**

1.1 These rules apply to all meetings of the Authority.

#### **2 Additional Rights and Information**

2.1 These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

#### **3 Rights to Attend Meetings**

3.1 Members of the public and press are welcome to attend all meetings, subject only to the exceptions set out later in this Article. The Authority will do all that it can to minimise such exceptions so that it can have an open debate in public on most issues.

#### **4 Notice of Meetings**

4.1 The Authority will give at least five clear days notice of any meeting by posting details of the meeting at ELWA's offices at Arden House, 198 Longbridge Road, Barking (known as "the designated offices") and, if the meeting is to be held at an alternative location, at the building where the meeting is to be held. If a meeting has to be called at short notice, details will be posted at the earliest opportunity - such instances should, however, be rare and only in cases of absolute urgency.

#### **5 Access to Agenda and Reports before Meetings**

5.1 The Authority will make copies of the agenda and reports of meetings open to the public available for inspection at the designated offices at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection at the time the item is added. Where reports are prepared after the notice of the meeting has been sent out, each report will be made available to the public as soon as it is completed and has been sent to Members.

#### **6 Supply of Copies**

6.1 On request, the Authority 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) any other documents open to public inspection and supplied to Members in connection with an item.

6.2 These papers will be available free of charge to any person at any meeting of the Authority to which the papers relate, or for a reasonable charge when requested at any other time.

## **7 Access to Minutes and Reports after Meetings**

7.1 The Authority will make available copies of the following documents for six years after a meeting:

- (a) the minutes of the meeting or record of decisions taken, together with reasons, excluding any part of the minutes when the meeting was not open to the public which discloses exempt or confidential information (as defined in paragraph 10 below);
- (b) a summary of any proceedings not open to the public where the minutes open to inspection do not provide a reasonably fair coherent record;
- (c) the agenda for the meeting; and
- (d) reports related to items where the meeting was open to the public.

## **8 Background Papers**

8.1 Every report will list those documents relating to the subject matter of the report, which, in the author's opinion, (a) disclose any facts or matters upon which the report, or part of it, was based and (b) have been relied upon to a material extent in preparing the report.

8.2 This will not include published works or those that disclose exempt or confidential information.

8.3 Background papers are available for public inspection for four years after the date of the meeting and copies may be requested for a reasonable charge from the Managing Director.

## **9 Summary of Public's Rights**

9.1 The public has the right to attend meetings and to inspect and copy documents. Those rights are summarised as follows:-

9.2 Members of the public may -

- (a) attend meetings and speak with the permission of the Chair or in accordance with any special procedures for the meeting concerned (e.g. lead petitioner);
- (b) inspect agendas for each of the meetings;
- (c) inspect minutes of the meetings once they have been confirmed as a correct record;

- (d) inspect a list of background papers used to compile the reports attached to each agenda; and
- (e) make copies, or ask for copies of the whole or part of any such document open to inspection.

9.3 Members of the public may not, however -

- (a) have access to some documents which, by law, are exempt from publication (i.e. private and confidential reports).
- (b) stay at a meeting when private and confidential reports are being discussed - a resolution will be passed at the meeting requiring press and public to leave.
- (c) take photographs at meetings nor record or transmit the proceedings (unless the Chair chooses to allow these actions in which case this will be announced).

## **10 Exclusion of Access by the Public to Meetings**

10.1 Confidential Information - The public has (legally) to be excluded from meetings whenever it is likely that confidential information will be disclosed.

Confidential information means information given to the Authority by a Government Department on terms which forbid its public disclosure or information which cannot, by Court Order, be publicly disclosed.

10.2 Exempt Information - The public may be excluded from meetings whenever it is likely that exempt information will be disclosed.

Exempt information means any of the paragraphs of Part I of Schedule 12A to the Local Government Act 1972 as detailed in Appendix A to this Part.

10.3 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in that Article.

## **11 Exclusion of Access by the Public to Reports**

11.1 If the author thinks fit, the Authority may exclude access by the public to reports that in his/her opinion relate to items during which, in accordance with above, the meeting is likely not to be open to the public. Such reports will be marked "Not for Publication" and the agenda will explain the category of information likely to be disclosed.

**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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**PROTOCOL  
DEALING WITH HUMAN RESOURCE ISSUES**

When Members consider items about the people that are employed solely on behalf of the Authority (e.g. ELWA full-time employees), the Authority must be mindful of a number of matters:

- Employees have rights, on an individual basis, to be treated fairly. (This includes expecting the Authority to maintain confidentiality about an individual's personal and employment details).
- Information relating to employees is often confidential in nature and should not be available widely throughout the organisation (at Member or officer level). Only those who need to know should know.
- Members should have the opportunity to consider, debate and decide upon issues without managers/officers being present.
- A variety of decisions on Human Resource (HR) matters, including the fair treatment of people by their employer, are subject to external scrutiny.

For these reasons:

- Written information to Members on HR management and/or personal HR matters which address employee issues in respect of an individual, should be restricted to relevant Members and appropriate officers. This information should not be included as part of the usual circulation for a report.
- The meeting considering these matters should be conducted in private and those people who should not be in attendance should be asked to leave the meeting.

**Guidelines:**

If there is any doubt as to who should receive copies of the report and who should be allowed to remain at the meeting, the Managing Director should be consulted.

The Managing Director will have access to all reports and all meetings of Members about Human Resource matters.

The Managing Director may delegate some matters to an Officer, the relevant Borough Personnel Manager (from the employing Council) and/or Legal Officer, who will have access to appropriate reports and meetings.

Where there are any financial implications to be considered by the Authority, the Finance Director will have access to appropriate reports and meetings.

There may be meetings where it is appropriate to invite representatives of the Trades Unions and cognizance must be given to this. If there is any doubt, the Managing Director

should be consulted.

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## **Part C**

# **Responsibility for Functions**

## **The Authority's Scheme of Delegation**

# SCHEME OF DELEGATION

## Introduction

### 1 Statutory Basis

- 1.1 The basis for delegation within the Authority is contained within Section 101 of the Local Government Act 1972.
- 1.2 Section 101 of the 1972 Act generally allows the Authority to arrange for its functions to be carried out at a formal meeting or by an employee. Section 100G(2) requires authorities to keep a list specifying those powers which are exercisable by employees and their respective titles in each case. Section 112 requires authorities to appoint such employees as they think necessary for the proper discharge of their functions.
- 1.3 The Local Government Act 2000 (the "LGA 2000") requires Councils to be clear within their Constitution who is responsible for functions and where decision-making lies. Although ELWA is not bound by the LGA 2000, it has agreed to follow the spirit of these provisions and this Scheme describes the Delegations within which ELWA will operate.

### 2 Framework

- 2.1 The Authority has agreed that the following principles should be applied to all decisions:
  - proportionality (the action must be proportional to the desired outcome);
  - due consultation and the taking of professional advice from employees;
  - respect for human rights\*;
  - a presumption in favour of openness;
  - clarity of aims and desired outcomes; and
  - the options considered and the reasons for a particular choice will be explained when appropriate
- 2.2 Generally all decisions will also be consistent with relevant law, Contract Rules, Financial Rules, other relevant Rules, and any other requirements set out in this Constitution.

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

### **3 Purpose of the Scheme**

3.1 The purpose of the scheme is:-

- (a) To define those decisions to be taken by Members of the Authority at formal Authority meetings.
- (b) To identify that all other decisions will be taken by Officers (or nominated post holders as listed), either collectively or individually, and to define these accordingly.
- (c) To define the process by which decisions are monitored to ensure transparency and accountability.
- (d) To define 'Proper Officer' responsibilities.

### **4 Matters which cannot be delegated**

4.1 Certain functions may not, by law, be delegated. As such, they must be dealt with by at formal Authority meetings (subject to the urgency provisions in paragraph 25 of Article 1). These are listed in Section A of this document.

### **5 Delegation to Officers**

- 5.1 All matters not reserved to Member-level meetings are delegated to Officers (or nominated post-holders) .
- 5.2 The Scheme does not define how each decision should be taken, nor does it attempt to list incidental matters that are a part of the Officers' everyday management functions.
- 5.3 The delegation of an authority to an Officer includes the exercise of that authority on his/her behalf by another employee under his/her supervision. Officers are responsible for maintaining a comprehensive list of nominated post-holders, which also identifies specific areas of responsibility. These lists are open to inspection by the public.
- 5.4 Delegations to Officers are split into two parts - powers that can be exercised by (i) all Officers, and (ii) individual Officers.
- 5.5 The Managing Director will clarify any delegation to Officers if necessary.

### **6 Changes in Legislation**

6.1 Any delegation or authority specified in this Scheme (including Proper Officer functions), by reference to any Act or any associated Regulations (e.g. a statutory instrument), includes references to any related re-enactment, consolidation, modification, variation or amendment.

## **7 Proper Officer Function**

- 7.1 The concept of "Proper Officers" to perform certain tasks or carry out various formal or administrative functions differs from that of delegated powers. Delegated powers may involve the exercise of discretion or choice; the functions of a Proper Officer are generally prescribed by legislation.

## **8 Constitution**

- 8.1 This Scheme forms part of the Authority's Constitution and should be read in conjunction with other Parts.

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## SECTION A - THE AUTHORITY

Generally, the Authority may exercise all, or any, of its duties or powers, irrespective of delegation to officers.

**The following powers and functions are reserved to the Authority, either by law and/or statutory guidance (and cannot be delegated) or by local choice:**

- adopting and changing the Constitution, or authorising the suspension of any of its Rules;
- approving the annual budget of the Authority;
- determining the annual levy on the constituent Councils;
- appointing representatives to outside bodies and partnerships;
- appointing the Head of Paid Service, the Monitoring Officer and the Chief Financial Officer;
- approving the appointments of all Officers (i.e. the Managing Director, the Finance Director, the Monitoring Officer);
- initial consideration of any policy or individual employment matters relating to Officers of the Authority, where appropriate;
- promoting or opposing the making of local legislation or personal Bills;
- approving and adopting the annual Best Value Performance Plan;
- appointing Members to the following positions:
  - the Chair and Vice Chair of the Authority
  - the 'A' Director of ELWA Limited
  - any other lead roles as may be considered appropriate by the Authority
- agreeing the Programme of Meetings;
- determining all major issues affecting the Authority, particularly strategic, financial, policy related and corporate management matters;
- agreeing procedures or arrangements relating to the way in which the Authority operates, including Financial Rules, the Scheme of Delegation, Contract Rules, the Protocol for Member-Employee Relations, Rules governing Conferences, Visits and Hospitality, the Code of Practice for Land Acquisitions and Disposals, and any other Rules;
- approving the annual statement of the Authority's accounts;

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- setting Authority borrowing limits;
- approving attendance at meetings, visits and conferences where the total cost to the Authority is likely to exceed £1,000;
- determining compensation claims exceeding £5,000;
- approving the disposal of assets, write-offs and non-recurring virements above delegated authority thresholds;
- delegating functions to another local authority and accepting delegations from another local authority;
- confirming the making of any other statutory Plans and Strategies and, where necessary, their submission to the appropriate Government Department for approval;
- considering and making decisions on reports of the following:
  - the Head of Paid Service
  - the Monitoring Officer
  - the Chief Financial Officer
- receiving petitions (subject to the provisions of paragraph 24 of Part B, Article 1);
- receiving reports and recommendations from the Authority's External Auditors, the Ombudsman and Government or other Inspectorates and determining matters where required;
- resolving and determining any disputes of Officers in respect of any delegated authority;
- all other matters which, by law, must be reserved to the Authority;
- such other matters that the Authority may from time to time reserve to itself.
- Nominating Members from each of the constituent boroughs to answer questions on behalf of the Authority, put by other Members of the constituent Councils in the course of council proceedings, pertaining to the discharge of the Authority's functions

## SECTION B - ALL APPOINTED OFFICERS

All Officers are authorised to exercise the following powers and duties of the Authority in respect of the services under their control:

- determining compensation claims up to £5,000;
- agreeing, in consultation with the Authority's authorised legal representative, financial settlements in Court actions where no alternative is available and the circumstances do not allow for prior consultation with Members;
- accepting tenders within the parameters of Part D of this Constitution;
- authorising contracts within the parameters of Part D of this Constitution;
- appointing employees [except for those appointments reserved to the Authority] in accordance with the directions of the Head of Paid Service and any appropriate legislation;
- managing employees and determining appropriate training, development and health safety and welfare for employees;
- collecting charges and fees;
- full responsibility for local health and safety issues;
- approving employees' travelling and other approved expenses;
- maintaining and securing buildings, land and premises;
- issuing of licences;
- disposing of assets with an estimated realisable value not exceeding £2,000, in consultation with Finance Director;
- appointing or authorising employees to implement legislation as appropriate;
- virements (non-recurring) up to £10,000 within approved budgets, in consultation with the Finance Director;
- full responsibility for observing the Authority's Financial Rules and monitoring financial performance;
- full responsibility for ensuring compliance with Employees' Codes of Conduct and other employment related codes and requirements;
- spending within approved budgets including the purchase of all equipment, goods, materials and services;

- employing agency, contract and consultant staff in accordance with the relevant constituent Council's Standard Conditions of Contract; and
- full responsibility for observing all other aspects and Rules contained within the Authority's Constitution.

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## **SECTION C - THE MANAGING DIRECTOR (and Head of Paid Service)**

A. The managing Director shall have responsibility for all matters relating to the overall administrative and legal arrangements of the Authority, other than those reserved to Authority meetings, including:

- Acting as Clerk, Secretary and Head of Paid Service to the Authority.
- Ensuring that there is a strategy and business plan for the Authority.
- Ensuring the effective governance of the Authority [in consultation with the Monitoring Officer].
- Managing legal work on behalf of the Authority (including prosecutions, contracts and civil litigation) except insofar as it is arranged for such work to be dealt with elsewhere.
- [in consultation with the Monitoring Officer], ensuring that the Constitution of ELWA is effectively implemented.
- Ensuring that effective support is provided to Members, as required.
- To Chair the ELWA Management Board.
- As authorised officer on behalf of the Authority, signing, or attesting or witnessing the affixation of the Authority's common seal on, all contracts, land sales or other dispositions or acquisitions of land, orders, letters, licences, notices, certificates or any other documents unless authority is specifically reserved to other Officers.
- Acting as the 'Authority Representative' for the purposes of the IWMS Contract.
- Sealing documents.
- Investigating disciplinary matters, with the involvement of an independent person, against the Monitoring Officer and the Chief Financial Officer in conjunction with the relevant Constituent Council.
- Authorised to agree minor changes to this Constitution and any of its Parts (e.g. the correction of typographical errors, minor amendments required by new legislation and other matters of a purely administrative nature).

B All matters relating to the overall operational arrangements of the Authority, other than those reserved to Member meetings,

C All matters relating to overall human resources functions of the Authority other than those reserved to Member meetings;

D. All matters relating to the overall technical arrangements of the Authority, other than those reserved to Member meetings

## **Proper Officer Functions**

(a) The Proper Officer in relation to:

(i) the following provisions in the Local Government Act 1972:

Section 96(2) - The Officer who shall record particulars of any disclosure made under Section 94 and of any notice given under Section 96(1) of the Act;

Sections 100B(7)(c), 100C(2) and 100F(2) in relation to Access to Information;

Section 225(1) - The Officer with whom a document of any description is to be deposited pursuant to the standing orders of either House of Parliament or to any enactment or instrument;

Section 229(5) - The Officer who shall certify a photographic copy of a document in the custody of the Authority, or of a document which has been destroyed while in the custody of the Authority, or of any part of any such document;

Section 234(1) - The Officer who shall sign any notice, order or other document which the local authority is authorised or required to make or issue;

Schedule 12, Part I, para. 4(2)(b) - The Officer who shall sign a summons to attend an Authority meeting;

Schedule 12, Part I, para. 4(3) - The Officer to whom a Member of the Authority shall give a notice in writing desiring summonses to attend meetings of the Authority to be sent to an address specified in the notice other than his/her place of residence;

Schedule 14, Part II, para. 25(7) - The Officer who shall certify a resolution of the Authority under this paragraph; and

(ii) the Local Authorities (Members Interests) Regulations 1992;

(b) the Head of Paid Service under the Local Government and Housing Act 1989;

(c) responsible for any other Proper Officer function for which no other authorities have been given;

## **SECTION D - THE FINANCE DIRECTOR (and Chief Financial Officer)**

All matters relating to the overall financial arrangements of the Authority, other than those reserved to Member meetings, including:

- Acting as Chief Financial Officer to the Authority
- To be responsible to the Authority for the proper administration of its financial affairs.
- Authorised: -
  - To prepare and present the accounts of the Authority.
  - To keep a general fund for receipt and discharge of liabilities, and to keep accounts and receipts for such discharges.
  - To borrow in accordance with the requirements of the capital budget and borrowing limits.
  - To issue levies on constituent Councils of the Authority and take action required for their collection, within the terms of Clause 7 of the Waste Regulation and Disposal (Authorities) Order 1985.
  - To provide Audit services to the Authority.
  - To provide comprehensive financial advice to the Authority.
  - To write off losses up to the value of £5,000.
- To be a member of the ELWA Management Board.
- In conjunction with the Executive Director:
  - To prepare, present and monitor capital and revenue budgets.
  - To commission appropriate insurance's.
- Assisting the Managing Director, when required, to discharge his/her corporate responsibility as Head of Paid Service.

### **Proper Officer Functions**

The Chief Financial Officer for the purposes of Section 73 of the Local Government Act 1985.

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**Part G**

**Authority Officers  
and  
The Management Structure**

# THE MANAGEMENT STRUCTURE

## 1 Terminology

- 1.1 The use of the word 'employees' means all staff engaged by or on behalf of the Authority to carry out its functions. As well as those employed on a long term, full-time basis this also includes those engaged under short term, agency or similar arrangements.

## 2 Introduction

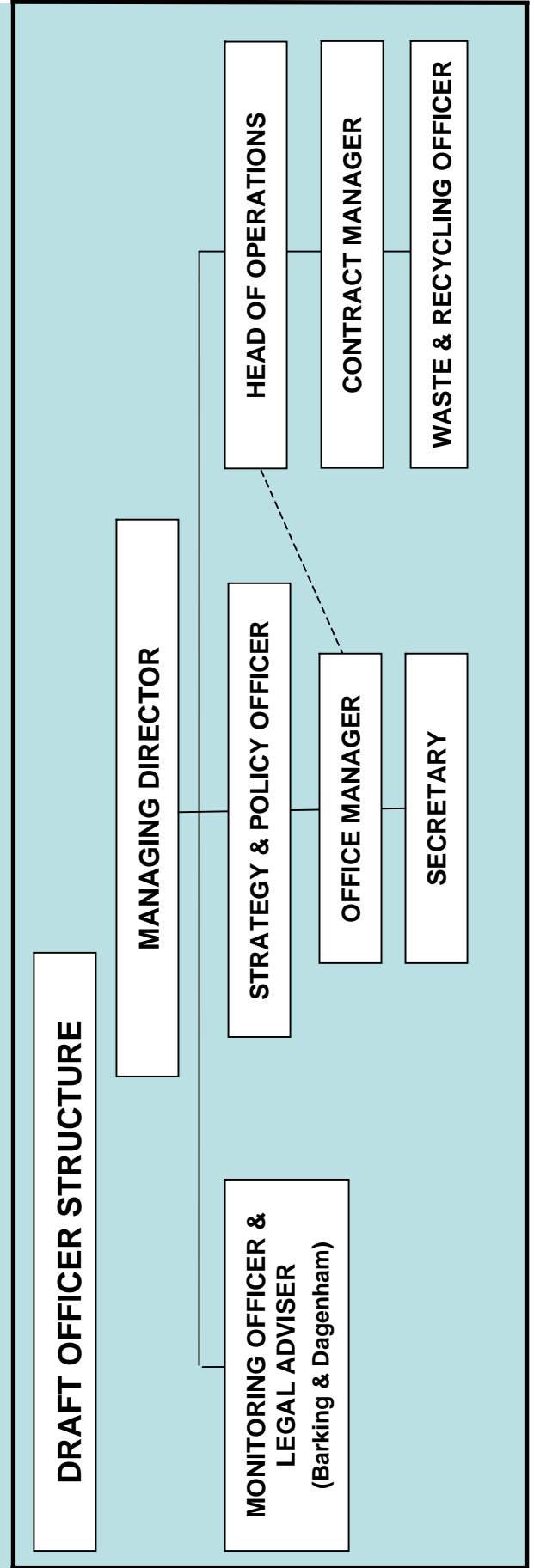
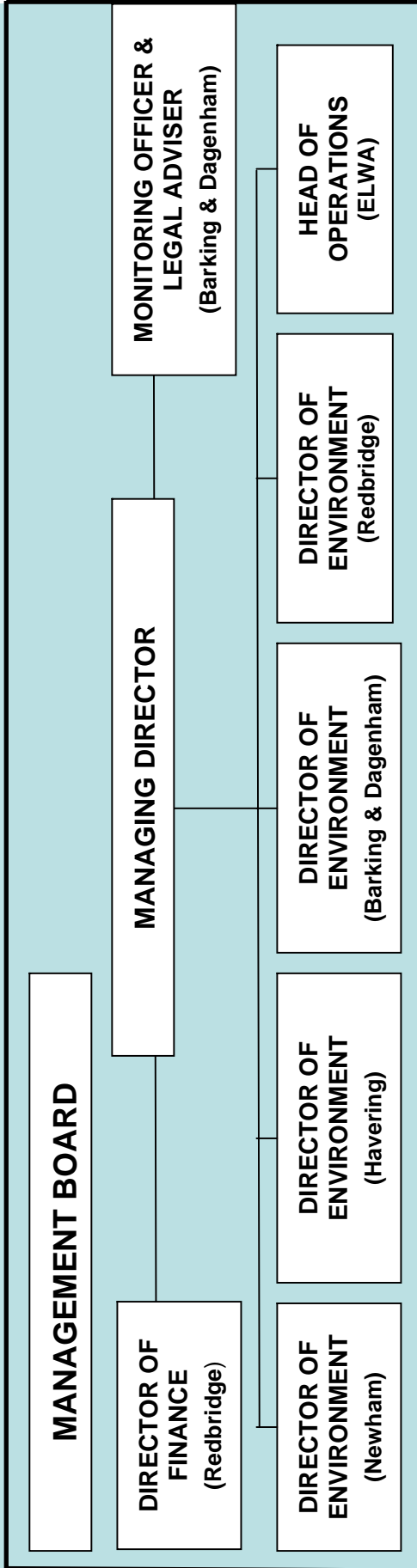
- 2.1 The Authority's 'Officers' are responsible for the various functions and services that the Authority either delivers or arranges delivery of.
- 2.2 The Authority's Managing Director has overall responsibility for the management of the organisation. The Managing Director has the lead executive role in the management, administration and delivery of the Authority's services as well as providing strategic direction to the Authority, in conjunction with the ELWA Management Board and is also responsible for managing the relationship with the Authority's integrated waste management service contractor, Shanks.east london (the trading name of ELWA Limited).

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**MEMBERS**  
(2 from each constituent Council)



### 3 Management Structure

#### 3.1 Senior Officers

The Authority shall have the following Officers:

<b><u>Post</u></b>	<b><u>Main Areas of Responsibility</u></b>
Managing Director (and Head of Paid Service)	Overall corporate management, legal, technical (including waste policy), and operational (including personnel support) responsibility within the Authority.
Finance Director (and Chief Financial Officer)	Financial and audit responsibility
Head of Operations	Day-to-day operational responsibility (including IWMS Contract management)

#### 3.2 Statutory Officers

##### **(i) Head of Paid Service (Managing Director)**

The Managing Director shall be the Authority's Head of Paid Service. The Head of Paid Service is a statutory position with a specific responsibility for:

- (a) determining and publicising a description of the overall structure of the Authority which shows the management structure and the deployment of employees; and
- (b) reporting to the Authority on the manner in which the discharge of the Authority's functions is co-ordinated, the number and grade of employees required for the discharge of functions, and the organisation of employees.
- (c) The Managing Director shall have the duties, powers, responsibilities and perform the functions as described in the Scheme of Delegation in Part C of this Constitution and in the job description for the position.

##### **(ii) The Monitoring Officer**

The Authority has appointed its Legal Adviser as Monitoring Officer. The Monitoring Officer is also a statutory position.. The duties and responsibilities of the Monitoring Officer shall be those required by law and those set out in Part H of this Constitution and include the following:

- (a) Maintaining the Constitution - The Monitoring Officer has to maintain an up to date version of the Constitution and ensure that it is widely available for consultation by Members, employees and the public.



- (b) Ensuring lawfulness and fairness of decision making - After consulting with the Head of Paid Service and Chief Financial Officer (assuming it is reasonably practical and appropriate to do so), the Monitoring Officer must report to the Authority if he/she considers that any proposal, decision or omission is unlawful, or if any decision or omission is maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) Register of Interests - The Monitoring Officer is responsible for establishing and maintaining a register of interests of Members of the Authority.
- (d) Proper Officer for access to information - The Monitoring Officer ensures that Authority decisions, together with the reasons for those decisions and relevant reports and background papers, are made publicly available as soon as possible.
- (e) Providing advice - The Monitoring Officer provides advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity, budget and policy framework issues.
- (f) Whistle blowing - The Monitoring Officer is responsible for whistle blowing and investigations into ethical matters in relation to Members having due regard to Codes of Conduct and any other requirements or duties imposed on Members.

**(iii) The Chief Financial Officer**

The Finance Director shall be the Authority's Chief Financial Officer pursuant to S 151 of the Local Government Act 1072. The Chief Financial Officer is also a statutory position with specific responsibility for:

- (a) Ensuring lawfulness and financial prudence of decision making - After consulting with the Head of Paid Service and the Monitoring Officer (assuming it is reasonably practical and appropriate to do so), the Chief Financial Officer must report to the Authority and the Authority's external auditor if he/she considers 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 Authority is about to enter an item of account unlawfully.
- (b) The administration of financial affairs - The Chief Financial Officer is responsible for the administration of the financial affairs of the Authority.
- (c) Contributing to corporate management - The Chief Financial Officer contributes to the corporate management of the Authority, in particular through the provision of professional financial advice.
- (d) Providing advice - The Chief Financial Officer provides advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity, budget and policy framework issues to all Members, and supports and advises Members and employees in their respective roles.

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- (e) Giving financial information - The Chief Financial Officer provides financial information to the media, members of the public and the community as and when necessary.

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