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Part A

A Summary of

the Council’s Constitution
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1 Introduction

We are here to provide essential services across the borough and, working with local agencies like the police and the health service, to meet the needs of everyone who lives here.

So the decisions that we make on your behalf are really important. We want to encourage you to have more say in how our organisation is run, the types of services we provide, and our plans for the future.

This guide is a summary of our Constitution. It explains how the different parts of the Council work together, how we make our decisions and how you can have your say. You can see our full constitution at the Dagenham Civic Centre, Barking Town Hall or on our website (www.barking-dagenham.gov.uk).

2 Community priorities

The Community Priorities, which will define the work of the Council and its Partners over the coming years, are set out below:

- **Safe** – a safer borough where the problems of antisocial behaviour have been tackled and all your people have a positive role to play in the community.

- **Clean** - a clean, green and sustainable borough with far greater awareness of the actions needed to tackle climate change, with less pollution, waste, fly-tipping and graffiti.

- **Fair and respectful** – a stronger and more cohesive borough so that it is a place where all people get along, and of which all residents feel proud.

- **Healthy** – a healthy borough, where health inequalities are reduced with greater knowledge of lifestyle impacts on health.

- **Prosperous** – an ambitious and prosperous borough that supports business, jobs and skills, attracting new business with economic, social and environmental resources harnessed for the good of all.

- **Inspired and successful young people** - a borough of opportunity for all young people so that they can play an active economic role for the good of all.

3 The people on your council

Councillors

Our organisation is made up of 51 councillors who you elect at the local elections every four years. There is an up-to-date list of councillors in local libraries, at the Civic Centre, at the Town Hall and on our website (www.barking-dagenham.gov.uk).
The Borough is divided into 17 areas called ‘Wards’ (see the map in part 6). Each Ward elects three councillors. To stand for election, councillors have to live or work in the borough or be on the electoral register.

Councillors have two main roles. They must:

- represent the whole community by making decisions about our policies, services and finances; and
- represent the interests of the people in their ward.

Councillors are your main link to us and will give you advice and help if you need it. Councillors also hold ‘surgeries’ where you can talk to them face to face. Or you can phone, e-mail or write to your councillor. Their contact details are on our website or you can ask the Member Support Officer for their details by telephone on 020 8227 2116, or by e-mail to iris.buffoni@lbld.gov.uk

Staff

We have about 8,000 staff who are responsible for putting our decisions into action and delivering our services. Our staff are led by the Chief Executive and their management team.

Our services are spread across the following departments

- **The Chief Executive** has overall responsibility for the corporate and operational management of the Council, including acting as the Council’s principal adviser on all matters of policy and for promoting community leadership. Corporate Policy and Public Affairs, Legal and Democratic Services and Human Resources and Organisational Development all report to the Chief Executive.

- **Housing and Environment** is responsible for many of the Council’s frontline services bringing together housing strategy, the management of housing and neighbourhoods and environmental and enforcement services.

- **Adult and Community Services** provides adult care facilities, community and neighbourhood services, leisure and arts, libraries and heritage, community cohesion and equalities, as well as delivering the community safety strategy and preventive services and overseeing public and mental health in partnership with the Primary Care Trust and North East London Foundation Trust respectively.

- **Children’s Services** promotes the wellbeing of children with the key objectives of improving education outcomes for all children and safeguarding children who are at risk, as well as delivering skills, learning and employment.

- **Finance and Resources** is responsible for leading the sound administration of the Council’s financial affairs including corporate and strategic finance, audit and risk. It also oversees regeneration and economic development, asset management and capital delivery alongside the management of Barking and Dagenham Direct, the contact centres and performance and improvement.
4 Council meetings

Our main Council meetings aim to:

- involve people more in their communities and the way that they are run;
- involve the community more fully in our work;
- act on our views more effectively;
- make it clear where decisions are made and who is responsible for them; and
- improve joint working arrangements between the Council and its partners.
We make major decisions about our business at meetings. The meetings are open to the public and we advertise the details beforehand. Everyone has the right to attend these meetings (although we will ask you to leave when we are considering personal or confidential matters).

We write agendas which list the issues we will consider at each meeting and you can see them on our website five days before each meeting (www.barking-dagenham.gov.uk).

The two main decision-making meetings are the Assembly and the Cabinet.

Assembly

- The Assembly is responsible for:
  - agreeing main Council policies; and
  - setting our yearly budget and the Council Tax.

- All 51 councillors are members of the Assembly.

- The meetings are held every two months on a Wednesday at Barking Town Hall, starting at 7pm.

The Cabinet

- The Cabinet is responsible for:
  - developing main policies and budget proposals for the Assembly’s agreement;
  - making decisions about our strategies, services and finances, based on the policies set by the Assembly;
  - making sure all our departments work well together in delivering quality services to local people; and
  - making sure we work well with other local organisations, such as the police and health services, for the benefit of the community.

- Between three and ten councillors make up the Cabinet as determined by the Leader of the Council who chairs the meeting.

- The meetings are held on Tuesday evenings at Dagenham Civic Centre, starting at 5 pm.

You can find out, from our ‘Forward Plan’, the main decisions the Cabinet and the Assembly are due to make in the coming months. The Plan also tells you who we will consult about the various matters. You can look at the Forward Plan on our website (www.barking-dagenham.gov.uk).
Scrutiny - checking, challenging and monitoring decisions

➢ The overview and scrutiny function of the Council is managed through five standing Select Committees, which report directly to the Assembly. Four Select Committees are themed, and the fifth Select Committee addresses cross-cutting issues and also has responsibility for the audit function.

➢ Each Select Committee has a defined remit, which is aligned with Local Strategic Partnership (LSP) structures and Council and LSP priorities. Each Select Committee has responsibility for scrutinising issues falling within their remit, and the Select Committee remits combined cover all aspects of LSP work.

➢ The five Select Committees are as follows:

   • Children’s Services Select Committee (themed)
   • Health and Adult Services Select Committee (themed)
   • Living and Working Select Committee (themed)
   • Public Accounts and Audit Select Committee (cross-cutting)
   • Safer and Stronger Community Select Committee (themed)

➢ The four themed Select Committees will be made up of nine councillors, with the PAASC made up of six councillors.

➢ The meetings are held every six weeks between Mondays and Wednesdays, split between the Civic Centre and Town Hall, starting at 6 pm.

➢ In addition to monitoring and in-depth review work, each Select Committee has responsibility for

(i) Call-Ins,
(ii) Councillor Calls for Action; and
(iii) Considering petitions in accordance with the Council’s Petition Scheme which can be found on the Council’s website at:

http://www.lb bd.gov.uk/CouncilandDemocracy/Information/Pages/Petitions.aspx

➢ A Call-in process allows councillors to question Cabinet decisions and, if necessary, change them before they are implemented.

➢ Councillor Call for Action (CCfA): CCfAs can be initiated by any Councillor in order to raise a persistent problem that affects a significant number of local residents and has failed to be resolved through the other channels available. CCfAs will be considered by the relevant Select Committee.

➢ Petitions: Considering (i) petitions requisitioning a Senior Officer to provide evidence in respect of those services which fall within the remit of the relevant Select Committee, and (ii) public representations from a lead petitioner, where in their opinion a petition has not been dealt with adequately at the Assembly.
Other Meetings

All meetings are open to the public unless stated otherwise.

Development Control Board (DCB)

The DCB considers planning applications.

The meetings are usually held every four weeks, generally on a Monday at Barking Town Hall, starting at 6 pm.

Interested parties including applicants and objectors may speak at the meeting.

Licensing and Regulatory Board

The Licensing and Regulatory Board deals with licensing and other regulatory matters. The Board is open to the public (except when we are discussing confidential matters).

The meetings are held fortnightly on Tuesdays, at the Civic Centre, starting at 5 pm.

Interested parties who have made relevant representations to an application will be allowed to address the Board.

Personnel Board

The Personnel Board deals with issues about individual council employees. The Board deals with confidential matters and is not open to the public.

The meetings will be held where practicable on either Tuesdays or Thursdays at the Civic Centre at a time to be determined.

Standards Committee

The Standards Committee promotes and maintains high standards of behaviour by councillors and employees and is responsible for dealing with allegations of breaches of the Members Code of Conduct, for which Sub-Committees are appointed to discharge those functions.

The Standards Committee meetings are held every two months usually on the second Thursday, at the Civic Centre, starting at 3pm. The Sub-Committees meet as required.

Ceremonial Council

The Ceremonial Council includes all 51 councillors and meets to carry out ceremonial and public functions such as Freedom of the Borough awards. The Ceremonial Mayor is chair of the Ceremonial Council.

The meetings are held at Barking Town Hall, usually on a Friday, starting at 7 pm.
Joint arrangements and partnerships

We have set up a number of joint arrangements and partnerships with other local authorities and associations. There are more details in the full Constitution.

5 Your rights and how you can get involved

- **Contact a councillor about any matter you are concerned about.**
  There is information about councillors on our website. You can also phone the Member Support Officer on 020 8227 2116 or e-mail us (iris.buffoni@lbld.gov.uk).

- **Look at the full Council Constitution.**
  You can see a copy of the full Council Constitution at the Civic Centre, at the Town Hall or on our website (www.barking-dagenham.gov.uk).

- **Come to Council meetings**
  We will advertise the dates, times and places of council meetings beforehand. You can get more information from our website (www.barking-dagenham.gov.uk).

- **Licensing & Regulatory & Development Control Boards**
  Interested parties including applicants and objectors can, under certain circumstances address both Boards in respect of licensing and planning applications. For details of how to do this, phone Democratic Services on 020 8227 2135.

- **Inspect agendas and minutes for formal meetings and see reports and background papers (except confidential ones)**
  You can see public agendas, minutes and reports on our website (www.barking-dagenham.gov.uk).

- **Look at the Forward Plan to find out and have your say on the key decisions councillors and officers are due to make**
  You can look at this on our website (www.barking-dagenham.gov.uk).

- **Complain to us if you think that we have failed to deliver a service that we promised or that we have not treated you politely and fairly**

  **To make a complaint:**
  - fill in the on-line complaint form on our website (www.barking-dagenham.gov.uk);
  - e-mail your complaint to: complaints@lbld.gov.uk;
  - fill in a complaint form which you can get from Council offices and libraries;
  - write to Corporate Complaints, 2nd Floor Roycraft House, Linton Road, Barking IG11 8HE, or
  - visit a Council office.
• Complain to the Monitoring Officer if you have evidence which you think shows that a councillor has not followed our Code of Conduct for Members (the Code is in the Constitution)

To make a complaint:
• write to The Monitoring Officer, London Borough of Barking & Dagenham, Civic Centre, Dagenham RM10 7BN
• phone – 020 8227 2638
• e-mail your complaint to Tasnim.shawkat@lbbd.gov.uk; or
• fill in an on-line complaints form on the website at http://www.lbbd.gov.uk/CouncilandDemocracy/Complaints/Pages/CouncillorComplaint.aspx

• Have your say on our proposals

So that we can provide the right services and plan for the Borough, we need to know what you think about our services and priorities. We regularly consult local people. If we ask you for your views, please take the time to give them to us.

People who live in the Borough also have the right to:

• Vote at local elections (as long as you are on the electoral register)
If you would like to register or apply for a postal vote for future elections, please phone Electoral Services on 020 8227 2945, e-mail us (electoral.services@lbbd.gov.uk) or fill in the on-line forms on our website (www.barking-dagenham.gov.uk).
6 Map of wards

The map below shows an outline of each of Barking and Dagenham’s electoral ward boundaries.
Part B

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The Political Structure

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ARTICLE 1

MEMBER MEETINGS

GENERAL

1. Terms of Office

1.1 Chair and Deputy Chair and Lead and Deputy Lead positions and memberships of meetings are appointed for one year and are reviewed annually by the Assembly with the exception of the Leader of the Council who is appointed for a four year fixed term. In the event that the Chair and Deputy Chair or the Lead and Deputy Lead Members are not in attendance at a meeting, another Member will be elected from the other Members present to chair that meeting.

2. Employee Support

2.1 The Chief Executive is responsible for ensuring appropriate support for all Member meetings.

3. Accessibility

3.1 The Council wishes to be as open as possible and the press and public are encouraged to attend meetings. Occasionally, for legal reasons, the press and public are not allowed to attend or see papers (for example if discussing issues concerning an individual employee), but wherever possible this will be avoided.

Full details are provided in Article 12.

4. Venues

4.1 Meetings are generally held at the Civic Centre, Dagenham or the Town Hall, Barking, unless circumstances dictate otherwise.

4.2 Public accessibility and appropriateness (particularly for people with limited mobility) are key factors in determining the suitability of venues for meetings.

5. Timing of Meetings

5.1 Meetings are usually held only on Mondays, Tuesdays, Wednesdays or Thursdays (meetings on Thursdays must finish by 5.00 pm). See individual Articles for frequency, days and timing of meetings. There are usually no meetings on Fridays, with the exception of the Ceremonial Council.

5.2 Provision is allowed for meetings to be arranged on other days or at different times in exceptional circumstances with the permission of the relevant Chair or Lead Member. Also, in liaison with the relevant Chair or Lead Member, the Chief Executive may alter any deadlines should this be considered necessary in the light of any public holidays, having regard to any statutory provisions that may apply.

5.3 All meetings aim to last no longer than 2½ hours and evening meetings to finish by 9.30 p.m. at the latest. If business has not been concluded by this time, the proceedings may be extended for a reasonable further period, with the
agreement of a majority of the Members present. Any unfinished business will be referred to the next meeting.

5.4 The proceedings of all meetings may be concluded earlier with the agreement of the majority of the Members present. Any unfinished business will be referred to the next meeting.

6. **Quorum**

6.1 A quorum is the number of Members needed to enable a meeting to proceed. Each Article in the Council Constitution refers to the number of Members required for a meeting to be quorate but the minimum number is two. If a meeting is not quorate, the business will be adjourned to the next ordinary meeting or, if necessary, to an extraordinary (special) meeting.

6.2 If the meeting is not quorate 15 minutes after the start time, the business shall be adjourned to the next scheduled meeting or to a date to be arranged.

6.3 If a quorum is lacking at any time after a meeting has started, the meeting shall be suspended for up to 15 minutes, after which time if a quorum is still not achieved, the meeting will end. Any items of business remaining on the agenda for that meeting will be held over to the next scheduled meeting or to a date to be arranged.

6.4 Members present at an inquorate meeting can, if they feel 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.

7. **Agenda Papers**

7.1 Unless otherwise stated in the Articles for particular meetings, agenda papers will be in the Chief Executive’s name and will indicate an appropriate contact for any queries.

7.2 Agendas, reports and minutes will generally be produced in an agreed corporate style, details of which are the responsibility of the Chief Executive.

7.3 Notices of meetings and agendas will be circulated five clear days in advance having regard (where applicable) to the requirements of the Local Government (Access to Information) Act 1985 or any subsequent legislation.

7.4 Late reports will generally not be allowed. If there are unavoidable, genuine circumstances, their consideration will be at the discretion of the relevant Chair or Lead Member, on advice from the Chief Executive. The relevant Chief Officer will be required to justify the reason for special consideration in writing.

8. **Reports**

8. 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, employees or experts (including
outside representatives if relevant), together with the professional advice/recommendations of the appropriate Chief and/or lead officer.

8.2 All reports to Cabinet will be in the name of the appropriate Cabinet Member and give their contact details. Where appropriate, reports to Assembly will also be in the name of the relevant Member, for example Chairs or Lead Members in relation to annual reports of their committees. All other reports to meetings will be in the name of the relevant Chief Officer and will include the name of the appropriate Divisional Director as the point of contact for further information or queries.

8.3 Background papers will be made available for public inspection in accordance with statutory requirements. This responsibility lies with the relevant Chief Officer.

9. Voting

9.1 Decision making is determined by an overall majority of the Members present at a meeting. However in the case of:

- the election of the Leader of the Council at the Assembly, and
- a Vote of No Confidence in the Leader of the Council at the Assembly

the procedures outlined in paragraphs 9 and 10 of Article 2, Part B of the Council Constitution will apply.

9.2 Voting will be by way of a show of hands or via any available automated voting system notwithstanding the provision set out in paragraph 9.5 below.

9.3 The Chair or other person presiding at a meeting will have the final decision as to which of the two described voting methods will be used.

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

9.5 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”

9.6 Any individual Member may request that his/her vote or abstention be recorded in the minutes of any meeting.

9.7 Votes on motions on issues directly affecting the Borough (paragraph 14 of Article 2, The Assembly) will be taken by way of a show of hands unless a member asks for a recorded vote and that request is seconded and supported by the majority of members present. This includes votes on any amendments to motions.

9.8 Subject to other provisions contained in the Constitution, Members who are not present in any meeting for whatever reason, throughout the discussions on an
agenda item, are not permitted to vote on that item.

10. **Minutes**

10.1 Minutes will be concise but sufficiently detailed to enable each matter discussed to be clearly understood by an ordinary member of the public.

10.2 Minutes will be circulated to Members with the agenda for the next meeting for confirmation as a correct record at that meeting, except where the agenda for the next meeting is circulated before the first meeting has taken place or where stated otherwise in the Articles for particular meetings. The only question which can properly arise on the confirmation of minutes is that of their accuracy.

10.3 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 of that meeting.

10.4 Minutes will be made available for public inspection in accordance with statutory requirements.

10.5 The minutes will be the formal record of attendance at meetings by Members and any co-opted members.

11. **Conduct/Disturbance at Meetings**

11.1 It is the responsibility of the Chair, or other Member presiding, to keep order at meetings.

11.2 Members are expected to behave in a professional manner and to respect the ruling of the Chair.

11.3 If a Member persistently misconducts him or herself by behaving irregularly, offensively or improperly, or using inappropriate language, or by disregarding the Chair and knowingly or deliberately obstructing the business, in breach of the Members Code of Conduct, the Chair, or any other Member, may move that the Member be no longer heard. If seconded, the matter will be put to the vote and determined without discussion. The Member concerned cannot vote in these circumstances.

11.4 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.

11.5 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 out of the building.

11.6 Where there is a general disturbance in any part of the room where a meeting is being held, the Chair may, 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.

11.7 The Council’s security staff and/or the Police will be called to assist in any situation if necessary.

12. **Members’ Interests**

12.1 Having regard to statutory requirements, the Members’ Code of Conduct and any advice given by the Standards Committee, if a Member or other voting co-opted 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).

12.2 A member or voting co-opted 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).

12.3 A Member who is two months or more in arrears of Council Tax cannot vote on any item involving the budgetary process, or the expenditure of money during the year or subsequent years. They must declare the fact as soon as practicable after the start of the meeting. They can, however, speak on the issue unless it relates to the process of Council Tax collection and enforcement. Members must be fully aware of their own financial matters and must not assume notification by officers before this situation arises.

12.4 Similarly a Member who is two months or more in arrears of Council house rent cannot vote on any item involving housing revenue account expenditure. However they do not need to declare the fact. Members must be fully aware of their own financial matters and must not assume notification by officers before this situation arises.

12.5 The minutes will record the declaration and, if appropriate, note that the Member left the meeting. Declarations are available for public inspection.

13. **Local Authorities’ Interests in companies**

13.1 Where a Member wishes to exercise the right under Section 71(5) of the Local Government and Housing Act 1989 to ask questions of Members or officers involved (as Member, Director or Council’s representative) in companies with whom the Authority is associated, that person should give notice in writing to the Chief Executive in the manner set out in Paragraph 17.8 of Article 2.
14. Speaking by the Public at Meetings

14.1 Members of the public can speak at certain meetings under the agreed procedures for those meetings and at other times at the discretion of the Chair.

15. Press Briefings

15.1 The Council wishes to conduct its business in an open and informative manner. Where considered appropriate, press briefings will be arranged through the Marketing and Communications Group Manager to explain particularly important or sensitive issues and to give an opportunity for questions to be asked.

16. Photography, Live Broadcasts and Tape Recordings of Proceedings

16.1 It is not the Council’s policy to allow photographs to be taken or for proceedings to be transmitted by television, video recording, radio broadcast or any other means. The only exception is a meeting of the Standards (Hearing) Sub-Committee where it is agreed practice to tape record the proceedings of the hearing in question.

16.2 In extremely exceptional circumstances the Chief Executive, with justified reasoning and in consultation with the Leader of the Council and the relevant Chair or Lead Member, will have discretion to allow photographs to be taken or for proceedings to be transmitted by television, video recording, radio broadcasting or any other means.

17. Urgent Action

17.1 In exceptional circumstances and where delay will be prejudicial to the interests of the Council, the Chief Executive or his/her nominated deputy is authorised to take urgent action which is not otherwise delegated to him/her, subject to ensuring:

17.1.1 that the actions are set out in a detailed report which has been cleared by the Corporate Director of Finance and Resources and a Legal Partner,

17.1.2 compliance with the Constitution and, in particular, relevant rules where appropriate, and

17.1.3 that the action taken and the full details are subsequently reported to the next available meeting of the relevant committee.

17.2 Prior to the Chief Executive taking the action, the relevant Corporate Director will be required to liaise with Democratic Services to ensure that all aspects of the urgent action procedures are met. In relation to matters under the remit of the Cabinet, this will include wherever possible the relevant Corporate Director or Divisional Director contacting in advance the Chair of the Cabinet and the Lead Member of the relevant Select Committee, as determined by the Divisional Director of Legal and Democratic Services, to advise them of the reasons for
taking the urgent action. Where, for any reason, it is not possible to contact the said Members, the Deputy Chair of the Cabinet and the Deputy Lead Member of the relevant Select Committee will be contacted. For matters under the remit of other committees, the relevant Corporate Director or Divisional Director should contact in advance the Chair of the committee to advise him/her of the reasons for taking the urgent action.

17.3 Once the urgent action has been taken, a letter will be sent by the Chief Executive to the Chair, and in the case of Cabinet matters also to the Lead Member of the relevant Select Committee, advising of the action and providing a copy of the report.

17.4 The Call-In procedure will not apply to any Cabinet decision taken under this provision.

18. Confidentiality

18.1 Where the contents of any document are expressed to be exempt from publication, Members and employees must respect such confidentiality. Such documents may not be disclosed to anyone, including the press and public, until such time as the document might at a later stage become releasable.

19. Attendance at Meetings by Members not Formally Appointed to the Meeting

19.1 A Member may attend any Member meeting to which they have not been appointed, but they cannot vote at that meeting. Unless otherwise stated or provided for in the Articles for particular meetings, they may speak at the meeting at the discretion of the Chair. Similarly they may stay for the whole meeting, unless asked to leave for specific reasons which will be explained by the Chair and recorded in the minutes, but must respect the confidentiality of the discussions in the non-public part of any meeting and of any papers which are restricted from publication.

19.2 Agenda papers for meetings will be circulated to any Member at their request subject to the conditions set out in paragraph 18 and to the restrictions around reports dealing with certain human resource issues as detailed in the appendix to the Member-Employee Relations protocol (see Part E of the Constitution).

20. Implementing Decisions

20.1 Subject to there being no Call-In, all decisions of the Cabinet shall stand and can be acted upon once the agreed time period for Call-In has elapsed.

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

20.3 Subject to the Assembly agreeing otherwise, any motion to rescind or amend any decision of the Assembly or the Cabinet cannot be proposed unless at least six months have elapsed and at least one third of the Council give written notice to the Chief Executive and seek reconsideration of an issue at the next available meeting of the Assembly.
20.4 When any such motion or amendment has been dealt with by the Assembly, a similar motion may not be proposed within a further period of six months.

21. Requirement to Attend Meetings

21.1 If a Member of the Council fails throughout a period of six consecutive months from the date of their last attendance to attend any meeting of the Council, they shall, unless the failure was due to some reason approved by the Assembly before the expiry of that period, cease to be a Member of the Council.

21.2 For the purposes of this section only, a meeting of the Council includes any Member meetings (including the Cabinet), attendance at any meetings of Joint Committees or Boards, or any meetings of any body or persons where the Member is formally appointed by the Council to represent the authority.

22. Cancellation of Meetings

22.1 The Chief Executive is authorised to cancel a meeting where the agenda has already been issued if it is considered expedient to do so. Before exercising this authority, the Chief Executive will consult with the Leader of the Council and the appropriate Chair or Lead Member. Any outstanding business will be held over to the next scheduled meeting or on a date to be arranged.

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
ARTICLE 2

THE ASSEMBLY

1. Legal Status

1.1 The Assembly is a meeting of the full council, but under a different name, as defined in Section 8 and Schedule 12 of the Local Government Act 1972.

1.2 There are certain matters which by law, only the Assembly can carry out. These are contained in the terms of reference as set out in the Scheme of Delegation in Part C of the Constitution.

1.3 All local choice functions which the Assembly has decided it should undertake itself rather than the Cabinet are also set out in the Scheme of Delegation.

2. Role

2.1 The Assembly is the central political focus of the Council and the co-ordinating body for all elements of the political structure. It sets the overall corporate direction, policy framework and financial limits for the Council within which all operations and policies are carried out. It aims to foster a community-focused approach to the formal side of the Council's business, recognising the wider interests of the community and the need to be accountable to them.

3. Membership

3.1 All Members of the Council.

4. Quorum

4.1 Thirteen Members.

4.2 In respect of the various JNC Panels set up under the Assembly (Appointments, Disciplinary, Appeals and Salaries and Conditions), the quorum is two Members.

5. Chair and Deputy Chair

5.1 The Chair and Deputy Chair are appointed by the Assembly.

5.2 The meetings are controlled by the Chair of the Assembly who is responsible for:

5.2.1 upholding and promoting the purposes of the Constitution, and interpreting it (with the assistance of the Chief Executive);

5.2.2 presiding over meetings of the Assembly so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;

5.2.3 ensuring that the Assembly meeting is a forum for the debate of matters of interest to the local community and the place at which all Members are able to question and/or hold Members of the component parts of the Council's political structure to
account for their actions (for example, the Cabinet, the various Select Committees, the Standards Committee etc.); and,

5.2.4 promoting public involvement in the Council’s activities.

6. Frequency of Meetings

6.1 Programmed every two months.

6.2 The Chair and the Deputy Chair, in consultation with the Leader and Deputy Leader of the Council, can, at their discretion, request the Chief Executive to call a special meeting at any time having regard to statutory requirements.

6.3 Five Members of the Council can, by signed requisition to the Chief Executive and with appropriate reasons, request that a special meeting be called at any time. The decision will be at the discretion of the Chief Executive, in consultation with the Chair.

7. Venue and Time

7.1 The Town Hall, Barking

7.2 7.00 p.m. unless otherwise determined by the Chair and the Deputy Chair, for special reasons.

8. Annual Meeting of the Assembly

8.1 Timing

8.1.1 The annual meeting will be held in May.

8.2 Main Role

8.2.1 The annual meeting will:

8.2.1.1 with the exception of the Cabinet (see paragraph 8.2.1.10) decide on the overall political structure (the Member meetings) and appoint the memberships (including any co-opted or independent members);

8.2.1.2 elect:-

(a) (in each election year for a term of four years) the Leader of the Council, who in accordance with the voting procedure set out in paragraph 9 of this Article, shall be the Chair of the Cabinet.

(b) the Chair and Deputy Chair of the Assembly

(c) the Chair and Deputy Chair of the Development Control Board

(d) the Chair and Deputy Chair of the Licensing & Regulatory Board

(e) the Chair and Deputy Chair of the Personnel Board

(f) the Chair and Deputy Chair of the Standards Committee

(g) the Lead and Deputy Lead Members of the:
(h) to any other similar lead positions as may be considered appropriate by the Assembly.

8.2.1.3 agree those Councillors to have voting rights on the Barking Housing Forum and the Dagenham Housing Forum;

8.2.1.4 approve the minutes of the last ordinary meeting;

8.2.1.5 agree the Constitution and associated Rules, Schemes, Codes and Protocols relating to the way in which the Council operates;

8.2.1.6 appoint representatives to outside bodies and partnerships taking into account any recommendations of the Cabinet;

8.2.1.7 receive annual reports from Member meetings including the Barking & Dagenham Partnership, and

8.2.1.8 consider any other business set out in the notice convening the meeting.

8.2.1.9 The duly elected Leader of the Council will appoint a Deputy Leader of the Council who, in their absence or following a vote of no confidence (see paragraph 10 of this Article) shall assume the full powers of the Leader.

8.2.1.10 The duly elected Leader of the Council may at any time:

   (i) appoint further Members to serve on the Cabinet up to a maximum of ten and a minimum of three (including the Leader and Deputy Leader of the Council)

   (ii) assign portfolios in defined areas of Council activity to individual Members of the Cabinet

   (iii) appoint in consultation with Cabinet Members as appropriate, other non Cabinet Members (back benchers) to support them in their portfolio work

   all such appointments in 8.2.1.9 and 8.2.1.10 to take immediate effect or from a date selected by the Leader of the Council and be reported to the next available Assembly meeting (for information).

8.3 Cabinet Members appointed by the Leader of the Council under 8.2.1.10(i) shall hold office until:

   (i) they resign from office; or
   (ii) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
   (iii) they are no longer Councillors; or
(iv) they are removed from office by the Leader of the Council by notification of removal made in writing by the Leader to the Chief Executive and to the Cabinet Member concerned. The removal will take effect immediately after receipt of the notice by the Chief Executive and will be reported by the Leader to the next available Assembly meeting (for information).

9. Election of the Leader of the Council

9.1 The Monitoring Officer (MO) will invite nominations from the floor for the position of the Leader of the Council. Nominations will be permitted only from constituted political groups having ten or more Members at the time of the meeting.

9.2 The MO will record and read out in alphabetical order the names of the persons nominated and the political group they represent.

9.3 The MO will conduct the vote for the election of the Leader of the Council in accordance with the following procedure:

9.3.1 Each Member present at the time will have one vote

9.3.2 The vote will be taken by way of a roll call and recorded in the Minutes

9.3.3 The MO will call out the name of each nominated person in alphabetical order and invite Members to vote according to their preference; alternatively they may, if they wish, abstain

9.3.4 At the conclusion of the vote the MO will announce the number of votes cast for each nominated person. If any one nominated person receives an overall majority of the votes cast (abstentions will not be counted), they will be declared the winner and be elected as the Leader of the Council.

9.3.5 If no one nominated person receives an overall majority of the votes cast, then the nominated person receiving the least number of votes will be eliminated

9.3.6 The MO will then invite further round(s) of voting as necessary in accordance with the procedures set out in paragraphs 9.3.1 to 9.3.3 above until one nominated person receives an overall majority, for which any abstentions will not be counted

9.3.7 Any Member not present at the start of the first vote (9.3.3) will not be entitled to a vote at a later round (9.3.6) even if they have joined the meeting by that stage.

9.4 Paragraphs 9.2 and 9.3 will be waived if only one nomination is made. Voting will then be by a show of hands.

10. Vote of no confidence in the Leader of the Council

10.1 Any motion of no confidence in the Leader of the Council must be received by the Chief Executive by no later than 4.00 pm on the Wednesday two weeks before the meeting, giving reasons. The motion must be signed by at least one half of the whole of the Council membership, i.e. 26 Members.

10.2 The motion will be listed first on the agenda.

10.3 No amendments to a motion calling for a vote of no-confidence motion in the Leader of the Council will be allowed.
10.4 Voting will be by way of a roll call or via any available automated voting system and recorded in the minutes.

10.5 The Chair or other person presiding at a meeting will have the final decision as to which of the two described voting methods will be used.

10.6 In order to carry the motion, at least two thirds overall majority of those Members present at the Assembly will be required.

10.7 In the event of the motion being carried, the Deputy Leader of the Council will assume the full powers of the Leader of the Council until a new Leader of the Council is appointed by the Assembly.

11. Ordinary Meetings

11.1 Ordinary meetings will exercise the following functions when appropriate:

11.1.1 elect a person to preside if the Chair and Deputy Chair are not present;

11.1.2 approve the minutes of the last meeting;

11.1.3 consider and set the Council’s overall priorities, plans, policy framework and related targets, having regard to (i) recommendations from the Cabinet, (ii) any known concerns of any Select Committees, and (iii) any identified wishes of the community at large following appropriate consultation;

11.1.4 set the Council Tax and Capital and Revenue budgets following recommendations from the Cabinet;

11.1.5 remove the Leader of the Council by way of a vote of No Confidence in accordance with the procedures set out in paragraph 10 of this Article;

11.1.6 in the event that a vote of No Confidence in the Leader of the Council as set out in paragraph 10 of this Article is agreed, elect a new Leader of the Council for the remainder of the term of office;

11.1.7 review any appointments made in respect of Member meetings in between annual reviews if necessary;

11.1.8 make any changes to the appointment of representatives to outside bodies and partnerships taking into account any recommendations of the Cabinet;

11.1.9 agree any changes to the Constitution and associated Rules, Schemes, Codes and Protocols relating to the way in which the Council operates;

11.1.10 oversee the management of the Council, including holding all the component parts to account for their actions and performance;

11.1.11 agree the salaries and conditions of all Chief Officers and Statutory Officers (i.e. the Chief Executive (Head of Paid Service), Corporate Directors, the Monitoring Officer and the Chief Financial Officer (Section 151 Officer) or delegating this to an appropriate panel appointed by the Assembly;
11.1.12 agree the appointments of the Chief Executive and Corporate Directors, having considered recommendations from a JNC Appointments Panel appointed by the Assembly;

11.1.13 dismiss the Chief Executive, the Monitoring Officer and the Chief Financial Officer (Section 151 Officer), having considered recommendations from a Panel appointed by the Assembly;

11.1.14 receive reports from the Cabinet on matters requiring the Assembly’s approval;

11.1.15 receive reports from the Ceremonial Council on matters requiring the Assembly’s approval;

11.1.16 receive reports from any Select Committee on matters requiring the Assembly’s approval and in turn to request any of those Select Committees to deal with specific issues as necessary;

11.1.17 receive reports from the Standards Committee on matters requiring the Assembly’s approval;

11.1.18 receive reports from the Regulatory and other Boards on matters requiring the Assembly’s approval;

11.1.19 receive an annual report of the BAD Youth Forum at the end of each academic year;

11.1.20 receive and consider reports from the Head of Paid Service;

11.1.21 receive and consider reports from the Monitoring Officer;

11.1.22 receive and consider reports from the Chief Financial Officer (Section 151 Officer);

11.1.23 receive and consider reports from Chief Officers as appropriate;

11.1.24 confirm the making of byelaws;

11.1.25 confirm the making of statutory plans and, where necessary, their submission to the appropriate Government department for approval;

11.1.26 promote local legislation;

11.1.27 receive and discuss issues of local importance raised through any other component parts of the Council;

11.1.28 deal with major policy issues;

11.1.29 consider motions;

11.1.30 deal with general questions;
11.1.31 deal with Leader’s questions;

11.1.32 deal with questions in connection with Local Authorities’ Interest in Companies;

11.1.33 deal with any matters referred through the Call-In process which cannot jointly be resolved by the Cabinet and the relevant Select Committee;

11.1.34 deal with any requests to rescind previous decisions of the Assembly or the Cabinet;

11.1.35 deal with any other matters of significance or importance at the discretion of the Chair and Deputy Chair.

12. **Assembly Pre meeting**

12.1 A pre meeting to brief the Chair and the Deputy Chair of the Assembly will be arranged by the Divisional Director of Legal & Democratic Services at a date and time to be agreed (usually the day before the meeting).

13. **Motions regarding Decisions**

13.1 Subject to the Call-In procedure (see Article 5B), all decisions of the Cabinet shall stand and can be acted upon once the agreed time period for Call-In has elapsed.

13.2 Subject to the Assembly agreeing otherwise, any motion to rescind or amend any decision of the Assembly or the Cabinet cannot be proposed unless at least six months have elapsed since the decision was made, and at least one third of the Council’s membership (seventeen Members) give notice and seek reconsideration of an issue at the next available meeting of the Assembly.

13.3 When any such motion or amendment has been dealt with by the Assembly, a similar motion may not be proposed within a further period of six months.

14. **Motions on issues directly affecting the Borough**

14.1 Written notice of any motions must be received by the Chief Executive by no later than 4.00 pm on the Wednesday two weeks before the meeting. The following provisions exclude a motion moving a vote of no confidence in the Leader of the Council (see paragraph 10 for details).

14.2 The Chief Executive in consultation with the Chair, or in their absence the Deputy Chair, of the Assembly may decide not to place on the agenda any motions that he/she considers are of a vexatious or derogatory nature, or contrary to any provision of any code, protocol, legal requirement or rule of the Council; or that do not relate to the business of the Council or are otherwise considered improper or inappropriate.

14.3 The Chief Executive in consultation with the Chair, or in their absence the Deputy Chair, of the Assembly may decide not to place on the agenda any motions the content of which he/she feels forms the basis of a motion already considered at the Assembly within the previous twelve months.
14.4 In the event that the Member who submitted the motion is not present at the Assembly meeting, the motion will be withdrawn.

14.5 Any motions withdrawn as indicated above, or withdrawn at the request of the Member who submitted the motion, either before or during the meeting, may not be resubmitted to the Assembly within a period of six months. This condition will be waived where the Member, or a colleague on their behalf, has notified the Chief Executive by 5 pm on the day of the meeting of their inability to attend due to their ill health or family bereavement.

14.6 Motions will be listed on the agenda in the order in which they are received.

14.7 Motions must be about matters for which the Council has a responsibility or which directly affect the borough.

14.8 Written notice of any amendments to motions must be received by the Chief Executive by no later than 12 noon on the Friday before the meeting. The same criteria and actions as described in paragraphs 14.3, 14.4, 14.5 and 14.6 will apply in relation to any amendments received.

14.9 Any amendments proposed after the time specified in paragraph 14.8 will only be considered for exceptional reasons such as a change in circumstances appertaining to the original motion, in which case the consent of the Chair will be required.

14.10 Order/rules of debate:

1. Except with the Chair’s consent, the debate on each motion shall last no longer than 10 minutes and no individual speech shall exceed two minutes.
2. The mover will move the motion and explain its purpose.
3. The Chair will invite another Member to second the motion
4. If any amendment(s) has been accepted in accordance with paragraphs 14.8 or 14.9, the Chair will invite the relevant Member to move the amendment(s) and explain its (their) purpose.
5. The Chair will invite another Member(s) to second the amendment(s).
6. The Chair will then invite Members to speak on the motion and any amendments.
7. Once all Members who wish to speak have done so, or the time limit has elapsed, the Chair will allow the mover(s) of the amendment(s) a right of reply followed by the mover of the original motion.
8. At the end of the debate, any amendments will be voted on in the order in which they were proposed.
9. If an amendment is carried, the motion as amended becomes the substantive motion to which any further amendments are moved and voted upon.
10. After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.
11. If all amendments are lost, a vote will be taken on the original motion.
15. **Closure Motions**

15.1 A member may move, without comment, the following motions at the end of a speech of another Member:

(i) to proceed to the next business;
(ii) that the question/motion be now put;
(iii) to adjourn a debate; or
(iv) to adjourn a meeting.

15.2 If a motion to proceed to next business is seconded the Chair will put this to a vote without further discussion on the original motion or item.

15.3 If a motion that the question/motion be now put is seconded the Chair will call the vote on the original motion or question.

15.4 If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

16. **Leader's Question Time**

16.1 Questions to the Leader of the Council may be raised at the meeting at the appropriate stage. All Members will be given an equal and fair opportunity to ask questions but each Member will be restricted to one question.

16.2 Written notice of any questions for the Leader must be received by the Chief Executive by no later than 12 noon on the Wednesday during the week before the Assembly meeting in question.

16.3 The Chief Executive in consultation with the Chair, or in their absence the Deputy Chair, of the Assembly may decide not to place on the agenda any written questions submitted pursuant to paragraph 16.2, that he/she considers are of a vexatious or derogatory nature, or contrary to any provision of any code, protocol, legal requirement or rule of the Council; or that do not relate to the business of the Council, or are otherwise considered improper or inappropriate.

16.4 The Chief Executive in consultation with the Chair, or in their absence the Deputy Chair, of the Assembly may decide not to place on the agenda any written questions submitted pursuant to paragraph 16.2, the content of which he/she feels forms the basis of a question (Leader’s or general) already considered at the Assembly within the previous twelve months.

16.5 In the event that the Member who submitted the question is not present at the Assembly meeting, the question will be withdrawn.

16.6 Any questions withdrawn as indicated above, or withdrawn at the request of the Member who submitted the question, either before or during the meeting, may not be resubmitted to the Assembly within a period of six months. This condition will be waived where the Member, or a colleague on their behalf, has notified the Chief
Executive by 5 pm on the day of the meeting of their inability to attend due to their ill
health or family bereavement.

16.7 Subject to any discretion exercised by the Chair, there is no right for the Member
who asked the question to ask a supplementary question, nor is there provision for
any debate on the issue. The exception to this is any case where, in the view of the
Chair, the personal nature of comments made about an individual named Member
of the Council warrants an opportunity of reply by that Member if he/she so wishes.

16.8 Where the Leader is unable to respond to any question at the Assembly meeting
he/she will explain why not and give an undertaking to respond in writing to all
Members at the earliest opportunity.

16.9 In the absence of the Leader of the Council from the meeting, the Deputy Leader of
the Council will, where possible, answer questions on the Leader’s behalf. Where
this is not possible, the provisions of paragraph 16.10 will take effect.

16.10 Any questions which are not dealt with by the close of the meeting will be
responded to in writing to all Members by the Leader of the Council before the next
meeting.

17. General Questions

17.1 Questions relating to any matter on the agenda or otherwise to the business of the
Council, may be raised at the meeting at the appropriate stage. Questions about
individual constituency issues cannot be considered.

17.2 Written notice of any general questions must be received by the Chief Executive by
no later than noon on the Monday before the meeting. All questions must indicate
the name of the Member asking the question at the time that the written notice of
the question is provided.

17.3 The Chief Executive in consultation with the Chair, or in their absence the Deputy
Chair, of the Assembly may decide not to place on the agenda any written
questions submitted pursuant to paragraph 17.2, that he/she considers are of a
vexatious or derogatory nature, or contrary to any provision of any code, protocol,
legal requirement or rule of the Council; or that do not relate to the business of the
Council, or are otherwise considered improper or inappropriate.

17.4 The Chief Executive in consultation with the Chair, or in their absence the Deputy
Chair, of the Assembly may decide not to place on the agenda any written
questions submitted pursuant to paragraph 17.2, the content of which he/she feels
forms the basis of a question (Leader’s or general) already considered at the
Assembly within the previous twelve months.

17.5 Wherever possible, answers will be given at the meeting by the appropriate
Member (usually the relevant Cabinet Member or a party Leader). In the event that
it is not possible to do so, a written response will be sent to all Members, as soon
as possible.

17.6 In the event that the Member who submitted the question is not present at the
Assembly meeting, the question will be withdrawn.
17.7 Any questions withdrawn as indicated above, or withdrawn at the request of the Member who submitted the question, either before or during the meeting, may not be resubmitted to the Assembly within a period of six months. This condition will be waived where the Member, or a colleague on their behalf, has notified the Chief Executive by 5 pm on the day of the meeting of their inability to attend due to their ill health or family bereavement.

17.8 Where a Member wishes to exercise the right to ask a question in connection with Local Authorities’ Interest in Companies, he/she should give notice in writing to the Chief Executive at least seven clear working days before the Assembly meeting at which this matter is to be submitted to enable a response to be given at the meeting.

17.9 Subject to any discretion exercised by the Chair, there is no right for the Member who asked the question to ask a supplementary question nor is there provision for any debate on the issue. The exception to this is any case where, in the view of the Chair, the personal nature of comments made about an individual named Member of the Council warrants an opportunity of reply by that Member if he/she so wishes.

17.10 Any questions which are not dealt with by the close of the meeting will be responded to in writing by the appropriate Member before the next meeting.

18. Managing the Meeting

18.1 Indications of Intention to Speak

18.1.1 There are many ways in which a Member can signal their intention to participate in a debate or discussion at the Assembly as follows:

(1) In advance of the meeting - either in writing or orally to the Chair or the Chief Executive;

(2) A Member may indicate the item on which they wish to speak and may express a preference about the timing of their intervention.

18.2 Noting Intentions

18.2.1 The Chair and the Chief Executive will keep a list of all those Members indicating that they wish to speak on any particular issue.

18.2.2 As a general rule, individuals will be brought in in the sequence in which they indicate a wish to speak. However, priority may be given to individuals who have not participated in the debate regarding that item, or have not participated at that meeting, or in recent meetings, ahead of more regular contributors. Also, preference may be given to Members of the Cabinet, Lead Members of the various Select Committees and Leaders of the party groups, particularly on issues of Council policy.

18.2.3 Priority may also be given to members of the public who indicate that they wish to contribute to a debate.

18.2.4 If the Chair of the Assembly wishes to bring in a contribution out of sequence then, in general, the Chair will indicate the reason for this at the time. The Chair will bring
debate to a conclusion if felt that sufficient opportunity has been given for views to be expressed.

Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
ARTICLE 3
THE CEREMONIAL COUNCIL

1. Legal Status

1.1 The Ceremonial Council is a committee established under Section 101 of the Local Government Act 1972. Whilst it comprises all Members of the Council it is not a meeting of the Council as defined in Section 8 and Schedule 12 to the 1972 Act and as such its role should not be confused with that of the Assembly. The only exception to this is that the Ceremonial Council may assume the role of Council for the purposes of appointing the Mayor.

2. Role

2.1 The Ceremonial Council is, as the name suggests, the ceremonial arm of the political structure. Its role includes awarding:

- the Freedom of the Borough to those who have given outstanding long service to the community, and
- the status of Honorary Alderman to:
  
  (i) former Leaders of the Council; and
  (ii) former elected Members of the Council who have given at least forty years' service;

subject to there being no more than four serving Aldermen at any one time.

3. Membership

3.1 All Members of the Council.

4. Quorum

4.1 Thirteen Members.

5. Chair and Deputy Chair

5.1 The Ceremonial Council shall appoint the Mayor as Chair and the Chair of the Assembly as Deputy Chair.

6. Frequency of Meetings

6.1 As and when required plus the Annual Meeting.

6.2 The Mayor and Chair of the Assembly, in consultation with the Leader and Deputy Leader of the Council, will be consulted on meeting dates having regard to statutory requirements.

7. Venue and Time

7.1 The Town Hall, Barking or other suitable venue as agreed by the Mayor
7.2 Friday at 7.00 p.m. unless otherwise determined by the Mayor

8. Terms of Reference

8.1 See Scheme of Delegation in Part C of the Constitution for details.

9. Agenda Planning

9.1 An agenda planning meeting is held between the Mayor, the Leader of the Council and the Chief Executive or their nominee at a suitable time before the agenda is despatched.

9.2 In the absence of the Mayor and/or the Leader of the Council, the Chief Executive or their nominee is responsible for agenda planning.

10. Appointment and Accountability

10.1 Appointed by and accountable to the Assembly. The Ceremonial Council will advise the Assembly of matters requiring the latter's approval.

11. Annual Meeting of the Ceremonial Council

11.1 Timing

11.1.1 The annual meeting will be held in May.

12. Role

12.1 The annual meeting will appoint the Mayor and the Mayor's Chaplain.

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
ARTICLE 4

THE CABINET

1. Legal Status

1.1 The Cabinet is a committee established under Section 11 of the Local Government Act 2000. The political balance requirements of Section 15 of the Local Government and Housing Act 1989 do not apply when determining membership.

2. Role

2.1 The Cabinet is:

2.1.1 the primary decision-making body for matters which are not otherwise delegated;

2.1.2 the formal link between Members and officers in terms of overall direction and performance management; and

2.1.3 the key forum for ensuring a corporate approach to service delivery and appropriate partnership links with others with a view to effecting community leadership.

2.2 It works within the Council's overall policy framework and pays particular attention to the effective and appropriate use of the Council's resources (workforce, finances and assets). It is also the body which gives direction to the Chief Executive and the Corporate Management Team and holds those employees to account for their performance.

2.3 Importantly, the Cabinet is also responsible for ensuring appropriate links with external partners.

3. Membership

3.1 3-10 (including the Leader and Deputy Leader of the Council) as determined by the Leader of the Council at any time.

3.2 The Deputy Leader of the Council will assume the full powers of the Office of Leader in their absence or if the Office is vacant.

3.3 The Chair and Deputy Chair of the Assembly are excluded from membership.

4. Quorum

4.1 Three Members

5. Chair and Deputy Chair

5.1 The Leader and Deputy Leader of the Council are automatically the Chair and Deputy Chair of the Cabinet respectively. In the absence of both, another
Member of the Cabinet will be appointed as the Chair for the duration of the meeting.

6. Frequency of Meetings

6.1 Monthly, unless the Chair, on advice from the Chief Executive, determines otherwise.

7. Venue and Time

7.1 The Civic Centre, Dagenham, at 5.00 p.m. on Tuesdays or at another time or location to be determined by the Chief Executive, in consultation with the Chair.

8. Terms of Reference

8.1 See Scheme of Delegation in Part C of the Constitution for details.

9. Spokespersons and Lead Members

9.1 The Leader of the Council (or in his/her absence the Deputy Leader) is the overall spokesperson for Cabinet issues at appropriate times (for example at the Assembly), but each Cabinet Member may speak on behalf of the Cabinet in a collective, as opposed to a personal, capacity.

9.2 The Leader of the Council may assign to other Cabinet members portfolio responsibilities at any time as circumstances require..

10. Appointment and Accountability

10.1 Appointed by and accountable to the Assembly. The Cabinet will report to the Assembly on matters requiring the latter’s approval.

11. Minutes of Meetings

11.1 Minutes are circulated within three working days of the meeting to all Members of the Council (and statutory co-opted members), to enable them to exercise their right of Call-In.

12. The Call-In Procedure Rules are set out in Article 5A.

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
ARTICLE 5
THE SELECT COMMITTEES

1. Legal Status

1.1 In accordance with Section 21 of the Local Government Act 2000, the Council must appoint at least one Overview and Scrutiny Committee to fulfil the Overview and Scrutiny function.

1.2 In accordance with Section 151 of the Local Government Act 1972, the Council must “make arrangements for the proper administration of its financial affairs”. In addition, the Accounts and Audits Regulations 2003 require the delivery of a best practice service. The Council’s statutory auditors rely on Chartered Institute of Public Finance and Accountancy guidance in determining best practice.

2. Role

2.1 The Overview and Scrutiny function of the Council is managed through five standing Select Committees, which report directly to Assembly. Four Select Committees are themed, and the fifth Select Committee addresses cross-cutting issues and audit.

2.2 Each Select Committee has a defined remit, which is aligned with Local Strategic Partnership (LSP) structures and Council and LSP priorities. Each Select Committee has responsibility for scrutinising issues falling within their remit, and the Select Committee remits combined cover all aspects of Local Strategic Partnership work.

2.3 The Select Committee general remits are set out in table below:

<table>
<thead>
<tr>
<th>Title</th>
<th>Scope</th>
<th>Local Strategic Partnership links</th>
</tr>
</thead>
<tbody>
<tr>
<td>Safer and Stronger Community Select Committee</td>
<td>Crime and disorder, community and voluntary sector, community cohesion, social inclusion and culture.</td>
<td>• Community Safety Partnership</td>
</tr>
<tr>
<td>(themed)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Living and Working Select Committee</td>
<td>Housing, public realm, environment, regeneration, business, jobs and skills.</td>
<td>• Cleaner, Greener and Sustainable Borough • Business, Jobs and Skills</td>
</tr>
<tr>
<td>(themed)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Health and Adult Services Select Committee</td>
<td>Health and Adult services</td>
<td>• Healthier Borough</td>
</tr>
<tr>
<td>(themed)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Children’s Services Select Committee</td>
<td>Children’s services, children and young people’s social care and education.</td>
<td>• Children’s Trust</td>
</tr>
<tr>
<td>(themed)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Accounts and Audit Select Committee</td>
<td>Governance, resources and customer care. This Committee is also</td>
<td>• Public Services Board • Performance and Resources Board</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
2.4 **Call-Ins** – each Select Committee will also be responsible for addressing any Call-Ins that fall within its remit. Call-Ins will be allocated to the relevant Select Committee by the Authority’s Designated Scrutiny Officer. Details regarding the process for addressing Call-Ins are set out in Article 5A.

2.5 **Councillor Calls for Action (CCfAs)** – each Select Committee will also be responsible for addressing any CCfAs that fall within its remit, in accordance with the Local Government and Public Involvement in Health Act 2007. CCfAs will be allocated to the relevant Select Committee by the Authority’s Designated Scrutiny Officer. Details regarding the process for addressing CCfAs are set out in Article 5B.

2.6 **Petitions** may be presented to Select Committees in accordance with the Council’s Petition Scheme which can be found on the Council’s website at:

[http://www.lbbd.gov.uk/CouncilandDemocracy/Information/Pages/Petitions.aspx](http://www.lbbd.gov.uk/CouncilandDemocracy/Information/Pages/Petitions.aspx)

### Membership

3.1 The four themed Select Committees will each consist of nine Councillors. The Public Accounts and Audit Select Committee (PAASC) will consist of six Councillors. The membership of these Committees will reflect political balance requirements.

3.2 The Council shall not co-opt Members of the Cabinet to serve on the Select Committees.

3.3 The Lead Member and Deputy Lead Member of each Select Committee will be appointed by the Assembly.

3.4 The Children’s Services Select Committee (CSSC) shall also include in its membership the following voting representatives:

   (i) One Church of England Diocesan Board of Schools representative

   (ii) One Roman Catholic Westminster Diocesan Schools Commission representative;

   (iii) One secondary school parent governor representative;

   (iv) One primary school parent governor representative.

3.5 The voting representatives are appointed by the Assembly for a term of four years.

3.6 The CSSC shall also offer non-voting membership to the Chair and Vice-Chair of the BAD Youth Forum.
3.7 Any Select Committee can co-opt additional non-voting members, subject to the discretion of the Committee, who may wish to attend Committee meetings or have an interest in an in-depth review being undertaken by the Select Committee for the duration of that review.

3.8 With the exception of voting rights, as detailed above, Co-opted Members have all the rights of a Council Member for the purposes of the Committee. This includes their right, for example, to attend meetings of the Assembly for related matters and to speak and/or participate in any such discussions. In the event of any such matter being confidential or exempt from publication, the independent Members have the right to remain present.

3.9 In addition the PAASC appoints an independent adviser (non-voting) to support the work of the Committee.

4. Quorum

4.1 Three voting members on each Select Committee.

5. Frequency of Meetings

5.1 Formal meetings of Select Committees shall take place approximately every six weeks. Additional formal meetings shall be scheduled if required.

5.2 Informal meetings of Select Committee Members and site visits will take place as necessary.

6. Venue and Time

6.1 Formal meetings of Select Committees shall take place between Mondays and Wednesdays, normally starting at 6pm.

6.2 Meetings shall take place either in the Civic Centre, Dagenham, or the Town Hall, Barking.

7. Terms of Reference

7.1 See Scheme of Delegation in Part C of the Constitution, Sections D to H.

8. Appointment and Accountability

8.1 All Members will be appointed by and accountable to the Assembly.

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
ARTICLE 5A

THE CALL-IN PROCESS

1. Purpose

1.1 Call-In is the process by which decisions of the Cabinet can be challenged before implementation by non-Cabinet Members and referred to the relevant Select Committee (as determined by the Divisional Director of Legal and Democratic Services) for further consideration. The statutory co-opted members of the Children’s Services Select Committee are also entitled to Call-In Cabinet decisions in respect of education-related matters.

1.2 Urgent actions taken under paragraph 17 of Article 1 of the Constitution are exempt from Call-In, although such actions will be subsequently reported to the next available meeting of the Assembly or Cabinet as appropriate.

2. Definition of a Cabinet Decision

2.1 A “Cabinet decision” is a decision that the Cabinet has the powers to exercise in accordance with the Council’s Scheme of Delegation. Matters that are reserved to the Assembly but which are referred to the Cabinet for a preliminary view or recommendation are exempt from the Call-In process.

3. Call-In Procedure

3.1 Cabinet

3.1.1 Details of the decisions taken at meetings of the Cabinet will be circulated to all Members of the Council and, when relevant, statutory co-opted Members, the day after the meeting.

3.1.2 Any two (or more) Members of the Council (excluding Cabinet Members), or statutory co-opted Members where the matter relates to education, individually or collectively, may Call-in any Cabinet decision and/or a key decision made by an officer under delegated authority by the Cabinet, by submitting a written notification to the Chief Executive by 12.00 noon on the Wednesday in the following week (five working days). Where days are
lost due to Bank Holidays the Call-In deadline will be extended accordingly. The Call-In notification must specify the reasons for the Call-In, explain whether all or part of the decision is being Called-In, and list all those members requesting the Call-In. The Call-In notification may be handed in at the Civic Centre or sent by email or fax.

3.1.3 Any Member, who has a prejudicial interest in a particular issue, should not instigate or take part in any Call-In process related to that issue.

3.1.4 If the Chief Executive receives, and accepts as reasonable, a Call-In notification within the specified timescale, the particular decision of the Cabinet shall not be acted on but shall be submitted to the next Select Committee meeting, as determined by the Authority’s designated Scrutiny Officer, or one convened for the purpose of considering the Call-In.

3.1.5 At least one Member will be required to represent the Cabinet at the relevant Select Committee Call-In meeting to explain the reasons for the Cabinet’s decision, and to answer any questions. Similarly the relevant Corporate Director, or his/her Divisional Director representative, will attend to clarify any aspects associated with the issue in question.

3.1.6 Member(s) or statutory co-opted member(s) Calling-In the decision will also be invited to attend to present their case.

3.1.7 The Select Committee will be held in public. The Committee may also invite any other persons to assist during the Call-In meeting.

3.1.8 The papers to be considered by the Select Committee will be those considered by the Cabinet when the decision was made, the decision itself, the written details of the Call-In and any reports prepared in response to the written details of the Call-In.

3.1.9 Having considered the matter raised by the Call-In, the Select Committee will have the following options available to it:

(a) To dismiss the Call-In and let the Cabinet decision stand, or

(b) To refer the matter back to the Cabinet with recommendations for an alternative course of action
3.1.10 All parties will be invited back to hear the decision of the Select Committee. The Chair will explain the reasons for the decision.

3.1.11 In exceptional circumstances, and where delay would be prejudicial to the interests of the Council, it may be necessary to waive the Call-In procedure. In such cases the Chief Executive or the relevant Corporate Director, as appropriate, will take urgent action in accordance with Article 1 - Paragraph 17 to waive the Call-In procedure.

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
ARTICLE 5B

COUNCILLOR CALL FOR ACTION

1 The Councillor Call for Action (CCfA) should be submitted in writing to the Authority’s designated Scrutiny Officer, who will determine if the CCfA is valid (i.e. whether the topic is suitable for CCfA under the regulations/guidance) and, if so, will identify the relevant Select Committee to consider it. It will be then referred on to the relevant Scrutiny Officer within the Scrutiny Team.

2 The CCfA will normally be heard at the next scheduled meeting. If, for whatever reason, this proves impractical then discussion will take place between all interested parties in agreeing an alternative date, normally the subsequent meeting.

3 All relevant Cabinet Members, Senior Officers and any other members from the ward(s) in question will be informed that the CCfA has been received.

4 The Select Committee will debate the merits of the CCfA to determine whether the matter should be considered further. The Member(s) submitting the CCfA will be given the opportunity to present the case for the CCfA. Further witnesses, as introduced by the Member(s) submitting the CCfA, may give additional evidence at the Committee’s discretion.

5 Having heard the CCfA, the Select Committee has a number of options:
   • Request a one-off report / briefing into the service area.
   • Make a reference to another body such as Cabinet or the Assembly, either for information or calling for a specific action.
   • Send a letter on behalf of the Select Committee to a partner agency, either for information or calling for a specific action.
   • Add the issue to the list of suggested in-depth reviews for subsequent consideration.
   • Take no further action and provide reasons for this decision.

6 The Member(s) submitting the CCfA will be kept informed of progress.

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
ARTICLE 6

REGULATORY AND OTHER BOARDS

1. Role

1.1 Regulatory and other Boards are appointed to deal with matters where there is an element of discretion. Because of their nature they are sometimes referred to as quasi-judicial bodies.

2. The Boards are listed below together with a summary of their role. Their form, composition, appointment, accountability and other details follow:

<table>
<thead>
<tr>
<th>Board</th>
<th>Summary of Role</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development Control Board</td>
<td>Exercises the Council's development control (local planning) functions.</td>
</tr>
<tr>
<td>Licensing and Regulatory Board</td>
<td>Exercises the Council's licensing and regulatory duties and functions.</td>
</tr>
<tr>
<td>Personnel Board</td>
<td>Exercises the Council's functions in respect of certain staffing appeals, except in the case of JNC officers.</td>
</tr>
</tbody>
</table>

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
ARTICLE 6A

THE DEVELOPMENT CONTROL BOARD

1. Legal Status

1.1 The Development Control Board is a committee established under Section 101 of the Local Government Act 1972. As such the political balance requirements of Section 15 of the Local Government and Housing Act 1989 apply when determining membership.

2. Role

2.1 To exercise the Council’s development control (local planning) functions.

3. Membership

3.1 17 Members (one per ward) plus the Cabinet Member for Regeneration.

4. Quorum

4.1 Five Members.

5. Chair and Deputy Chair

5.1 The Chair and Deputy Chair are appointed by the Assembly.

6. Frequency of Meetings

6.1 Meetings are scheduled on a four weekly basis.

7. Venue and Time

7.1 The Town Hall, Barking.

7.2 On Monday evenings at 6.00 p.m.

8. Terms of Reference

8.1 See Scheme of Delegation in Part C of the Constitution for details.

9. Appointment and Accountability

9.1 Appointed by and accountable to the Assembly. The Board will report to the Assembly on matters requiring the latter’s approval.

9.2 The Chair (or in his/her absence the Deputy Chair) to be the spokesperson for development control matters.

10. Purpose

10.1 To exercise the Council’s development control functions.
11. **Speaking by Members of the Public and Other Interested Parties at Meetings**

11.1 Members of the public may be permitted to address the Board as an objector to an application subject to notice having been given to Democratic Services by 12.00 noon on the day before the Board meeting. In normal circumstances, a maximum of three members of the public will be allowed to speak at the meeting, each with a target time limit of three minutes. In the event that more than three members of the public wish to speak, subject to the Chair’s discretion, priority will be given to those who made representations during the consultation period for the application.

11.2 Elected representatives acting on behalf of their constituents are also permitted to speak at meetings without having to give prior notice, with a target time limit of three minutes each.

11.3 The Chair has discretion to extend the time limit of speakers or limit the number of speakers to ensure the efficient running of the meeting, in line with the procedures for the meeting.

12. **Speaking by the applicant (or their representative) and responsible authorities**

12.1 The applicant (or their representative) and responsible authorities (e.g. the Police, Fire Brigade, relevant Council services etc.) will be entitled to address the Board in line with the procedures for the meeting. The Chair has discretion to restrict the time allowed to such speakers to ensure the efficient running of the meeting.

12.2 In normal circumstances, it will not be necessary for the applicant (or their representative) to address the Board unless either (i) the application is recommended for refusal; (ii) objectors have raised additional issues at the meeting to which the applicant (or their representative) wishes to respond to; and/or (iii) the application is recommended for approval but with conditions to which the applicant (or their representative) objects to.

12.3 Copies of the relevant procedures are available on request from Democratic Services.

13. **Development Control Board Visiting Group**

13.1 At its first meeting each municipal year, the Board appoints a Visiting Group to undertake inspections of buildings and sites as directed by the Board and to make recommendations to the Board arising from these inspections, unless otherwise empowered to act by the Board. The Group consists of the Chair and Deputy Chair of the Board, together with four other Members of the Board. In addition, the relevant Ward Members will be invited to attend. The Group’s quorum is three.

13.2 Only Members of the Board appointed to the Visiting Group will have voting rights to make recommendations to the Board on an application which is the subject of the visit.

14.1 At its first meeting each municipal year, the Board appoints a panel which will on an annual basis select a random sample of up to 20 delegated decisions on a range of applications and examine and evaluate between 5 and 10 of them, to assess whether relevant planning policies and criteria were applied in each case. The panel consists of the Chair and Deputy Chair of the Board, together with two other Member of the Board. The panel’s quorum is three.

14.2 The panel will report back its findings to the Board.
ARTICLE 6B
THE LICENSING AND REGULATORY BOARD

1. Legal Status

1.1 The Licensing and Regulatory Board is a committee established to deal with relevant matters under Section 101 of the Local Government Act 1972, the Licensing Act 2003 and the Gambling Act 2005. The political balance requirements of Section 15 of the Local Government and Housing Act 1989 will apply when determining membership.

2. Role

2.1 To exercise the Council’s licensing and regulatory duties and functions.

3. Membership

3.1 10 Members

3.2 No Member party to a decision which is the subject of an appeal shall sit on the relevant Board meeting.

4. Quorum

4.1 Three Members.

5. Chair and Deputy Chair

5.1 The Chair and Deputy Chair are appointed by the Assembly.

6. Frequency of Meetings

6.1 Meetings are scheduled on a fortnightly basis.

7. Venue and Time

7.1 The Civic Centre, Dagenham.

7.2 On Tuesday evenings at 5.00 p.m.

8. Terms of Reference

8.1 See Scheme of Delegation in Part C of the Constitution for details.

9. Appointment and Accountability

9.1 Appointed by and accountable to the Assembly. The Board will report to the Assembly on matters requiring the latter’s approval.
9.2 The Chair (or in his/her absence the Deputy Chair) to be the spokesperson for licensing matters.

10. Speaking by members of the Public and Other Interested Parties at Meetings

10.1 Members of the public and other interested parties (for example: elected representatives acting on behalf of their constituents; local residents; interested organisations etc) who have made “relevant representations” during the consultation period for an application, may be permitted to address the Board, subject to notice having been given to Democratic Services by 12.00 noon on the day before the Board meeting. In normal circumstances, the number of speakers will be restricted to three per application and each speaker will be allowed a target time limit of three minutes. The Chair has discretion to extend the time limit of speakers or limit the number of speakers to ensure the efficient running of the hearing, in line with the procedures for the hearing. Copies of the relevant procedures are available on request from Democratic Services.

11. Speaking by the Applicant (or their Representative) and Responsible Authorities

11.1 The applicant (or their representative) and responsible authorities (e.g. the Police, Fire Brigade, relevant Council services etc.) will be entitled to present their case to the Board in line with the procedures for the hearing. Copies of the relevant procedures are available on request from Democratic Services.

11.2 The Chair has discretion to restrict the time allowed to such speakers to ensure the efficient running of the hearing.
ARTICLE 6C
THE PERSONNEL BOARD

1. Legal Status

1.1 The Personnel Board is a committee established under Section 101 of the Local Government Act 1972. As such the political balance requirements of Section 15 of the Local Government and Housing Act 1989 apply when determining membership.

2. Role

2.1 To exercise the Council’s functions in respect of certain staffing appeals, with the exception of JNC officers.

3. Membership

3.1 Minimum of three Members per Board (to be drawn up by the Divisional Director of Legal and Democratic Services in liaison with the Chair and/or Deputy Chair) from a Panel of Members, appointed annually by the Assembly. The membership of the Board should remain constant when considering the same issue over more than one meeting.

3.2 No Member may sit on the relevant Board if they have worked particularly closely with a member of staff who is the subject of a report to the Board.

4. Quorum

4.1 Two Members

5. Chair and Deputy Chair

5.1 The Chair and Deputy Chair are appointed annually by the Assembly.

6. Frequency of Meetings

6.1 Programmed to be held where practicable on either Tuesdays or Thursdays (day time).

7. Venue and Time

7.1 The Civic Centre, Dagenham, at times to be determined.

8. Terms of Reference

8.1 See Scheme of Delegation in Part C of the Constitution for details.

9. Appointment and Accountability

9.1 Appointed by and accountable to the Assembly. The Board will report to the Assembly on matters requiring the latter’s approval.
9.2 The Chair (or in his/her absence the Deputy Chair) to be the spokesperson for Personnel Board issues.

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
ARTICLE 7

THE STANDARDS COMMITTEE

1 Legal Status

1.1 The Standards Committee is a committee established under Section 101 of the Local Government Act 1972 and Section 28 of the Localism Act 2011. The political balance requirements of Section 15 of the Local Government and Housing Act 1989 will apply when determining membership.

2 Role

2.1 The Standards Committee is responsible for

(i) promoting and maintaining high standards of conduct by Members and statutory Co-opted Members of the authority; and

(ii) hearing and determining complaints about elected Members and Co-opted Members referred to it by the Monitoring Officer.

3 Membership

3.1 Six Elected Members of whom one member may be a member of the Cabinet, nominated by the Leader of the Council.

4 Quorum

4.1 Two Members.

5 Chair and Deputy Chair

5.1 Appointed by the Assembly. The Deputy Chair shall deputise for the Chair in his or her absence. A member of the Cabinet may not Chair the Committee.

6 Frequency of Meetings

6.1 At least quarterly.

7 Venue and Time

7.1 The Civic Centre, Dagenham.

7.2 3.00 p.m. on Thursdays.
8 Terms of Reference

8.1 See Scheme of Delegation in Part C of the Constitution for details.

9 Appointment and Accountability

9.1 Accountable to the Assembly. The Committee will report to the Assembly on matters requiring the latter’s approval.

9.2 The Chair (or in his/her absence the Deputy Chair) to be the overall spokesperson for the Committee at appropriate times (e.g. when reporting to the Assembly).

10 Employee Support

10.1 The Divisional Director of Legal & Democratic Services will provide the main support and general advice to the Committee.

10.2 The Chief Executive in consultation with the Corporate Director of Finance and Commercial Services (in the role as the Chief Financial Officer - Section 151 Officer) and the Monitoring Officer will deal with any conduct or probity issues of concern.

10.3 The Chief Executive may also report to the Committee on any related matters of particular concern.

11 Rights and Responsibilities of the Independent Person

11.1 The Independent Person will attend meetings of the Standards Committee and act in an advisory capacity only, with no voting rights;

11.2 The Independent Person will have an advisory role in consultation with the Monitoring Officer at the Standards sub-committees in the determination of complaints against Elected Members;

11.3 On receipt of every complaint, the Independent Person will be consulted by the Monitoring Officer before taking a decision as to whether it:

11.3.1 merits no further investigation
11.3.2 merits further investigation
11.3.3 should be referred to the Standards Committee

11.4 The Independent Person may be consulted on other standards matters by all members including an Elected Member who is the subject of an allegation.

11.5 The Independent Person is expected to declare any interests and to respect confidentiality and observe the Council's Procedures, Codes and Protocols in their workings with the Council.
11.6 The Independent Person may claim reasonable expenses for attendance, travel and subsistence.

11.7 The Independent Person is appointed annually by the Assembly.

12. Sub-Committee

12.1 In accordance with the Section 28(6) and (7) of the Localism Act 2011 the Standards sub-committee is appointed to:

(i) conduct hearings, and
(ii) determine complaints.

12.2 The quorum for each sub-committee is three voting Members

12.3 Membership of each sub-committee will be appointed from Members of the Standards Committee

12.4 The Chair shall be elected by the sub-committee at each meeting

12.5 The terms of reference of the sub-committee are set out in the Scheme of Delegation in Part C of the Constitution;

12.6 Meeting dates for each of the sub-committees will be determined by the Monitoring Officer in consultation with the Chair of the Standards Committee and the Independent Person.

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
ARTICLE 8
PENSIONS PANEL

1. Legal Status

1.1 The London Borough of Barking and Dagenham Pension Fund (known as “the Fund”) is part of the Local Government Pension Scheme (LGPS). It is a statutory scheme operated under the following regulations:

- The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended);
- The Local Government Pension Scheme (Administration) Regulations 2008;
- The Local Government Pension Scheme (Transitional Provisions) Regulations 2008 (as amended); and
- The Local Government (Management and Investment of Funds) Regulations 1998 and subsequent amendments.

1.2 The political balance requirements of Section 15 of the Local Government and Housing Act 1989 will apply when determining membership.

2. Role

2.1 The Panel administers the Fund, which includes making appropriate arrangements for the investment of assets, determining contribution levels and monitoring the performance of fund managers. The Panel produces an Annual Report on behalf of the Fund.

3. Membership

3.1 Voting Members – The Cabinet Member for Finance and Education plus three other Councillors.

3.2 Non-Voting – The Panel may appoint representatives of interested parties (Trade Unions, Admitted Bodies, pensioners etc.).

3.3 The Panel may also appoint an Independent Adviser to act in a non-voting capacity.

4. Quorum

4.1 Two voting Members.

5. Chair and Deputy Chair

5.1 The Chair and Deputy Chair are appointed by the Assembly.
6 Frequency of Meetings

6.1 The Panel will meet quarterly. Additional meetings with Fund Managers will also take place on an ad-hoc basis.

7 Venue and Time

7.1 Typically the Civic Centre, Dagenham at times to be determined.

8 Terms of Reference

8.1 See Scheme of Delegation in Part C of the Constitution for details.

9 Appointment and Accountability

9.1 Appointed by and accountable to the Assembly. The Chair will be the overall spokesperson for the Panel at appropriate times.

10 Employee Support

10.1 The Corporate Director of Finance and Resources will provide the main support and advice to the Committee, with administrative assistance provided by Democratic Services.

11 Rights and Responsibilities of Non-Voting Members and Advisers

11.1 The non-voting Members shall be entitled to receive confidential or exempt papers and be present at meetings when these are discussed, unless determined in advance by the Corporate Director, in consultation with the Chair. This arrangement will also apply to the Independent Adviser although a separate determination will be made.

11.2 Non-Voting Members and Advisers are expected to declare any interests and to respect confidentiality when necessary. They are expected to observe the Council's Procedures, Codes and Protocols in their workings with the Council.
ARTICLE 9
EMPLOYEE JOINT CONSULTATIVE COMMITTEE, JOINT CONSULTATIVE COMMITTEE (JNC OFFICERS) AND JOINT HEALTH, SAFETY AND WELLBEING COMMITTEE

1. Employee Joint Consultative Committee (JCC)

1.1 Role

1.1.1 The Employee JCC provides a forum for effective communication and consultation between all employees and the Council to:

(a) promote good employee relations and facilitate communications between the Council and employees in order to prevent and remove friction and misunderstanding;

(b) consider issues affecting conditions of service and employees generally;

(c) provide opportunities for employees to have a wider interest in, and greater responsibility for, the conditions under which their work is performed;

(d) inform employees about the Council’s strategy; and planning and promoting their involvement in the achievement of Best Value and the Council’s core values and corporate objectives;

(e) provide opportunities for employees to contribute to the above processes.

1.1.2 Each side has the right to consult further outside the meeting with their respective side before any agreements are entered into.

1.2 Membership

1.2.1 Six representatives for the Council Side who shall be Councillors appointed by the Assembly, and

1.2.2 Nine union stewards for the Employees’ Side who are in the employment of the Council. The Employees Representatives must include at least two from each of the Unions: APEX, GMB, UNITE and UNISON.

1.2.3 The Employee JCC shall not include Teachers, Soulbury, Youth and JNC Officers, as they have separate consultation arrangements.

1.2.4 Either side of the Employee JCC shall have the right to co-opt (with the approval of the Chair/Secretary), in a consultative capacity, representatives of the particular departments or sections of departments significantly affected by a question under discussion and not directly represented on the Committee.
1.2.5 A representative of an appropriate trade union may attend meetings of the Employee JCC in an advisory capacity at the request of any member of the Committee (with the approval of the Chair/Secretary) while business affecting that union is under discussion. Notice of their attendance shall be given to the Council Side Secretary in advance of the meeting.

1.2.6 Members of the Council Side of the Employee JCC shall hold office for one year from the commencement of the municipal year and shall be eligible for re-appointment. Employee representatives shall be elected by the Unions at regular intervals. Should a vacancy occur, a successor shall be appointed within a reasonable period.

1.3 Quorum

1.3.1 Five, made up of two representatives from the Council side and three representatives from the Employee side. In respect of a Sub-Committee, the quorum shall be two on each side.

1.3.2 No business other than that appearing on the agenda shall be transacted at any meeting unless a majority of the members of each side of the Committee agree to its introduction.

1.4 Chair and Deputy Chair

1.4.1 The Employee JCC shall, by consensus of the two sides, appoint a Chair and Vice-Chair from among the Members of the Committee at the first meeting in each municipal year.

1.5 Frequency of Meetings

1.5.1 Meetings shall be held quarterly, unless the business is urgent, when a special meeting can be called upon the submission of an agenda from either side with at least five working days notice.

1.6 Sub-Committee

1.6.1 The Employee JCC has the power to appoint a Sub-Committee where it is necessary to deal with an issue in detail. The Sub-Committee shall comprise three representatives from each Side of the Employee JCC. Employees, Union Representatives and Management Advisers may also attend to provide specialist advice. Procedures shall follow those of the Employee JCC as appropriate.

1.7 Support

1.7.1 Human Resources shall provide guidance and advice to the Committee. Democratic Services shall provide administrative and secretarial support, which shall include the preparation and distribution of the agenda and draft minutes.
1.7.2 The Employees' Side may appoint their own Secretary from within the representatives on the Employee JCC and who must be an employee of the Council.

1.8 Procedures

1.8.1 Minutes of the proceedings shall be kept by the Secretary and shall be signed at the subsequent meeting by the Chair and Vice-Chair. Minutes shall be agreed by the Secretaries to each Side before they are presented to the Committee. Agreed minutes of joint meetings shall be reported as required by the Assembly.

1.8.2 Matters raised by the Employees' Side shall be considered by the Council Side. They may be agreed or referred to the Cabinet, as appropriate, by a majority of the Members present on the Council Side.

1.8.3 The Council Side may raise matters which they wish to be considered by the Employees' Side.

1.8.4 The Employee JCC shall not consider:

(a) any matter concerning an individual employee such as discipline, grievance, promotion or capability;

(b) any matter which is solely the function of any other body.

1.8.5 In the event of a matter arising upon which the Employee JCC cannot agree, if appropriate to the matter concerned, either Side may then refer the matter to the provincial disputes machinery.

1.8.6 Provision shall be made for the relevant Lead Member of the Cabinet to be invited to the Employee JCC if a particular service is affected.

1.8.7 With respect to the notification of items for discussion at the Employee JCC, both Sides, when notifying items, shall provide background information as to the reasons for the item being raised.

1.9 Review and Termination

1.9.1 The operation of the Employee JCC shall be reviewed one year after its inception and thereafter as necessary in accordance with paragraph 14 of the Recognition Agreement.

2. Joint Consultative Committee (JNC Officers)

2.1 Role

2.1.1 This Committee maintains effective methods of negotiation and consultation between the Council and its JNC officers in order to:
(a) prevent differences and to adjust them as they arise; provided that no question of individual discipline, promotion or efficiency shall be within the scope of the Committee;

(b) consider any relevant matter referred to it by the Local Authority or by any of the staff organisations;

(c) make recommendations to the Cabinet as to the application of the terms and conditions of service of JNC officers employed by the Authority;

(d) discharge such other functions specifically assigned to the Joint Consultative Committee (JNC Officers);

2.1.2 Each side has the right to consult further outside the meeting with their respective side before any agreements are entered into.

2.2 Membership

2.2.1 Seven representatives for the Council Side who shall be Councillors appointed by the Assembly, and

2.2.2 Seven officers of the Local Authority to be appointed by the staff organisations represented on the Joint Negotiating Committee for Chief Officers of Local Authorities in proportion to the number of such officers in membership of each organisation, (provided that, where the number of members of any one organisation is insufficient to qualify such organisation to appoint a representative, it may combine with one or more organisations for this purpose).

2.2.3 The members shall retire annually and shall be eligible for reappointment. If a member of the Joint Consultative Committee (JNC Officers) ceases to be a Member or officer of the Local Authority), they shall thereupon cease to be a member of the Committee. Any vacancy shall be filled within a reasonable period.

2.2.4 The Staff Side shall have the right to co-opt (with the approval of the Chair/Secretary), in a consultative capacity, representatives of the particular departments or sections of departments significantly affected by a question under discussion and not directly represented on the Committee. The Council Side will have the right to co-opt, in a consultative capacity, a Member of the Council affected by the question under discussion and not directly represented on the Committee. Co-opted representatives shall not have voting rights.

2.3 Quorum

2.3.1 Three representatives on each side.
2.4 Chair and Deputy Chair

2.4.1 A Chair and Vice Chair shall be appointed at the first meeting in each municipal year. If the Chair appointed is a Member of the Local Authority, the Vice-Chair shall be appointed from the Staff Side, and vice-versa.

2.5 Frequency of Meetings

2.5.1 Meetings shall be held as and when required. The Chair or Vice Chair may direct the Secretary to call a meeting at any time. A meeting shall be called within 7 days of the receipt of a requisition signed by not less that 1/3 of the members of either side.

2.6 Support

2.6.1 Human Resources (advice and guidance) and Democratic Services (secretarial). Each side may appoint their respective side secretaries, and may appoint other necessary officer(s) by joint agreement.

2.7 Procedures

2.7.1 No business other than that appearing on the agenda shall be transacted at any meeting unless a majority of the members of each side of the Committee agree to its introduction.

2.7.2 No resolution shall be carried unless it is approved by a majority of the members present on either side of the Committee. In the event of

(a) the Committee being unable to arrive at an agreement, or
(b) the Local Authority disagreeing with the recommendations of the Committee,

the matter(s) in dispute shall, in accordance with the constitution of the Joint Negotiating Committee for Chief Officers of Local Authorities, be referred to that Council.

2.7.3 The proceedings of any meeting of the Committee shall be reported to the Cabinet. In the event of the report of the Committee not being accepted by the Cabinet, the report shall be referred back to the Committee to reconsider the matter.

2.7.4 The Committee may refer any questions coming before them to the Joint Negotiating Committee for Chief Officers of Local Authorities for their consideration or advice. The Committee shall inform the Joint Negotiating Committee of any recommendations, which appears to be of more than local interest, always provided that such a recommendation is approved by the Local Authority prior to its submission to the Joint Negotiating Committee.
3. Joint Health, Safety and Wellbeing Committee

3.1 Role

3.1.1 To act as the corporate Committee for the promotion of health, safety and wellbeing, and to support the development of a Corporate Health and Safety Culture.

3.1.2 To ensure initiatives for the improvement of health, safety and wellbeing standards and conditions for employees and those working on behalf of the Council are promoted.

3.1.3 To provide a forum for the discussion of general and specific health, safety and wellbeing issues.

3.1.4 To promote, develop and raise the awareness of health, safety and wellbeing issues throughout the Council and to support initiatives including the Health and Safety Week and Health and Fitness programmes.

3.1.5 To promote co-operation between management, employees and those working on behalf of the Council e.g. Contractors, Partners and Agencies, by supporting the Manager Occupational Health, Safety and Wellbeing to ensure appropriate measures are implemented for the Health, Safety and Wellbeing of Employees at Work.

3.1.6 To ensure that the Health and Safety Standards Policies and Procedures set by the Council are complied with.

3.2 Membership

3.2.1 Four representatives for the Council side who shall be Councillors appointed by the Assembly.

3.2.2 Nine members of the Employee Side.

3.2.3 The Manager Occupational Health, Safety and Wellbeing and Health and Safety Advisers and Departmental Health and Safety Liaison Officers shall attend in an ex-officio capacity.

3.2.4 Either or both the Council Side and the Employees Side shall have the right to co-opt, in a consultative capacity, representatives of the particular department affected by an issue or question under discussion and not directly represented on the Committee with the approval of the Chair.

3.2.5 Employees shall receive paid release from duty to attend meetings of the Joint Health, Safety and Wellbeing Committee. Paid leave for this purpose will include the normal earning, which would have been paid had the employee been at work.
3.3 Quorum

3.3.1 Five, made up of two representatives from the Council side and three representatives from the Employee side.

3.4 Chair and Deputy Chair

3.4.1 A Chair and Deputy-Chair shall be appointed from the Members of the Committee at the first meeting of each municipal year.

3.4.2 The Chair shall be appointed from the Council Side and the Deputy-Chair from the Employees Side.

3.5 Terms of Reference

3.5.1 To study reports, statistics and trends concerning accidents, notifiable diseases and dangerous occurrences and near misses so that recommendations can be made to the Group Manager HR (Health, Safety and Wellbeing) to advise the appropriate Director, or in the case of a policy change to the Divisional Director of Human Resources and Organisational Development, of any corrective action that may be required.

3.5.2 To examine on a similar basis any health and safety issues raised by employee representatives at departmental Consultative Committees, including Health and Safety Committees which have not been resolved or may affect others.

3.5.3 To provide a link with and to consider reports and information supplied by the Health and Safety Executive or other authoritative/appropriate organisations.

3.5.4 To monitor the effectiveness of the departments' implementation of the Council's health and safety policy and procedures via annual reports to the Group Manager, HR (Health, Safety and Wellbeing) and to make appropriate recommendations in support.

3.5.5 Any item which has previously been brought to this committee and cannot be resolved can, upon agreement of both sides, be sent to the Cabinet.

3.6 Frequency of Meetings

3.6.1 Meetings shall be held at three monthly intervals, timetables shall be produced at the beginning of each municipal year. Minutes will be distributed to all Members and those who attend in an ex-officio capacity by the secretariat.

3.6.2 Other meetings can be arranged by notifying the secretary who will then make arrangements for the meeting to be held at the earliest possible date thereafter with the agreement of the Chair of this Committee.
3.7 Sub-Committee

3.7.1 The Joint Health, Safety and Wellbeing Committee is empowered to appoint Sub-Committees to study particular health, safety and wellbeing issues either separately or in conjunction with departmental Consultative Committees with the agreement of the Chair.

3.8 Support

3.8.1 Human Resources shall provide guidance and advice to the Committee. Democratic Services shall provide administrative and secretarial support, which shall include the preparation and distribution of the agenda and draft minutes.

3.9 Constitution Amendments

3.9.1 Amendments to the terms of reference to the Joint Health, Safety and Wellbeing Committee shall only be made by the Divisional Director of Human Resources and Organisational Development after agreement with both sides.

(Contact Officer: Divisional Director of Human Resources and Organisational Development Tel: 020 8227 2382)
ARTICLE 10

JOINT ARRANGEMENTS AND PARTNERSHIPS

1. Introduction

1.1 The Local Government Acts 1972 and 2000 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 enable local authorities to make both use of joint arrangements with other authorities and to delegate to other local authorities. Section 2 of the 2000 Act also creates further flexibility for Partnership arrangements in the promotion of economic, social and environmental well being. In this respect authorities can -

(a) enter into an agreement with any person or body

(b) co-operate with, facilitate or co-ordinate the activities of any person or body, and/or

(c) exercise on behalf of that person or body any of their functions.

1.2 A partnership is two or more organisations or individuals working together towards a common goal.

1.3 In the Barking and Dagenham context we distinguish between the statutory partnerships and the non-statutory partnerships. In the statutory partnerships the Local Government Act 2000 requires local authorities to work with a host of statutory partnerships to achieve a range of positive outcomes in the community. These bodies are listed in the governance framework of the Local Strategic Partnership which can be found on the Council's website.

1.4 The non-statutory partnerships include all the partnering arrangements the Council has with various bodies designed to help it achieve its goal. The arrangements will be regulated according to the degree of regulation required.

2. Joint Arrangements

2.1 Through the Assembly (or the Cabinet), the Council can, if it wishes, establish joint arrangements with one or more local authorities or Associations and/or their Executives to exercise functions which are not executive functions in any of the participating authorities. Such arrangements may involve the appointment of formal Joint Committees.

2.2 The Cabinet may only appoint Cabinet Members to a Joint Committee, except as set out in paragraph 2.3 and 2.4. Those Members need not reflect the political composition of the local authority as a whole.

2.3 The Cabinet may appoint Members to a Joint Committee from outside the Cabinet if the Joint Committee has functions for only part of the area of the authority, and that area is smaller than two fifths of the Authority by area of...
population. In such cases, the Cabinet may appoint to the Joint Committee any Councillor who is a member for an electoral ward which is wholly or partly contained within the area. The political balance requirement will not apply.

2.4 The Membership of a joint Health Scrutiny Committee, as with any other overview and scrutiny meeting, specifically excludes Members of the Cabinet. Membership is therefore limited to non-Cabinet Members but will be agreed by the Cabinet in consultation with the Lead Member of the Health and Adult Services Select Committee. Where timescales prohibit Cabinet approval, nominations may be agreed by the Lead Member of the Health and Adult Services Select Committee with the approval of the Leader of the Council.

2.5 The Council has entered into the following formal ‘Joint Committee’ arrangements.

2.6 **Health Overview and Scrutiny Joint Committees**

2.6.1 Local authority health scrutiny committees are required, under statutory Directions issued by the Secretary of State in July 2003, to establish a joint Overview and Scrutiny Committee to consider any proposal for substantial variation of existing health service provision or substantial development of a service where such a proposal affects more than one local authority area. Joint Committees may also be formed to carry out a health scrutiny review or consider issues which cut across boundaries of more than one Local Authority.

2.6.2 **Membership** - Membership of a joint committee, as with all other overview and scrutiny meetings, specifically excludes Members of the Executive/Cabinet of any Council.

2.6.3 **Terms of reference** - A joint committee is only able to undertake the functions which the appointing authorities have given to it. It is vital for all of the councils involved in establishing the joint committee to agree on the role, responsibilities and terms of reference at the earliest possible opportunity.

2.6.4 **Composition** - Under the Local Government Act 2000, all overview and scrutiny meetings must reflect the political composition of the council unless a full Council meeting unanimously agrees to waive the requirement for proportionality. In the case of joint committees, they must be politically proportionate unless Members of all participating local authorities agree to waive the requirement.

2.6.5 **Resources** - Local Authorities participating in a joint committee should share the cost and resource implications of working together. Local authorities may each provide different but equivalent forms of support, including committee administration, provision, venues for consultation with community groups, professional advice and analysis.

2.6.6 **Reporting** - The joint committee should produce only one report reflecting the full range of views of those involved in the joint committee. Whilst there may be a diversity of opinion, the aim should be a consensual report. The NHS bodies receiving the report must respond in writing to any requests for responses to the report within 28 days.
2.6.7 **Referral to the Secretary of State** - A joint committee can refer a report to the Secretary of State if it is not satisfied either that the consultation process was adequate or that the proposals will have a negative impact on health services or the health of local people. In the case of reports regarding Foundation Trusts, the committee should refer the report to the Independent Regulator.

2.7 **London Councils (formerly Association of London Government)**

2.7.1 London Councils is a cross-party organisation, funded and run by member authorities to work on behalf of them regardless of political persuasion. It also acts as the employers’ organisation for the 32 London boroughs, providing advice, support and training, and representing them in negotiations.

Its members – all 32 London boroughs, plus the City of London, the Metropolitan Police Authority and the London Fire and Emergency Planning Authority (LFEPA) – fund its work through subscriptions. The main policy decisions are taken by its Leaders' Committee.

It develops policy and helps boroughs improve the services they deliver.

Its work consists of lobbying the government and others on behalf of London’s 33 local authorities for a fair share of resources. It also protects and enhances council powers to enable them to do the best possible job for their residents and local businesses.

3. **Partnerships**

3.1 The Council is also involved in a number of important partnership arrangements which include:-

3.1.1 **The Barking and Dagenham Partnership**

(a) The Barking and Dagenham Partnership has been established as the Local Strategic Partnership for the Borough. It brings together the public, private, voluntary and community sectors, to provide a single overarching, local co-ordination framework to implement the Borough’s Community Strategy.

(b) The main purpose of the Barking and Dagenham Partnership is to provide the strategic direction needed to drive through changes that will improve the quality of life in Barking and Dagenham. This will only be achieved through effective joint-working and co-ordination with the Borough’s public, voluntary, community and private sector stakeholders.

(c) The overall role of the Barking and Dagenham Partnership is to provide a forum for the key stakeholders in the Borough to facilitate and monitor the delivery of the Community Strategy “Building Communities, Transforming Lives,” and to influence and make decisions that assist in its implementation.

(d) The Barking and Dagenham Partnership will meet annually through conference style events that will aim to involve and bring together public,
private, voluntary and community sectors in the borough. The conference events will be by invitation only.

(e) The detailed structure of the Partnership can be found on the Barking & Dagenham Partnership website. The brief outline is an overarching Local Strategic Partnership Board which meets quarterly, five themed Boards (detailed below) and a Public Service Board that works alongside the Partnership to help ensure the community priorities can be met.

(f) The Local Strategic Partnership Board will help provide a greater focus across the Partnership for the big, strategic issues for the Borough. The Board will act as a forum for lobbying on the things that matter most locally, aiming to achieve maximum impact for local residents and businesses by acting together where appropriate.

(g) The key themed priorities identified in the Community Strategy will be championed through five themed boards as follows:

(i) The Children’s Trust
(ii) Skills, Jobs and Enterprise Board
(iii) Clean, Green and Sustainable Borough Board
(iv) Shadow Health and Wellbeing Board
(v) Community Safety Partnership

(h) The Council acts as the Accountable Body.

3.1.2 The Thames Gateway London Partnership

(a) The Partnership is an unincorporated association and therefore not a formal partnership in Law.

(b) It seeks to provide a strong and effective partnership to bring about high quality sustainable economic development and regeneration of the whole Thames Gateway London area; to promote economic and social investment and equality of opportunity and to create employment, community and environmental benefits for local people, businesses and employees, reflecting their needs and aspirations.

(c) Its terms of reference/objectives are:

(i) to create and sustain a Partnership of public and private sector bodies to lead the Strategic Regeneration of Thames Gateway London

(ii) to promote the economic, social and environmental well being of the Thames Gateway London area

(iii) to promote the area to attract both inward investment and indigenous investment to maximise business opportunities for Thames Gateway London companies

(iv) to bring about high quality and environmentally sustainable regeneration with the River Thames as the unifying factor
(v) to achieve employment, transport, community and environmental benefits for the Thames Gateway London area

(vi) to develop relationships with the Government, European Union, the business community and other organisations

(vii) to improve the safety of the communities in the Thames Gateway London Partnership area.

(d) Membership is made up from representatives of the following local authorities:

- Barking and Dagenham
- Bexley
- Corporation of London
- Dartford
- Hackney
- Havering
- Greenwich
- Lewisham
- Newham
- Redbridge
- Thurrock
- Tower Hamlets
- Waltham Forest

- together with non-Council representatives from:

- London Development Agency
- Learning and Skills Council
- Universities of East London/Greenwich

4. Statutory Partnerships

4.1 The Council is also obliged to enter into the following statutory partnership under relevant legislation:

4.1.1 The East London Waste Authority (ELWA)

(a) The East London Waste Authority is a statutory Joint Waste Disposal Authority set up after the abolition of the Greater London Council in 1986.

(b) ELWA is responsible for the disposal of municipal waste collected by the London Boroughs of Barking and Dagenham, Havering, Newham and Redbridge (the constituent Boroughs).

(c) Each of the four constituent Boroughs appoint two Councillors each municipal year to serve on the Partnership.

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
ARTICLE 11
DECISION MAKING

1. Responsibility for decision making

1.1 The Council issues and keeps up to date a record of what part of the Council or individual(s) has responsibility for particular decisions or types of decisions relating to particular areas or functions. This record is called the Scheme of Delegation and is set out in Part C of this Constitution.

2. Principles of decision-making

2.1 All decisions of the Council are made in accordance with the following principles:

2.1.1 proportionality (i.e. the action must be proportionate to the desired outcome);
2.1.2 due consultation and the taking of professional advice from employees;
2.1.3 respect for human rights;
2.1.4 a presumption in favour of openness;
2.1.5 clarity of aims and desired outcomes;
2.1.6 the options considered and the reasons for a particular choice will be explained when appropriate.

2.2 Decisions will also be consistent with the Council's overall policy framework, relevant law, Contract Rules, Financial Rules, other relevant Rules, and any other requirements set out in this Constitution.

2.3 When reaching decisions regard must be given to any relevant advice provided by the Monitoring Officer or the Chief Financial Officer. Reasons will be given for any ‘Cabinet decisions’.

3. How ‘Cabinet decisions’ are made

3.1 Introduction

3.1.1 A ‘Cabinet decision’ is a decision relating to any function that is the responsibility of the Council’s Cabinet. These decisions are taken either by the Cabinet itself, or by the Assembly (on the Cabinet’s recommendation), or by Council employees (under delegated authority) or under joint arrangements with other authorities. Other arrangements apply for non-Cabinet decisions and these are described elsewhere in the Constitution (for example, the arrangements for Regulatory and Other Boards are set out in Article 6).
3.1.2 There are three types of ‘Cabinet decision’ and a separate process for each one:

(i) Key Decisions

(ii) Key Decisions within the Budget and Policy Framework

(iii) Non-Key Decisions

3.2 **Key Decisions**

3.2.1 A “Key Decision” is that which is likely to:

(a) involve significant expenditure or savings and/or

(b) have a significant effect on the community.

3.2.2 In relation to (a), councils have to set thresholds above which they regard decisions regarding expenditure or savings as “significant” and, therefore, Key. This Council’s threshold is £200,000.

3.2.3 In relation to (b), a decision is, by law, a Key Decision if it is likely to have a significant impact on two or more wards.

3.2.4 This Council has a two-stage process for determining whether or not a particular decision is a Key Decision: the officer proposing the decision makes an initial assessment and the Chief Executive makes a final judgement.

3.2.5 **Process**

3.2.5.1 Once a month, the Council must publish a Forward Plan (available on the Council’s website: www.barking-dagenham.gov.uk) listing available details of Key Decisions to be taken during the forthcoming four months. The purpose of the Forward Plan is to give the community an opportunity to comment on these decisions before they are taken (further details about the Forward Plan are included in Article 13 – Access to Information).

3.2.5.2 A Key Decision can only be taken if it has been included in the Forward Plan, except in cases of genuine urgency.

3.2.5.3 Any comments received during consultation on a Key Decision have to be considered by the body or person taking the decision. Similarly, any comments received have to be reflected in any report about the decision submitted to the body or person taking the decision.

3.2.5.4 Within three working days after a Key Decision is taken, a written statement has to be made by or on behalf of the body or person who took the decision. This statement has to include:

(i) a record of the decision,
(ii) a record of the reasons for the decision,

(iii) details of any alternative options considered and rejected at the time the decision was made,

(iv) a record of any conflict of interest in relation to the matter declared by any member of the decision-making body or, in the case of decisions taken by employees under delegated authority, by any Member consulted about the decision.

(v) in respect of any declared conflict of interest, a note of any dispensation granted by the Council’s Standards Committee.

3.2.5.5 Within the period referred to above, this written statement has to be made available for inspection by members of the public at the Council offices, together with any public report considered by the body or person who took the decision. *In the case of Member meetings, this written statement will be included in the minutes.*

3.2.5.6 Decisions taken by the Cabinet, including Key Decisions, are subject to “Call-In”. This process is set out in detail in Article 5A of the Constitution. In essence, it gives non-Cabinet Members the opportunity to Call-In Cabinet decisions before implementation.

3.3 **Key Decisions within the Budget and Policy Framework**

3.3.1 The Budget and Policy Framework comprises the most important financial and policy decisions made by the Authority. The budgetary framework includes the Budget and the Council Tax. The policy framework consists of a number of specified plans and strategies, such as the Community Strategy and the Council Plan. The Framework is detailed at Appendix A.

3.3.2 Decisions within the Framework are classed as Key Decisions and they have to meet the same requirements, as specified in paragraphs 3.2.5.1 to 3.2.5.6 above.

3.3.3 **Process: introduction and summary of key provisions**

3.3.3.1 The Cabinet is responsible for drawing up (and implementing) decisions within the Framework. It has to adopt an inclusive approach to this, consulting other Members, relevant stakeholders and the community as appropriate. The process for making decisions within the Framework (detailed in Appendix B) includes provision for this.

3.3.3.2 The process provides that, in preparing the Local Development Frameworks, the Cabinet consults the Development Control Board.

3.3.3.3 The Assembly is responsible for taking decisions within the Framework. The process provides that the Assembly may approve the Cabinet’s proposals, amend them or ask the Cabinet to reconsider them. The process includes a mechanism for resolving any conflicts...
between the Assembly and the Cabinet in relation to decisions within the Framework.

3.4 **Non-Key Decisions**

3.4.1 Non-Key Decisions (i.e. ‘Cabinet decisions’ that are not Key Decisions or Key Decisions within the Budget and Policy Framework) will be dealt with as required elsewhere in the Constitution and by existing legislation. The specific requirements for Key Decisions and Key Decisions within the Budget and Policy Framework do not apply to Non-Key Decisions.

3.4.2 Where they are taken at Member meetings, Non-Key Decisions will be recorded in the minutes of the relevant meeting and published in the normal way. Employees are not required to publish formal records of the Non-Key Decisions they make; however, the Council does require them to keep records for audit purposes.

3.5 **Implementing Decisions**

3.5.1 Subject to there being no Call-In, all decisions of the Cabinet shall stand and can be acted upon once the agreed time period for Call-In has elapsed.

3.5.2 Decisions of the Assembly can be acted upon immediately subject to any restriction placed at the time.

3.5.3 Subject to the Assembly agreeing otherwise, any motion to rescind or amend any decision of the Assembly or the Cabinet cannot be proposed unless at least six months have elapsed and at least one third of the Council give notice and seek reconsideration of an issue at the next available meeting of the Assembly.

3.5.4 When any such motion or amendment has been dealt with by the Assembly, a similar motion may not be proposed within a further period of six months.

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
APPENDIX A

THE BUDGET AND POLICY FRAMEWORK

1. The Budgetary Framework

1.1 The Budgetary Framework comprises any decisions relating to:

1.1.1 the budget requirement (as defined in the Local Government Finance Act 1992),

1.1.2 all the components of the budget, such as:

(i) the budgetary allocations to different services and projects,

(ii) proposed taxation levels;

(iii) contingency funds (reserves and balances),

1.1.3 any plan or strategy for the control of the local authority's borrowing or capital expenditure.

2. The Policy Framework

2.1 The Policy Framework consists of the following plans and strategies:

(i) Community Strategy
(ii) Crime and Disorder Reduction Strategy
(iii) Local Development Frameworks
(iv) Youth Justice Plan
(v) Local Implementation Plan (Transport)
(vi) Statement of Licensing Policy
(vii) Food Safety Business Plan
(viii) Housing Strategy
(ix) Lifelong Learning Development Plan
(x) The Council Plan
(xi) Health and Safety Service Plan
(xii) Trading Standards Service Plan
(xiii) Council's Community Priorities
(xiv) Climate Change Strategy

(Contact Officer: Group Manager, Democratic Services: 020 8227 2135)
APPENDIX B

THE BUDGET AND POLICY FRAMEWORK PROCESS

1. The Forward Plan

1.1 The items within the Framework will be included in the Forward Plan. As far as possible, this will show when the items will be considered by the Cabinet and the Assembly.

2. Process for approval of proposals on items within the Framework

2.1 Consultation

2.1.1 Consultation, with local stakeholders and the community as appropriate, shall be carried out on all proposals on items within the Budget and Policy Framework. Details of the consultation process shall be publicised widely (e.g. in the Forward Plan, on the Council’s web-page and in the press) and be available for inspection at the Council’s offices. The consultation process shall also comply with any statutory or other requirements that are specific to the item in question. As a guide, the consultation process will be carried out approximately one month before the Cabinet considers the proposals. The relevant Chief Officer will be responsible for carrying out the consultation process on the Cabinet’s behalf.

2.2 Consideration by the Cabinet

2.2.1 At the conclusion of the consultation period, a report setting out the proposals will be submitted to the Cabinet. This report will reflect any representations made during the consultation process. If the Public Accounts and Audit Select Committee comments on the item in question, this will also be reflected in the report. The Cabinet will consider the report and agree its initial proposals, which, in the normal way, will be published in the minutes and subject to the Call-In process.

2.3 Consideration by the Assembly

2.3.1 The Cabinet’s report to the Assembly shall set out its final proposals and, if applicable, explain how it has taken into account any comments from the Public Accounts and Audit Select Committee.

2.3.2 The Assembly has the power to either:

(i) approve the proposals,

(ii) amend the proposals, or

(iii) ask the Cabinet to reconsider the proposals.

2.3.3 In approving the proposals, the Assembly shall specify, as appropriate, the extent of virement within the budget and/or the degree of in-year changes to
the policy framework that may be undertaken by the Cabinet. Any other changes shall be reserved to the Assembly for decision.

2.4 Conflict Resolution Process

2.4.1 Proposals within the Policy Framework

2.4.1.1 If the Assembly has any objections to any proposal within the Policy Framework, it must inform the Leader of the Council and give him instructions requiring the Cabinet to reconsider the proposal in the light of the objections. The Assembly must specify a period of at least five working days, beginning on the day after they are issued, within which the Cabinet may:

(i) submit a revised proposal, together with its reasons for making any amendments, to the Assembly; or

(ii) inform the Assembly that it disagrees with the objections and provide reasons for this.

2.4.1.2 The Assembly must take into account any such submissions and then make its final decision on the basis of a simple majority.

2.4.2 Proposals within the Budgetary Framework

2.4.2.1 Where, before 8 February in any financial year, the Cabinet submits to the Assembly for its consideration in relation to the following financial year:

(i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;

(ii) estimates of other amounts to be used for the purposes of such a calculation;

(iii) estimates of such a calculation; or

(iv) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992

and the Assembly has any objections to them, the Assembly must take the action set out below:

2.4.2.2 Before the Assembly makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph (a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of any objections it has to the Cabinet's estimates or amounts and must give them instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts
2.4.2.3 Where the Assembly gives such instructions, it must specify a period of at least five working days, beginning on the day after they are issued, within which the Cabinet may:

(i) submit a revision of the estimates or amounts, together with its reasons for making any amendments, to the Assembly; or

(ii) inform the Assembly that it disagrees with the objections and provides reasons for this.

2.4.2.4 The Assembly must take into account any such submissions and then make its final decision on the basis of a simple majority.

2.4.2.5 This procedure does not apply in relation to:

(i) calculations or substitute calculations which an authority is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and

(ii) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

2.4.2.6 Any disputes as to whether an item, or proposed item, is defined as presently within the budget and policy framework will be determined by the Monitoring Officer (policy framework) and Chief Financial Officer (budget framework) respectively.

2.5 Urgent decisions not in accordance with the budget or policy framework

2.5.1 The Cabinet or employees or joint arrangements discharging Cabinet functions may take a decision which is contrary to the policy framework or contrary to, or not wholly in accordance with, the budget approved by the Assembly if the decision is a matter of urgency. However, the decision may only be taken:

(i) if it is not practical to convene a quorate meeting of the Assembly; and

(ii) if the Leader of the Council and the Lead Member of the Public Accounts and Audit Select Committee (or, in their absence, their respective deputies) agree that the decision is a matter of urgency.

2.5.2 The reason why it is not practical to convene a quorate meeting of the Assembly and the consent of the relevant Members to the decision being taken as a matter of urgency must be noted on the record of decision.

2.5.3 Following the decision, a report will be made to the next available Assembly explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

(Contact Officer: Group Manager Democratic Services: 020 8227 2135)
ARTICLE 12
ACCESS TO INFORMATION

1. Scope

1.1 These rules apply to all committees established under the Section 101 of the Local Government Act 1972 or Sections 11, 21 or 53 of the Local Government Act 2000. This includes the Assembly, the Ceremonial Council, the Cabinet, the Select Committees and Regulatory Boards. This does not, however, include the Community Housing Partnerships which are consultative and deliberative bodies and, as such, are not covered by the legislation.

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 Council will, do all that it can to minimise such exceptions so that it can have an open debate in public on issues.

4. Notice of Meetings

4.1 The Council will give at least five clear days notice of any meeting by posting details of those meetings at the Civic Centre, Dagenham. 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 Council will make copies of the agenda and reports of meetings open to the public available for inspection at the Civic Centre and on the Council's website (www.barking-dagenham.gov.uk) 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 Councillors.

6. Supply of Copies

6.1 On request, 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) any other documents supplied to Councillors in connection with an item to any person.

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

7.1 The Council 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 which disclose exempt or confidential information and, in respect of Cabinet reports, any advice of a political adviser.

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 Divisional Director of Legal & Democratic Services.

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

9.1 The public have 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/Lead Member as appropriate or in accordance with any special procedures for the meeting concerned

(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

(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/Lead Member 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

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

(b) Confidential information means information given to the Council 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

(a) The public may be excluded from meetings whenever it is likely that exempt information will be disclosed.

(b) Exempt information means any of the paragraphs of Part I of Schedule 12A to the Local Government Act 1972 (including any subsequent amendments) as detailed in the Appendix to this Article.

10.3 Information falling within any of the paragraphs above, is not, however, exempt if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

10.4 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.
10.5 Where a Sub-Committee of the Standards Committee is considering an allegation against a Member under Section 57A of the Local Government Act 2000, or a request under Section 57B of the Act to review a decision to take no action, there is no public right of access to the meetings or documents. The Sub-Committee is required to produce a written summary of its consideration of those matters, which is to be made available to the public.

11. Exclusion of Access by the Public to Reports

11.1 If the author thinks fit, the Council may exclude access by the public to reports which 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 explain the category of information likely to be disclosed.

12. Procedure before taking Key Decisions

12.1 Subject to paragraph 14 (General Exception) and paragraph 15 (Special Urgency), a key decision may not be taken by the Cabinet unless:

(a) a Forward Plan has been published in connection with the matter in question; and

(b) at least three clear days have elapsed since the publication of the Forward Plan; and

(c) notice of the meeting has been given in accordance with rule 4 (Notice of Meetings).

13. The Forward Plan

13.1 The Forward Plan will be updated on a monthly basis and will be made available for inspection at least 14 days before the start of the period covered.

13.2 The Forward Plan will be published on the first working day of each month and will contain available details of all key decisions that the Council is aware will be taken by councillors and officers during, as a minimum, the forthcoming four-month period. Wherever possible, the Forward Plan will also include available details of non-key decisions that will be taken by councillors during the period.

13.3 Exempt information, confidential information or the advice of a political advisor or assistant must not be included in the Forward Plan.

13.4 The monthly Forward Plan will, as far as possible, describe the following particulars for each item, and how a person can make representations and the deadline for doing so:

(a) the subject matter;

(b) the name of the Member meeting or Chief Officer who will be taking the decision;
(c) the estimated date when a decision will be taken;
(d) any groups/persons who will be consulted before taking the decision;
(e) how any such consultations will be carried out;
(f) a list of the relevant documents which will be submitted to the decision taker for consideration in relation to the matter.

13.5 A Notice will be published once a year, on a date at least 14 days but not more than 21 days before the first Forward Plan of that year comes into effect and in at least one newspaper circulating in the area, stating:-

(a) that key decisions are to be made on behalf of the Council;
(b) that the Plan will be produced monthly and contain available details of the key decisions to be made in the following four month period;
(c) that each Plan will be available for inspection at reasonable hours, free of charge, at the designated offices;
(d) that each Plan will contain a list of the documents which will be submitted to the decision takers;
(e) the address from which copies of, or extracts from, any documents listed is available and the procedure for requesting details of documents;
(f) that other documents may be submitted to the decision takers; and
(g) the dates on each month in the following year on which each Forward Plan will be published and available to the public at the designated offices.

14. General Exception

14.1 If a key matter has not been included in the Forward Plan, then, subject to paragraph 15 (Special Urgency), the decision may still be taken if:-

(a) the decision must be taken by such a date that it is impracticable to defer the decision until the next Forward Plan; and
(b) the Monitoring Officer has informed the Lead Member or, in their absence their Deputy, of the relevant Select Committee (as determined by the Divisional Director of Legal and Democratic Services);
(c) copies of the notice are made available to the public at the designated offices; and
(d) at least five clear days have elapsed since (b) and (c) have been complied with.

15. Special Urgency

15.1 If by virtue of the date by which a decision must be taken, paragraph 14 (General Exception) cannot be followed, then the decision can only be taken if the relevant Corporate Director or Divisional Director seeks the agreement of the Chair of the Cabinet and the Lead Member or, in their absence their Deputy, of the relevant Select Committee (as determined by the Divisional Director of Legal and Democratic Services) that the decision cannot be reasonably deferred. In the absence of the Lead Member/Deputy Lead Member of the Select Committee, then the agreement of the Chair or Deputy Chair of the Assembly must be sought.
16. **Report to the Assembly**

16.1 If any Select Committee agrees that a key decision which falls within its remit (as set out in Article 5, paragraph 2.3) has been taken which was not:

(a) included in the Forward Plan;

(b) the subject of the General Exception procedure; or

(c) the subject of an agreement with the Lead Member/Deputy Lead Member of the Select Committee or the Chair/Deputy Chair of the Assembly under paragraph 15

then that Select Committee may require the Cabinet to submit a report to the Assembly within such reasonable time as the Select Committee specifies. The Chief Executive may also require such a report on behalf of the Select Committee when so requested by the Lead Member or in their absence, their Deputy. Alternatively, the requirement may be raised by a resolution passed at a meeting of the Select Committee.

16.2 The Cabinet will prepare a report for submission to the next available meeting of the Assembly. However, if the next meeting of the Assembly is within five working days of receipt of a written notice or the resolution of the relevant Select Committee, then the report may be submitted to the subsequent Assembly meeting. The report to Assembly will set out the particulars of the decision, who was responsible for making the decision and, if the opinion was that it was not a key decision, the reasons for that opinion.

16.3 In any event, quarterly reports will be submitted to the Assembly on Cabinet decisions taken in the circumstances set out in paragraph 15 (Special Urgency) in the last three months. The report will include a summary of the matters and the number of decisions taken.

17. **Record of Decisions**

17.1 A record of every decision (the minutes) taken at any meeting of the Cabinet, will be produced as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected.

18. **Select Committees - Access to Documents**

18.1 A Select Committee is entitled to copies of any documents which are in the possession or control of the Cabinet unless (a) the document is in draft; or (b) the document is the advice of a political adviser.

19. **Additional Rights of Access for Members**

19.1 All Members of the Council are entitled to the same documents referred to in paragraph 18 above.

19.2 The rights of a Member are additional to any other rights he/she may have.
APPENDIX

Exempt Information

1. Information relating to an 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 the information).

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 officer-holders under the authority.

5. Information in respect of which a claim to legal professional privilege could be mentioned 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.

THE FOLLOWING EXEMPTIONS APPLY ONLY TO THE PROCEEDINGS OF THE STANDARDS COMMITTEE

7A Information which is subject to any obligation of confidentiality (for Standards Committees).

7B Information which relates in any way to matters concerning national security.

7C Information presented to a Standards Committee, or to a Sub-Committee of a Standards Committee, set up to consider any matter under Regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under section 58 (1)(c) of the Local Government Act 2000.

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
Part C

Responsibility for Functions

The Council's Scheme of Delegation
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SCHEME OF DELEGATION

1. Statutory Basis


1.2. Section 101 of the 1972 Act generally allows Councils to arrange for their functions to be carried out by a formal committee or an officer. Section 100G (2) requires Councils to keep a list specifying those powers which are exercisable by officers and their respective titles in each case. Section 112 requires Councils to appoint such officers as they think necessary for the proper discharge of their functions.

1.3. The Local Government Act 2000 requires Councils to be clear within their Constitution who is responsible for functions and where decision-making lies. This Scheme attempts to cover this as simply as possible.

2. Framework

2.1. In accordance with mandatory guidance issued by the Department of the Environment, Transport and the Regions associated with the Local Government Act 2000, the Council has agreed that the following principles should be applied to all decisions:

(a) proportionality (the action must be proportional to the desired outcome);
(b) due consultation and the taking of professional advice from employees;
(c) respect for human rights*;
(d) a presumption in favour of openness;
(e) clarity of aims and desired outcomes; and
(f) 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 the Council’s policy framework, relevant law, Contract Rules, Financial Rules, other relevant Rules, and any other requirements set out in this Constitution. This includes the Council’s Corporate Equalities and Diversity Policy Framework which means that all decisions must take into account any equalities and diversity issues, and must not discriminate on the grounds of an individual's or group's race, gender, disability, age, faith or sexuality. Decision making should also address any health related issues.

2.3. [*Decisions taken by the Council, a councillor 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].

2.4. The Council’s current Policy Framework is the Council's aims as expressed from time to time in its strategic directions:
2.5 A record of all policies is kept and updated by each Corporate Director respectively, from whom copies will be made available on request to all Councillors, employees and the public.

3. **Purpose of the Scheme**

3.1 To define those decisions to be taken by Councillors at formal meetings within the political structure (Member meetings).

3.2 To identify that all other decisions will be taken by Chief Officers (or nominated post holders as listed), either collectively or individually, and to define these accordingly.

3.3 To define the meaning of "Key Decisions" in relation to Regulations made under the Local Government Act 2000.

3.4 To define the process by which decisions are monitored to ensure transparency and accountability.

3.5 To define ‘Proper Officer’ responsibilities.

4. **Key Decisions**

4.1 Key decisions are those likely to:

(a) involve significant expenditure or savings and/or

(b) have a significant effect on the community

4.2 In relation to (a) councils have to set thresholds, above which they regard decisions regarding expenditure or savings as "significant" and, therefore, Key. This Council's threshold is £200,000.

4.3 In relation to (b) a decision is, by law, a Key Decision if it is likely to have a significant impact on two or more wards. However in line with Government guidance this Council treats a decision as “key” if it is likely to have a significant impact on one or more wards. This Council has a two stage process for determining whether or not a particular decision is likely to have such an impact and is therefore a key decision: the officer proposing the decision makes an initial assessment and the Chief Executive makes a final judgement.

4.4 Where a key decision is delegated to officers, and when they make a key decision, they will produce a written statement which includes:

(a) details of the decision,

(b) the reasons for it, and

(c) alternative options considered and rejected at the time the decision was taken
4.5 Subject to the general provisions relating to confidential and exempt information, the written statement will be prepared at the time the decision is taken, made available for public inspection and included in a Register(s) of Decisions to be kept and updated by Chief Officers.

5. **Matters which cannot be delegated**

5.1 Certain functions may not, by law, be delegated. As such, they must be dealt with by the Assembly.

5.2 These are listed in Section A of this document.

6. **Delegations to Member meetings**

6.1 The powers which are delegated from the Assembly to other Member meetings are detailed in Sections A – M.

7. **Delegation to Chief Officers**

7.1 All matters not reserved to Member-level meetings are delegated to the Chief Executive or the appropriate Corporate Director (or nominated postholders) within the service areas assigned to them as set out in Sections N – S.

7.2 The Scheme does not define how each decision should be taken by Chief Officers, nor does it attempt to list incidental matters which are a part of their everyday management functions.

7.3 The delegation of an authority to a Chief Officer includes the exercise of that authority on his/her behalf by another employee under his/her supervision. Chief Officers are responsible for maintaining a comprehensive list of authorised postholders in their department, which also identifies specific areas of responsibility. These lists are open to inspection by the public.

7.4 Delegations to Chief Officers are split into two parts - powers that can be exercised by (i) all Chief Officers, and (ii) individual Chief Officers.

7.5 The Chief Executive will clarify any delegation to officers if necessary.

8. **Changes in Legislation**

8.1 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.

9. **Proper Officer Function**

9.1 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.
10. Constitution

10.1 This Scheme forms part of the Council's Constitution and should be read in conjunction with other Parts.

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
SECTION A - THE ASSEMBLY

1. Generally, the Assembly may exercise all, or any, of the duties or powers of the Council, irrespective of delegation to other Member meetings or to employees.

2. **The following powers and functions are reserved to the Assembly by law and/or statutory guidance and cannot be delegated:**

   2.1 Adopting and changing the Constitution, or authorising the suspension of any of its Rules;

   2.2 Subject to the urgency procedure contained in Article 11 Appendix A paragraph 2.5 in Part B of this Constitution, making decisions about any matter which is normally a Cabinet function but is either contrary to the policy framework or contrary to, or not wholly in accordance with, the budget;

   2.3 Appointing the Leader of the Council who shall be the Chair of the Cabinet;

   2.4 Setting the overall political structure, agreeing and/or amending the terms of reference of the component parts, deciding on their composition and making appointments to them (including the appointment of Chairs and Deputy Chairs and Lead and Deputy Lead Members where appropriate), with the exception of the makeup of the Cabinet, the responsibility for which lies with the Leader of the Council;

   2.5 Appointing statutory co-opted Members to the Children’s Services Select Committee, and independent members to the Standards Committee;

   2.6 Considering and making decisions on reports from the Head of Paid Service, Monitoring Officer and the Chief Financial Officer (Section 151 Officer);

   2.7 Adopting the Members' Allowances Scheme;

   2.8 Appointing the following Panels:

   2.8.1 **JNC Appointments Panel** - consisting of the Leader and Deputy Leader of the Council (as Chair and Deputy Chair respectively), the relevant Portfolio Holder(s), plus at least two other councillors to
   (i) shortlist candidates for the position of Chief Executive (Head of Paid Service) and Corporate Directors, the appointments of whom to be made by the Assembly and
   (ii) make decisions in respect of acting/interim appointments to the positions of CE and Corporate Directors, as well as the permanent/acting/interim appointment and/or assimilation of all other JNC Officers;

   2.8.2 **Joint Appointments Committee** – consisting of eight councillors (four from each of the London Borough of Barking & Dagenham and Thurrock Council [the authorities]) comprising from LBBD the Leader of the Council (as Chair on an alternating basis), the Deputy Leader of the Council, the relevant
Portfolio Holder and one other councillor, in respect of staff employed in posts serving the authorities jointly under a shared service or other arrangement to:

(i) be responsible for the selection and appointment of staff at Chief Officer and Deputy Chief Officer (JNC) level;
(ii) agree a shortlist of candidates drawn from a long list of candidates submitted by the Chief Executive or any appointed consultants;
(iii) interview the agreed shortlist of candidates and agree the appointment of the preferred candidate;
(iv) make recommendation to the two authorities for confirmation of the appointments of the Corporate Directors, the Section 151 Officer and the Monitoring Officer; and
(v) refer any matter back to the two authorities if the Joint Appointments Committee cannot reach agreement.

2.8.3 **JNC Disciplinary Panel** - consisting of the Leader and Deputy Leader of the Council (as Chair and Deputy Chair respectively), the relevant Portfolio Holder(s), plus at least two other councillors to:

(i) make decisions in respect of the dismissal and consider disciplinary action and/or grievances in respect of all JNC Officers with the exception of the Chief Executive (Head of Paid Service), Monitoring Officer and Chief Financial Officer (Section 151 Officer), whose cases will additionally require the involvement of an independent person, and

(ii) in the case of dismissal, be subject to recommendations to the Assembly.

2.8.4 **JNC Salaries and Conditions Panel** - consisting of the Leader and Deputy Leader of the Council (as Chair and Deputy Chair respectively), the relevant Portfolio Holder(s), the Cabinet Member for Finance, Revenues and Benefits, plus at least two other councillors to consider and make final decisions in relation to salaries and conditions for JNC officers (including the Chief Executive) and the grading of any new JNC posts in line with Council policy.

2.8.5 **JNC Appeals Panel** - consisting of at least two Members of the Cabinet, one of whom shall be appointed as Chair, plus two other councillors, subject to none having participated in any previously appointed Panel relating to the case in question, to:

(i) consider appeals in respect of dismissal, redundancy, disciplinary action and grievances from JNC Officers; and

(ii) consider, with the involvement of a separate independent person, appeals in respect of disciplinary action and grievances against the Chief Executive (Head of Paid Service), Monitoring Officer and Chief Financial Officer (Section 151 Officer).

2.9 Changing the name of the area;

2.10 Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
2.11 Approving or adopting the policy framework, the budget, the Council Tax, and any application to the Secretary of State in respect of any Housing Land Transfer (these are explained in greater detail in Article 2 of Part B of the Constitution);


2.13 Approving and adopting the following Plans and Strategies:
   - Community Strategy
   - Crime and Disorder Reduction Strategy
   - Local Development Frameworks
   - Local Implementation Plan (Transport)
   - Youth Justice Plan
   - Statement of Licensing Policy

2.14 All other matters which, by law, must be reserved to the Assembly.

3. The following powers and functions are reserved to the Assembly by local choice:

3.1 Appointing Members to the following positions on the Council:
   - the Chair and Deputy Chair of the Assembly
   - the Chair and Deputy Chair of the Development Control Board
   - the Chair and Deputy Chair of the Licensing and Regulatory Board
   - the Chair and Deputy Chair of the Personnel Board
   - the Chair and Deputy Chair of the Standards Committee
   - the Lead and Deputy Lead Members of the:
     - Children’s Services Select Committee
     - Health and Adult Services Select Committee
     - Living and Working Select Committee
     - Public Accounts and Audit Select Committee
     - Safer and Stronger Community Select Committee
   - any other lead roles as may be considered appropriate by the Assembly

3.2 Appointing representatives to outside bodies and partnerships, with the exception of local authority school governor positions which are reserved to the Leader of the Council and the Cabinet Member for Children’s Services in consultation with the Corporate Director of Children’s Services.

3.3 Reviewing Member appointments made in respect of Member meetings in between annual reviews if necessary;

3.4 Adopting the Council’s Codes of Conduct for Members and Employees;
3.5 Agreeing procedures or arrangements relating to the way in which the Council 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;

3.6 Borrowing money;

3.7 Delegating functions to another local authority and accepting delegations from another local authority;

3.8 Approving and adopting the following plans and strategies:

- Climate Change Strategy
- Council's Community Priorities
- Food Safety Business Plan
- Health & Safety Service Plan
- Trading Standards Service Plan
- Housing Strategy
- The Council Plan
- Lifelong Learning Development Plan

3.9 Confirming the making of any other statutory Plans and Strategies and, where necessary, their submission to the appropriate Government Department for approval;

3.10 Receiving reports, recommendations and/or advice from the various Member meetings and determining matters where required;

3.11 Receiving reports and recommendations from the Council's External Auditors, the Ombudsman and Government or other Inspectorates relating to Council-wide issues and determining matters where required; and

3.12 Such other matters that the Assembly may from time to time reserve to itself.

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
SECTION B - THE CEREMONIAL COUNCIL

1. The Ceremonial Council is responsible for all ceremonial matters and leads the community in demonstrating appreciation for the work of individuals, community groups and organisations within the Borough,

2. The following functions are reserved to the Ceremonial Council:

   2.1 to award the Freedom of the Borough and any other special awards;

   2.2 to appoint the Mayor at the Annual Meeting.

   2.3 to appoint the Mayor's Chaplain at the Annual Meeting.

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
SECTION C - THE CABINET

1. All matters which are not delegated to officers or reserved to other Member meetings. These are:

1.1 Determining all major issues affecting the Council, particularly strategic, financial, policy related and corporate management matters, within the overall policy framework set by the Assembly.

1.2 Assessing and determining charges and fees.

1.3 Making policy regarding all employees in respect of pay and conditions of service and disciplinary matters, subject to the provisions of the respective National Conditions of Service and any appropriate legislation.

1.4 Making Compulsory Purchase Orders (CPOs) and confirming unopposed CPOs.

1.5 Considering recommendations from other Member meetings, on issues which are the Cabinet’s responsibility.

1.6 Determining the scope and programme and agreeing the outcomes of all Best Value Reviews.

1.7 Appointing a Panel of three Cabinet Members to include the Lead Member for Finance and Education to consider appeals against any decisions made by the Corporate Director of Finance and Resources in respect of applications for discretionary non-domestic rate relief.

1.8 Resolving and determining, on advice from the Chief Executive, any disputes of Chief Officers in respect of any delegated authority.

1.9 Agreeing the basis for the annual Calendar of meetings.

1.10 Naming of buildings and roads for which the Council is responsible, except for those delegated to the Chief Executive by Minute 62, 29 September 2009.

1.11 Approving, on the recommendation of the Chief Executive, attendance at conferences, events, etc. where the total cost exceeds £3,000.00 (three thousand pounds).

1.12 Approving the purchase of individual gifts where the value exceeds £100.00 (one hundred pounds).

1.13 To receive the results of the initial review of Statutory Performance Indicators.

1.14 Acceptance of tenders and awarding of contracts in accordance with the Contract Rules set out in Part D of the Constitution.

1.15 Setting the Council Tax Base.

1.16 Reviewing on an annual basis the following documents, which includes appropriate monitoring of compliance:

   (1) Whistle blowing Policy
   (2) Fraud and Corruption Policy and Strategy
   (3) Fraud Prosecution Policy
1.17 In addition to the annual review of the policies and strategies referred to in paragraph 1.16, an annual review of the Code of Corporate Governance is led by the Divisional Director of Legal and Democratic Services and reported as necessary to the Cabinet and subsequently put to the Assembly for revision as required.

1.18 Appointing Cabinet Members only to serve on any Joint Committee that the Council establishes with one or more local authority, with the exception of the following:

(i) any Joint Committee that has functions which cover less than two fifths of the Authority by area of population, in which case the relevant ward councillor(s) may be appointed; and

(ii) any Joint Health Scrutiny Committee, in which case only non-Cabinet Members may be appointed in consultation with the Lead Member of the Health and Adult Services Select Committee.
SECTION D – THE CHILDREN’S SERVICES SELECT COMMITTEE

1 Scrutiny of matters relating to the provision of services to children and young people living or using services within the borough.

2 Working with the Council and other partners to secure the continuous improvement of services for children and young people and assisting in improving outcomes for the borough’s young people.

3 Encouraging the Local Strategic Partnership as a whole to take into account the implications of their policies and activities on services for children and young people.

4 Having regard to any related equalities and diversity issues.

5 Undertaking in-depth reviews into issues relating to children and young people’s services that require detailed investigation, as appropriate.

6 Making recommendations for future policy and practice to any department, organisation or body responsible for delivering or influencing the delivery of services for children and young people in the borough, on the basis of evidence gathered during in-depth reviews.

7 Presenting this evidence and these recommendations in the form of a final report to the Cabinet for comment to the Assembly for agreement.

8 Alerting the relevant department, organisation or body of any recommendations agreed by Assembly and monitoring progress against implementation of these recommendations after six months.

9 Monitoring of performance indicators that fall within the remit of the Select Committee.

10 Addressing any Call-Ins or Councillor Calls for Action as allocated by the Authority’s Designated Scrutiny Officer, in accordance with Articles 5A and 5B.

11 Considering petitions in accordance with the Council’s Petition Scheme which can be found on the Council’s website at:

   http://www.lbld.gov.uk/CouncilandDemocracy/Information/Pages/Petitions.aspx

12 In all the above, seeking to take account the views of local people.

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
SECTION E – THE HEALTH AND ADULT SERVICES SELECT COMMITTEE

1 Scrutinising matters relating to the provision of health and adult services to local people and to those using services within the borough.

2 Exercising its statutory duty and power to scrutinise and report on matters relating to local health services and local health service providers, in line with the Health and Social Care Act 2001.

3 Reviewing and scrutinising the impact of the Council’s own provision of health and adult services.

4 Working with the Council, local NHS bodies, Barking and Dagenham LINks and other partners to secure the continuous improvement of health and adult services and to contribute to reducing health inequalities.

5 Encouraging the Local Strategic Partnership as a whole to take into account the implications of their policies and activities on health and adult services.

6 Having regard to any related equalities and diversity issues and, specifically, helping ensure that health and adult services provision is equally good for all sections of the local population.

7 Undertaking in-depth reviews into issues relating to health and adult services that require detailed investigation, as appropriate.

8 Making recommendations for future policy and practice to any department, organisation or body responsible for delivering or influencing the delivery of health and adult services in the borough, on the basis of evidence gathered during in-depth reviews.

9 Presenting this evidence and these recommendations in the form of final reports to the Cabinet for comment to the Assembly for agreement.

10 To alert the relevant department, organisation or body of any recommendations agreed by Assembly and monitoring progress against implementation of these recommendations after six months.

11 Monitoring of performance indicators that fall within the remit of the Select Committee.

12 Addressing any Call-Ins or Councillor Calls for Action as allocated by the Authority’s Designated Scrutiny Officer in accordance with Articles 5A and 5B.

13 Considering petitions in accordance with the Council’s Petition Scheme which can be found on the Council’s website at:

   http://www.lbld.gov.uk/CouncilandDemocracy/Information/Pages/Petitions.aspx

14 In all the above, seeking to take account the views of local people.

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
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SECTION F – THE LIVING AND WORKING SELECT COMMITTEE

1 Scrutinising matters relating to the provision of housing, public realm, the environment, regeneration, business, jobs and skills within the borough.

2 Exercising its statutory duty and power to scrutinise and report on matters relating to flood risk management in line with the Flood Risk Management Overview and Scrutiny Committee (England) Regulations 2011.

3 Working with the Council and other partners to secure the continuous improvement of the matters set out in paragraph 1.

4 Encouraging the Local Strategic Partnership as a whole to take into account the implications of their policies and activities on the issues covered by the Committee’s remit.

5 Having regard to any related equalities and diversity issues.

6 Undertaking in-depth reviews into living and working issues that require detailed investigation, as appropriate.

7 Making recommendations for future policy and practice to any department, organisation or body responsible for delivering or influencing the delivery of services in the borough relating to the Committee’s remit, on the basis of evidence gathered during in-depth reviews.

8 Presenting this evidence and these recommendations in the form of final reports to the Cabinet for comment to the Assembly for agreement.

9 Alerting the relevant department, organisation or body of any recommendations agreed by Assembly and monitoring progress against implementation of these recommendations after six months.

10 Monitoring of performance indicators that fall within the remit of the Select Committee.

11 Addressing any Call-Ins or Councillor Calls for Action as allocated by the Authority’s Designated Scrutiny Officer, in accordance with Articles 5A and 5B.

12 Considering petitions in accordance with the Council’s Petition Scheme which can be found on the Council’s website at:

   http://www.lbld.gov.uk/CouncilandDemocracy/Information/Pages/Petitions.aspx

13 In all the above, seeking to take account of the views of local people.

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
SECTION G - THE PUBLIC ACCOUNTS AND AUDIT SELECT COMMITTEE

1. **Purpose**

1.1 The Public Accounts and Audit Select Committee (PAASC) is a scrutiny select committee which incorporates the Council’s Audit Committee function.

1.2 The purpose of PAASC is to provide independent assurance, and to oversee and improve the Council’s:

- governance and regulation;
- assurance and risk management;
- fraud and corruption prevention;
- performance and compliance;
- sound financial management which achieves value for money; and,
- transparency and open government.

1.3 In addition to its Council-wide work, PAASC also specifically oversees the Chief Executive’s Unit and Finance and Resources divisions of the Council (excluding Regeneration).

1.4 To achieve the aims set out in paragraph 1.2, PAASC will monitor, review, and evaluate the Council, and (where appropriate) make recommendations which will be considered by the Assembly. PAASC will undertake this work in conjunction with the other four select committees (See Part C, Sections D, E, F and H of the Council Constitution).

2. **Internal Audit**

2.1 Considering regular update reports concerning the work of Internal Audit, including progress on delivering the annual programme of work, emerging themes, risks and issues, and officer responsiveness in implementing recommendations and responding to Internal Audit (in addition to 2.2 below)

2.2 Considering and agreeing an Annual Audit Report from the Chief Financial Officer (Section 151 Officer) and a summary of Internal Audit activity (actual and proposed), and the level of assurance it can give over the Council’s corporate governance, internal control, and risk management arrangements.

2.3 Considering summaries of specific Internal Audit reports as requested.

2.4 Considering reports dealing with the management and performance of the providers of Internal Audit services.

2.5 Commissioning work from Internal Audit.

3. **External Audit**

3.1 Considering the Annual Governance Report (both main and pension) and the Council’s response to Annual Governance Report (both main and pension), and other relevant reports.
3.2 Considering the Annual Audit Letter, and other relevant reports.

3.3 Considering the Summary of Grant Certifications

3.4 Considering other specific reports as agreed with the external auditor.

3.5 Commissioning work from External Audit.

4. Performance

4.1 Considering the Council’s performance monitoring reports and to closely monitor and evaluate the performance of the services and functions which fall within its remit.

4.2 Periodically reviewing the Council’s capital spending.

4.3 Reviewing the performance of any contracts entered into by the Council, including Elevate East London.

4.4 Considering the findings of any reports from any inspection agencies concerning the Council.

5. Governance

5.1 Considering regular update reports concerning governance, decision-making, and information governance.

5.2 Considering regular updates concerning risk management and corporate governance, and ensuring compliance with best practice.

5.3 Considering regular updates concerning Council policies relating to governance (including whistle-blowing, bribery, and anti-fraud) and to ensure the implementation of relevant legislation relating to governance, fraud, and corruption.

5.4 Maintaining an overview of the Council’s Constitution in respect of the financial regulatory framework.

5.5 Approving the Council’s Annual Governance Statement which will accompany the Annual Statement of Accounts (see section 6.2).

5.6 Keeping under review the Code of Corporate Governance and regularly monitoring compliance. Agreeing necessary actions to ensure compliance with best practice and arrange suitable publicity.

5.7 Considering the Council’s compliance with its own and other published standards and controls.

6. Finance

6.1 Considering regular update reports concerning sound financial management which achieves value for money.
6.2 Considering and approving the Annual Statement of Accounts and all related documents.

6.3 Undertaking annual consideration of the robustness of the Council's budget setting process.

7. Scrutiny

7.1 Exercising the right to scrutinise any matter related to the remit of the Select Committee or any other matter which cuts across two or more of the themed select committees.

7.2 Undertaking pre and post decision scrutiny reviews and making appropriate recommendations to Cabinet and/or Assembly.

7.3 Reviewing any issue referred to it by the Cabinet, Chief Executive, the Chief Financial Officer (Section 151 Officer), a Corporate Director, the Monitoring Officer, Designated Scrutiny Officer, the Partnership, or any Council body.

7.4 Addressing any Call-Ins or Councillor Calls for Action as allocated by the Authority's Designated Scrutiny Officer, in accordance with Articles 5A and 5B.

7.5 Considering petitions in accordance with the Council's Petition Scheme which can be found on the Council’s website at:

http://www.lbdb.gov.uk/CouncilandDemocracy/Information/Pages/Petitions.aspx

7.6 Undertaking annual consideration (for comment) of the Cabinet's budget proposals which fall within the remit of PAASC before they are formally agreed by Assembly.

7.7 To prepare an Annual Report for submission to Assembly. The Annual Report will contain information on work done by the Committee over the past year and any recommendations the Committee wishes to make.

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
SECTION H
THE SAFER AND STRONGER COMMUNITY SELECT COMMITTEE

1 Scrutinising matters relating to crime and disorder, the community and voluntary sector, community cohesion, social inclusion and culture within the borough.

2 Exercising its statutory duty and power to scrutinise and report on matters relating to crime and disorder in line with the Police and Justice Act 2006.

3 Working with the Council and other partners to secure the continuous improvement of the matters set out in paragraph 1.

4 Encouraging the Local Strategic Partnership as a whole to take into account the implications of their policies and activities on the issues covered by the Committee’s remit.

5 Having regard to any related equalities and diversity issues.

6 Undertaking in-depth reviews into safer and stronger community issues that require detailed investigation, as appropriate.

7 Making recommendations for future policy and practice to any department, organisation or body responsible for delivering or influencing the delivery of services in the borough relating to the Committee’s remit, on the basis of evidence gathered during in-depth reviews.

8 Presenting this evidence and these recommendations in the form of final reports to the Cabinet for comment to the Assembly for agreement.

9 Alerting the relevant department, organisation or body of any recommendations agreed by Assembly and monitoring progress against implementation of these recommendations after six months.

10 Monitoring of performance indicators that fall within the remit of the Select Committee.

11 Receiving six-monthly updates on the work of the Crime and Disorder Reduction Partnership, in accordance with the Police and Justice Act 2006.

12 Addressing any Call-Ins or Councillor Calls for Action as allocated by the Authority’s Designated Scrutiny Officer in accordance with Articles 5A and 5B.

13 Considering petitions in accordance with the Council’s Petition Scheme which can be found on the Council’s website at:

http://www.lbld.gov.uk/CouncilandDemocracy/Information/Pages/Petitions.aspx

14 In all the above, seeking to take account of the views of local people.

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
SECTION I - THE DEVELOPMENT CONTROL BOARD

1. Determining the following functions of the Council as the Local Planning Authority:

1.1. Any application recommended for approval with five or more objections from local residents other than an application for prior approval which may be agreed by the Divisional Director of Regeneration in consultation with the Chair and Deputy Chair.

1.2. Applications which are recommended for approval and are considered by the Divisional Director of Regeneration to be contrary to any material aspect of the Unitary Development Plan (UDP) or Local Development Framework (LDF) except applications for:

1.2.1. flats above shops in retail parades which do not provide amenity space to the standards set in Borough Wide Development Policy BP8;

1.2.2. new houses with a garden of less than 12 metres depth where the new homes do not back on to other houses, adequate back to back distances are maintained, or where the rooms are arranged to ensure there are no overlooking issues;

1.2.3. new homes with less than 1 for 1 car parking in a Controlled Parking Zone.

1.3. Applications for the mining and working of minerals or the use of land for mineral working deposits.

1.4. Applications which are recommended for refusal and are considered by the Divisional Director of Regeneration not to be contrary to any material aspect of the UDP or LDF

1.5. Applications submitted by or on behalf of a Councillor or by any employee (or their spouse/partner) of the Regeneration Division.

1.6. Applications which any Councillor requests in writing to the Divisional Director of Regeneration within 21 days from the date of validation of the application subject to agreement of the Chair.

1.7 Subject to the agreement of the Chair, any other application or issue which, by reason of its scale, impacts upon the environment or the level of public or likely Councillor interest should, in the opinion of the Divisional Director of Regeneration, be determined by the Development Control Board

1.8 To appoint at the commencement of each municipal year a Visiting Group to undertake inspections of buildings and sites as directed by the Board and to make recommendations to the Board. Membership of the Visiting Group to accord with Article 6A of Part B of the Council Constitution.
1.9 Authorisation of legal challenges to appeal decisions.

1.10 Reports on new, or amendments to existing, statutory provisions and guidance covering development control matters.

1.11 Revoking and hearing opposed Tree Preservation Orders.

1.12 Appointing a Panel of four Development Control Board Members, including the Chair and Deputy Chair, to select and review on an annual basis a random sample of up to 20 delegated decisions on a range of applications and examine 5-10 of them to evaluate whether or not:

- delegation was appropriate;
- the description was correct;
- appropriate notifications were issued;
- appropriate issues were identified;
- the application met the appropriate deadline;

and to report back to the Development Control Board accordingly.

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
SECTION J- THE LICENSING AND REGULATORY BOARD

1. Exercising all the authority’s licensing and regulatory duties, functions and powers, other than those delegated to officers or dealt with by the Council's other Boards; and

2. Determining appeals and personal hearings in relation to decisions taken by officers in respect of the Council's licensing and regulatory duties, functions and powers, including:

2.1 special treatments; street trading and animal boarding establishments and

2.2 all licence applications that have received valid representations to be reviewed under the Licensing Act 2003, including alcohol, entertainment and late night refreshments.
SECTION K - THE PERSONNEL BOARD

1. Determining for all staff below JNC:

1.1 Appeals against the following decisions taken in respect of employment matters, other than those matters which are either reserved to other Member meetings or Corporate Directors (or their nominees):

1.1.1 dismissal on the grounds of redundancy, gross misconduct, capability and sickness absence, and

1.1.2 final written warnings on the grounds of misconduct.

2. The Board in determining an appeal against a decision made at a Board hearing may reduce, but not increase any sanction imposed.

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
SECTION L - THE STANDARDS COMMITTEE

1. Promoting and maintaining high standards of conduct by Members and Co-opted Members of the authority.

2. Receiving reports from the Monitoring Officer and assessing the operation and effectiveness of the Code of Conduct for Members.

3. Advising on training or arranging to train Members and Co-opted Members on matters relating to the Code of Conduct for Members.

4. Assisting elected Members and Co-opted Members to observe the Code of Conduct for Members.

5. Receiving referrals from the Monitoring Officer into allegations of misconduct in accordance with the authority's assessment criteria.

6. In consultation with the Monitoring Officer, appointing Standards sub-committees to hear and determine complaints about elected Members and Co-opted Members referred to it by the Monitoring Officer.

7. Advising the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council.

8. Maintaining oversight of the Council's arrangements for dealing with complaints;

9. Informing the Assembly and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints.

10. Hearing and determining any appeals against refusal by the Monitoring Officer to grant dispensations.

Terms of Reference of the Standards Sub-Committee

11.1 To conduct a hearing into an allegation that an Elected Member or Co-opted Member has breached the Council's Code of Conduct.

11.2 Following a hearing, make one of the following findings:

   (a) that the Member has not failed to comply with the Code of Conduct and no further action needs to be taken in respect of the matters considered at the hearing;

   (b) that the Member has failed to comply with the Code of Conduct but that no further action needs to be taken in respect of the matters considered at the hearing;

   (c) that the Member has failed to comply with the Code of Conduct and that a sanction and/or an informal resolution should be imposed.
11.3 The sub-committee may impose any action or combination of actions available to it, or impose any informal resolution or combination of informal resolutions as are available to it by law or policy.

11.4 After making a finding the sub-committee shall, as soon as reasonably practicable, provide written notice of its findings and the reasons for its decision to the Member and complainant.
SECTION M – PENSIONS PANEL

1. Responsible for all the following Pension Fund related matters, with the exception of those reserved to the Corporate Director of Finance and Resources and/or the Pension Fund Investment Managers as appropriate:

1.1. Pension Fund Investment Managers as follows:-

   1.1.1. Appointment, addition, replacement and termination of the Managers.

   1.1.2. Changes to the terms of existing Managers.

   1.1.3. Annual review of the Managers’ mandate and their adherence to their expected investment process and style in line with the Fund’s overall objective which will be appropriately defined in terms of performance target, risk parameters and timescale.

1.2. Determining the allocation of funding/investments to Managers. Similarly, in the event that assets need to be realised in order to meet the Fund’s liabilities, to determine the source of this funding.

1.3. Appointment and termination of providers of Custodian services, investment and actuarial advice. In so doing, conduct and conclude the negotiation of formal agreements with managers, custodians and other investment service providers.

1.4. Selection, appointment and termination of External Additional Voluntary Contribution (AVC) providers for use by members in purchasing additional benefits as well as reviewing the Fund’s AVC providers’ performance annually.

1.5. Monitoring all aspects relating to the investment of the assets of the Fund as follows:-

   1.5.1. Formally reviewing the Fund’s asset allocation at least annually, taking account of any changes in the profile of Fund liabilities and any guidance from the investment adviser regarding tolerance of risk.

   1.5.2. Rebalancing strategy between different portfolios when asset allocations change due to different assets with the Investment Managers and implementing any changes to the asset allocation.

   1.5.3. Ensuring that the Fund investments are sufficiently diversified and that the Fund is investing in suitable investments.

   1.5.4. Considering and monitoring the Quarterly Reports produced by the Investment Managers, including risk analysis, transaction costs, and details of corporate governance (including Statement of Reporting Investment, voting activity and engagement with management).
1.6. Monitoring the investment advice from the investment consultant and investment services obtained from other providers (e.g. custodian) at least annually.

1.7. Promoting the Fund within the Authority.

1.8. Arranging an annual Pensions Stakeholders' meeting.

1.9. Ensuring that the administration of the Fund is appropriately resourced, is effective and meets performance standards.

(Contact Officer: Divisional Director of Finance: Tel: 020 8227 8427)
SECTION N - ALL CHIEF OFFICERS

1. All Chief Officers (that is the Chief Executive and Corporate Directors) are authorised to exercise the following powers and duties of the Council in respect of the services under their control with the exception of those matters reserved to Member-level meetings;

1.1 Determining compensation claims for residents, businesses and contractors, up to £2,500, in accordance with approved policy.

1.2 Agreeing, in consultation with the Council's authorised legal representative and Chief Executive, financial settlements in Court actions where no alternative is available, and the circumstances do not allow for prior consultation with Members;

1.3 Authorising the seeking of tenders;

1.4 Awarding contracts in consultation with the Chief Financial Officer (Section 151 Officer);

1.5 Selection of employees for redundancy in consultation with the Divisional Director of Human Resources and Organisational Development;

1.6 Appointing employees, including engaging non-permanent (agency and contract) staff (except for those appointed by the Assembly) as determined by the Divisional Director of Human Resources and Organisational Development in accordance with the directions of the Head of Paid Service (the Chief Executive), and working within the Council's Recruitment and Selection Policy and Operational Requirements and any appropriate legislation;

1.7 Dismissing employees including on the grounds of redundancy (except those appointed by the Assembly) as determined by the Divisional Director of Human Resources and Organisational Development in accordance with the directions of the Head of Paid Service and working within the Council's agreed policies and any appropriate legislation;

1.8 Managing employees and determining appropriate training, development and health, safety and welfare for employees within the Council's agreed policies, and the frameworks and directions established by the Divisional Director of Human Resources and Organisational Development;

1.9 Dealing with cases of harassment and bullying in line with agreed procedures;

1.10 Employing agency, contract and consultant staff in accordance with the Council's Standard Conditions of Contract and with any limits set by the Chief Executive;

1.11 Retaining employees beyond retirement age with the approval of the Chief Executive, and in line with approved criteria;
1.12 Appeals against failed probation on advice from the Divisional Director of
Human Resources and Organisational Development;

1.13 Collecting charges and fees;

1.14 Full responsibility for local health and safety issues;

1.15 Approving employees' travelling and other approved expenses, other than
trips abroad which are referred to the Chief Executive, and conferences
where the total cost exceeds £3,000 (three thousand pounds), which must be
cleared by the Chief Executive before recommendation to the Cabinet;

1.16 Maintaining and securing buildings, land and premises in consultation with the
Divisional Director of Asset Management and Capital Delivery;

1.17 Issuing of licences;

1.18 Enforcing byelaws;

1.19 Disposing of or writing off assets not exceeding £5,000, in consultation with
the Chief Financial Officer (Section 151 Officer);

1.20 Use of Virements and Contingency. (See limits and process of authorisation
set down in the Financial Rules (Part D))

1.21 Letting of all facilities managed by individual departments in consultation with
the Divisional Director of Asset Management and Capital Delivery;

1.22 Full responsibility for observing the Council's Financial Rules and monitoring
financial performance;

1.23 Full responsibility for implementing the Employees' Code of Conduct and
other employment related codes and requirements;

1.24 Spending within approved budgets including the purchase of all equipment,
goods, materials and services and authorising grant agreements where there
is no financial cost to the authority; and

1.25 Assisting, when necessary, the Corporate Director of Finance and Resources
to discharge his/her duties in relation to any functions relating to emergency
planning.

(Contact Officer: Group Manager, Democratic Services: Tel: 020-8227 2135)
SECTION O – THE CHIEF EXECUTIVE (HEAD OF PAID SERVICE)

1. Authorised, to sign on behalf of the Council, orders, letters licences, notices, certificates or any other documents unless authorities specifically reserved to Member level meetings and/or Corporate Directors, and

1.1 Overall corporate and operational management responsibility including performance monitoring and assessment.

1.2 The Council’s principal adviser on all matters of policy.

1.3 Overall responsibility for promoting the community leadership role of the Council with Government Departments, other strategy agencies, and other national, regional and local authorities.

1.4 Securing implementation of the Council’s decisions within the agreed policy framework to ensure the overall effectiveness of the Council’s services.

1.5 Determining, in consultation with the Divisional Director of Human Resources and Organisational Development, all employment matters for all staff with the exception of those reserved to Member-level meetings or further delegated by the Chief Executive to officers. These include disciplinary, grievances, job evaluation, selection for redundancy where there is no appeal against dismissal, appeals in respect of gradings, refusal of retaining employees beyond retirement age, injury allowances, discretionary early retirements, efficiency retirements, discretionary death grants (in cases where employees are not married), early payment of preserved benefits, and all matters relating to restructuring/reorganisation.

1.6 Nominate Corporate Directors or Divisional Directors, as appropriate, to hear appeals against first and second written warnings on the grounds of misconduct, sickness absence and capability, and grievance appeals; and first stage appeals against final written warnings.

1.7 Determining appeals against harassment and bullying.

1.8 To investigate disciplinary matters, with the involvement of an independent person against the Monitoring Officer and Chief Financial Officer (Section 151 Officer).

1.9 Settlement of employment matters in the best legal and financial interests of the Authority, having taken appropriate advice from the Section 151 Officer, the relevant Legal Partner, and the Divisional Director of Human Resources and Organisational Development.

1.10 Corporate Policy and Public Affairs including Marketing and Communications.
1.11 Legal & Democratic Services including:

- The Legal Practice incorporating three strands: Corporate Law & Employment, Safeguarding and Partnerships, and Property Contracts and Procurement
- Signing and sealing on behalf of the Council orders, notices, licences and other documentation as deemed appropriate
- Instructing the commencement of all civil and criminal legal proceedings in consultation with other Corporate Directors as appropriate
- Democratic Services incorporating Member Development and Electoral Services (Registration and Elections)
- Corporate Stage 3 Complaints and Ombudsman cases, including agreeing compensation over £250 up to £5,000 in respect of any service area
- In addition the Divisional Director of Legal and Democratic Services has the responsibility of leading on the Code of Corporate Governance and in particular for ensuring it is reviewed annually and reported to the Cabinet and subsequently to the Assembly for revision as necessary

1.12 Human Resources and Organisational Development including:

- Health, Safety & Occupational Health
- Human Resources Operations including learning and development, employee relations, recruitment, compensation and benefits, business support, change and strategy
- Organisational Development
- Investigation of ethical matters in relation to officers, having regard to the Code of Conduct for employees and other employment related codes or requirements and instituting disciplinary proceedings in accordance with legislation and/or Council policy and procedures.

2. Proper Officer Functions

2.1 The Proper Officer in relation to

2.1.1 any reference in any legislation passed before or during the 1971/1972 session of Parliament, other than the Local Government Act 1972 or in any instrument made before 26 October 1972, to the Town Clerk of the Borough;

2.1.2 Thames Gateway London Partnership;

2.1.3 Local Land Charges Act 1975 and associated rules;

2.1.4 the following provisions of the Local Government Act 1972:

(a) Section 83(1) – The Officer to whom a person elected to the office of Mayor, Deputy Mayor or Councillor shall deliver a declaration of office in the prescribed form.
(b) Section 84 - The Officer to whom a person elected to any office under the Act may give written notice of resignation.

(c) Section 88(2) – The Officer who may convene a meeting for the election of Mayor of the Borough forming a casual vacancy in that office.

(d) Section 89(1) - The Officer who shall receive notifications of casual vacancies in the case of councillors.

(e) Section 96(1) - The Officer to whom a Member of the Council shall give notice to the effect that he/she or his/her spouse is a member or in the employment of a specified company or other body, or that he/she or his/her spouse is a partner or in the employment of a specified person, or that he/she or his/her spouse is the tenant of any premises owned by the Council.

(f) 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.

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

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

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

(j) 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.

(k) Section 238 - The Officer who shall certify a printed copy of a byelaw of the Council.

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

(m) Schedule 12, Part I, para. 4(3) - The Officer to whom a Member of the Council shall give a notice in writing desiring summonses to attend meetings of the Council to be sent to an address specified in the notice other than his/her place of residence.
(n) Schedule 14, Part II, para. 25(7) - The Officer who shall certify a resolution of the Council under this paragraph.

2.1.5 the Local Authorities (Members Interests) Regulations 1992.

2.1.6 The following provisions in the Representation of the Peoples Act 1983:
   - Section 8 - The Registration Officer for any constituency or part of a constituency having a common boundary with or situated in the Borough.
   - Section 28 - The Acting Returning Officer for Parliamentary Elections.
   - Section 35(3) - The Returning Officer at an election of Councillors of the Borough.

3. The Head of Paid Service under the Local Government and Housing Act 1989.

4. Managing Director to the East London Waste Authority or other Officer who this is further delegated to by the Chief Executive.


6. The Clerk to the Education Appeals Panel.

7. Data Controller for the Borough under the Data Protection Act 1988;

8. Responsible for any other Proper Officer function previously dealt with by the Town Clerk/Chief Executive for which no other authorities have been given.

Additionally, the Divisional Director of Legal & Democratic Services is appointed to carry out the function of Monitoring Officer under the Local Government and Housing Act 1989.

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
1. All of the following matters except those reserved to Member-level meetings:

1.1 **Adult Social Care including:**
   - First Response
   - Care Support
   - Assessment and Care Planning
   - Intensive Support

1.2 **Adult Commissioning including:**
   - Commissioning
   - Community Cohesion

1.3 **Culture and Sport including:**
   - Leisure Centres
   - Olympic Development and legacy including making preparations for the London 2012 Games
   - Libraries
   - Heritage

1.4 **Community Safety and Public Protection including:**
   - Youth Offending
   - Adult Safeguarding
   - Community Safety
   - Performance, Policy and Programmes

1.5 **Health and Wellbeing**

1.6 **Mental Health (Joint with NE London Foundation Trust)**

2. **Proper Officer Functions**

2.1 Designated Director of Adult and Social Services as required by the Local Authority Social Services Act 1970

2.2 To agree in consultation with the Council’s Executive the arrangements for Member oversight of care services

2.3 To approve, in consultation with the Chief Financial Officer (Section 151 Officer), all major adaptation schemes
2.4 The Public Health (Control of Disease) Act 1984 and other relevant legislation (note: the consultant in communicable disease control will be the Proper Officer’s adviser in this respect)

2.5 Approval of Approved Mental Health Practitioners (reworded 2008/09) under S.114 of the Mental Health Act 1983

2.6 Responsibilities held by the designated Director of Adult and Community Services as determined by legislation

2.7 Honorary Clerk to the Dagenham United Charity

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
SECTION Q – CORPORATE DIRECTOR OF CHILDREN’S SERVICES

1. All of the following matters except those reserved to Member-level meetings:

1.1 Commissioning and Safeguarding including:
   – Commissioning and Strategy
   – Safeguarding, Quality and Reviews
   – Traded Services Lead

1.2 Education including:
   – 14 -19 Education and Training
   – School Improvement and Inclusion
   – Admissions
   – Adult College

1.3 Targeted Support including:
   – Integrated Youth Services, Engagement and Extended Schools
   – Children’s Centres and Employment
   – Parenting Support and Targeted Localities Service
   – Early Years and Childcare

1.4 Children’s Complex Needs including:
   – Assessment and Intervention
   – Care Management
   – Looked After Children and Placements
   – CWD Specialist Localities Services (Social Care)
   – CWD Specialist Localities Services (Education)

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
SECTION R– CORPORATE DIRECTOR OF HOUSING AND ENVIRONMENT

1. All of the following matters, except those reserved to Member-level meetings:

1.1 Housing Strategy including:
   – Housing Advice including Homelessness and Private Sector Housing
   – Housing Modernisation Programme

1.2 Housing and Neighbourhoods including
   – Repairs and maintenance including client responsibility for the Enterprise contract
   – Community Housing including tenancy and estate management
   – Housing allocations
   – Home ownership and leasehold management

1.3 Environment including:
   – Waste Management and Strategy including domestic and commercial waste collection
   – Management of fleet and passenger transport
   – Environmental Health and Trading Standards including building control, environmental protection, planning enforcement and all licensing and ancillary activities
   – Street Scene Management and Strategy including highways, parking, enforcement, road safety, street lighting and street trading
   – Management of parks and open spaces

2. Proper Officer Functions

2.1 Housing Act 2004 Part 1 Category 1 & 2 (HHSRS)

2.2 Registration Service for Births, Deaths and Marriage

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
SECTION S– CORPORATE DIRECTOR OF FINANCE AND RESOURCES

1. All of the following matters except those reserved to Member-level meetings:

1.1 Corporate and Strategic Finance including:

- Financial advice and support including production of the annual Statement of Accounts and budget details
- Management of the Capital Programme
- Approving the roll-over of unspent capital and associated revenue expenditure
- Overall responsibility for all aspects of financial transactions, including authorising signatures
- Overall responsibility for debt write-offs and approving those that fall under delegated officer responsibilities
- The Council’s overall Pensions arrangements including:
  - Investments on behalf of the Council and the Pension Fund, including sale/disposal of investments as well as new investments.
  - Complying with the statutory rules governing the investment of Local Government Pension Scheme (LGPS) assets, including the various policy documents, actuarial valuation and statements required under the regulations.
  - Reviewing and taking action on actuarial valuations.
  - Alerting the Council to any problems with the funding level or the administration of the Fund in accordance with section 151 responsibilities.
- Ensuring audit and governance arrangements.
- Ensuring the effective administration and preparation of the accounts including the Annual Statement of Accounts and Annual Report for the Pension Fund.
- Integrated Business Planning and the Medium Term Financial Strategy
- Managing investments on behalf of the Council
- Management of the Council’s Pension Fund

1.2 Audit and Risk including:

- Internal Audit
- Insurance
- Risk Management
- Corporate Anti Fraud
- Whistleblowing
- Corporate Complaints

1.3 Regeneration including:

- Spatial Planning and Environmental Sustainability
- Area Planning
- Development Control
- Transport Strategy
- Land Charges
- Town Centres
- Tree Preservation and specifically issuing interim Tree Preservation Orders and confirming unopposed Tree Preservation Orders
1.4 Asset and Commercial Services including:

- Design & Surveying
- Decent Homes Delivery
- Asset Management (Civic Buildings)
- Housing Development & Partnership
- Property Services
- Capital Programme Delivery
- Corporate Programme Management
- Facilities & Cleaning
- Corporate Security
- Fire Safety
- Architectural
- Mechanical and Electrical Design
- Building Maintenance and Safety
- Right to Buy
- Emergency Planning
- Commercial Services (management of major council contracts)
- Client Management functions for the Elevate contract in relation to:
  
  - Revenue and Benefits services, including collection of rents, Council Tax, NNDR and miscellaneous income, administration of Housing and Council Tax Benefit, Free School Meals, Student Grants (up to 2010/11), Clothing Grants and Benefit Fraud investigations and determining appeals for Non-Discretionary Domestic Rate Relief
  - Corporate Procurement
  - Accounts Payable

1.5 Customer Strategy, ICT and Transformation including:

- Information Governance including Freedom of Information and Data Protection
- One B&D and Transformational Programme
- Registrars (Births, Deaths and Marriages)
- Complaints (with the exception of Corporate Stage 3 Complaints and Ombudsman cases, including agreeing compensation over £250 up to £5,000 in respect of any service area, which are the responsibility of the Chief Executive)
- Client Management functions for the Elevate contract in relation to:
  - ICT Services
  - Customer Access and Contact via OSS, Contact Centre and web

1. Assisting, where required by the Chief Executive, to discharge his/her Corporate responsibilities in relation to leading on all strategy and policy development, service co-ordination and performance management to ensure the overall effectiveness of the Council’s services.

3. Proper Officer Functions

3.1 Appointed to carry out the function of the Chief Financial Officer for the purposes of Section 151 of the Local Government Act 1972.
3.2 Managing the provision of an emergency service and assisting the Chief Executive with the responsibility of the Council's Major Emergency Contingency Plan.

(Contact Officer: Group Manager, Democratic Services: Tele: 020 8227 2135)
### INDEX

**PART D - RULES**

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OVERVIEW OF THE FINANCIAL REGULATORY FRAMEWORK

1. There are four elements:

1.1 Contracts Guidance Notes

1.1.1 These notes explain the principles underpinning the Contracts Rules, why they are necessary and what they are seeking to achieve. They set the Rules in the wider context of procurement to enable purchasing decisions to fit in with the authority’s procurement policies and Best Value regime.

1.2 Contracts Rules

1.2.1 These are mandatory rules specifying the minimum requirements for letting, managing and reporting contracts within the authority. Breaking these rules is a serious disciplinary offence.

1.3 Contracts Code of Practice

1.3.1 This section outlines detailed procedures that support the application of the Contracts Rules. Given the wide range of contracts that may be let, these procedures cannot be prescriptive in every detail; their application is however deemed to satisfy the requirements of the Contracts Rules.

1.4 Financial Rules

1.4.1 These rules are mandatory. They specify a minimum regulatory framework for the financial administration of the authority. They cover the financial stewardship of all of the Councils assets and resources. This includes both capital and revenue expenditure and is not limited to contracts.

2. All of these documents need to be considered in the context of the Council’s capital programming and procurement policies and in conjunction with the authority’s Best Value planning processes. Details of these are available from the Finance and Resources Department.

(Contact Officer: Chief Financial Officer Tel: 020 8227 2932)
These notes are cross referenced to each section of the Contracts Rules and should be read in conjunction with them.

1. Introduction

1.1 This section outlines the wider legal context of the Contracts Rules and specifies the type of transactions to which they are intended to be applied.

1.2 While contracts for the employment of individual staff are outside the remit of the Rules, when in-house services are exposed to external competition the Rules will be deemed to apply, including all aspects of the tendering regime.

1.3 Throughout the Rules, reference to the “Cabinet” acting in any way will assume that the timescales associated with the Call-In process have elapsed and that the opportunity to initiate this process has been given. The only exception to this interpretation concerns “emergency” actions undertaken under paragraph 17 of Article 1 of the Constitution which precludes the exercise of the Call-In process.

2. Agency Arrangements, Partnerships and Grants

2.1 The term "partnership" is applied to a variety of contexts in both the public and private sector. This section is concerned with public sector partnerships in which the Authority participates as a constituent participant or lead authority within a separate organisation.

2.2 The Contracts Rules recognise that these partnerships are effectively separate legal entities with their own rules which may on occasion take precedence over the Council’s rules when applied to the work of the partnership.

2.3 This section is not concerned with the development of partnering arrangements with private sector organisations which are covered in section 6 below.

3. Contract Packaging and Tender Classification Values

3.1 This section emphasises the duty of care of the Commissioning Chief Officer to plan the contracting process in order that the Council is able to procure the required services, works or supplies to the required quality, at the right time and at the best price. This duty exists irrespective of the type or value of contract and irrespective of whether a formal tender process is followed.

3.2 The manner in which this is achieved will vary with the nature of contract being let and the state of the marketplace. It is however possible to specify a number of basic questions that will need to be addressed for all contracting arrangements if this duty of care is to be met.
3.3 Is this a one off purchase? Is the need for the purchase or related needs likely to recur in the commissioning department or elsewhere in the Council?

3.4 If so, could a better or a more cost effective contract package be designed incorporating these areas? Alternatively does a tendered contract already exist within the Council that may be tapped into. Where corporate contracts already exist they must be used. All corporate contracts are detailed on the Procurement pages on the Intranet. Another option is that the required goods or services may available from one of the many public procurement bodies, such OGC Buying Solutions. If in doubt, please contact Corporate Procurement for information and advice.

3.5 Contracts for most construction and associated works should be procured through the Council’s Construction Framework Agreements. Further information can be obtained from the Divisional Director of Asset Management and Capital Delivery.

3.6 Other things to consider:-

3.6.1 Is the contract really required? Have any alternatives been considered? How does the proposed contract fit in with the Commissioning Chief Officer’s Service and corporate planning objectives and the wider timetable for Service Reviews? Is the duration of the proposed contract consistent with this timetable?

3.6.2 When was the contract specification last reviewed? Is every aspect of the contract still required, are new ones needed?

3.6.3 Could material benefits accrue from specifying longer contract durations? Contractors will invariably look to maximise profits over shorter term contracts which results in increased costs to the Council. Is the contract suitable for developing a partnership arrangement over an extended timescale? Could such arrangements be extended to include neighbouring authorities?

3.6.4 How does the proposed contracting framework allow continuous improvement to be demonstrated?

3.6.5 For Capital contracts is the duration and content of the contract consistent with the project’s original design brief and business needs analysis?

3.6.6 Is there any value in undertaking pre tender soundings with potential contractors on how best to package the contract? If potential contracts exceed EU Public Procurement thresholds then legal advice should be sought before this option is adopted.

3.7 Having determined how to package the contract the commissioning Chief Officer must then estimate the value of the contract and apply the rules specific to the relevant value band. The purchasing regime attached to each value band is discussed in more detail in the next section.
3.8 The estimate of value should be based on the total value of the contract over the duration of the contract even if this involves calculating value over more than one financial year.

3.9 Proposed contracts with an estimated value in excess of £400,000 must be reported to the Cabinet before tenders are invited. This will allow Members to ensure the contract is specified and packaged in a manner consistent with their objectives. This will also give Members the opportunity to decide whether they wish to become involved in the subsequent decision to award the contract.

4. **Exceptions to Tendering Requirements**

4.1 This section details the circumstances in which a formal tender process is not required. This section recognises that there is a cost attached to tendering that may not be recovered as a result of tendering small value contracts. This does not remove the responsibility of the commissioning Chief Officer to achieve good value for money on behalf of the Council. It is clearly in the interests of all officers procuring goods, services or works on behalf of the Council to ensure that they can account for purchasing decisions made outside of a formal tender framework. All decisions open to challenge and therefore must be justifiable.

4.2 Using the “emergency” provision to waive the requirement to tender must only be used in exceptional circumstances. The “emergency” should be a serious threat to life, health or property that could not have been reasonably foreseen. This waiver must not be used to avoid the administrative inconvenience of a tender process; urgency produced by poor procurement planning would not qualify for this waiver. Indeed there is no waiver in respect of urgent action given that the Cabinet now meets on a regular basis.

4.3 This issue is particularly relevant if the estimated contract value exceeds European thresholds. European law allows for only a very narrow range of circumstances to justify “emergency” action.

4.4 For category A contracts (up to £10,000) the commissioning Chief Officer should firstly ensure that the planned purchases will not recur in the near future. Reasonable steps should then be taken to test the market. These efforts should be proportionate to the size of the contract. For example, for items in excess of £1,000 it would be reasonable to secure telephone quotes. For small items of equipment, reference to brochures or catalogues may be sufficient.

4.5 For Category B contracts there is a mandatory requirement to secure written quotes. The reason for choosing a particular supplier should also be documented. The presumption is that the goods or services being purchased are relatively straightforward items that do not require detailed design briefs or technical specifications (e.g. purchase of equipment or hire of agency staff). Should detailed specifications be required then a formal tender process should be considered since this offers the best control framework within which to consider alternatives or variations to the brief.
4.6 Again the commissioning Chief Officer will retain a duty to package the contract in a manner that produces the best result for the Council.

5. **Format and Key Conditions of Contracts and Tenders**

5.1 This section identifies key features of both tenders and contract specifications that are required to protect the Council’s interest and prevent any legal challenges to the tender process. If the commissioning Chief Officer is in any doubt as to the content of tender specifications or any aspect of contract documentation s/he should consult the Divisional Director of Legal and Democratic Services or the Chief Financial Officer.

5.2 The precise form of each contract will clearly vary with the nature of the goods or services being purchased. For straightforward transactions, the Council’s general conditions of contract outlined on the back of orders should suffice. Under no circumstances should the supplier’s form of contract be used by default as these will favour the supplier at the expense of the Council; if the supplier’s contract is to be considered then legal advice must be sought.

5.3 A number of approved model forms of contract are detailed on the Procurement pages on the Intranet or alternatively contact Corporate Procurement for assistance.

5.4 The need to include clauses within the contract specification concerned with financial security (e.g. liquidated damages) need to be assessed in the context of the nature of the contract and the risks and costs associated with any future breakdown of that contract. Additional financial security required during the tender process (e.g. performance bonds and bankers’ guarantees) should not be applied automatically or indiscriminately. There is usually a cost associated with such provisions that is then built into the final tender price.

5.5 Contractors who present an unacceptable risk in terms of experience or financial standing should be excluded at shortlisting. An assessment of the standing or experience of the potential contractors will still then be required before any financial securities are specified.

6. **Shortlisting of Suppliers to Tender**

6.1 Deciding who to invite to tender, or perhaps more importantly who to exclude from tendering, can be fraught with difficulties and unsuccessful applicants now regularly challenge decisions. The overriding objective should be to ensure that contractors are selected to tender on merit as a result of a demonstrably open and transparent process.

6.2 Traditionally, there have been two basic methods for selecting potential tenderers: by shortlisting responses from an advertisement or by selecting from an approved list. A model set of criteria for assessing who to shortlist must be documented before any expressions of interest are sought. Criteria for admission to an approved list should be equally explicit.
6.3 **Advertisements** - Contracts of a value that exceed European procurement thresholds must be advertised in the Official Journal of the European Union (OJEU). Advertisements must be placed in accordance with the Code of Practice to ensure that the market is properly tested. Ideally, the advertisement should give a reasonable description of the main elements of the contract together with a broad indication of the criteria to be used to assess the responses. All OJEU Notices and contract advertisements must be published on the Council’s web site. Please refer to Corporate Procurement for assistance with this.

6.4 **Approved Lists** - may only be considered for contracts of a value below European thresholds. This is a traditional procurement route normally used in areas where there is a recurring activity or need to be met. The advantage of maintaining an approved list is that it removes the need to advertise and vet contractors every time a contract is let. Selection of contractors in rotation from the lists also protects officers from any accusations of favouritism.

6.5 However, proper management of the lists requires commitment of time and expertise; new contractors need to be considered for inclusion in the list and poor performers need to be suspended or removed. The market needs to be monitored as firms experience financial difficulties; take-overs and mergers need to be noted to ensure the same company is not invited to tender under two different guises. This can be time consuming and costly. In recent years, the burden has been eased by the employment of external agencies (e.g. Construction line) to maintain approved lists in some areas of work.

6.6 Approved lists will continue to be used because they retain some advantages; they do however tend to be all embracing rather than being tailored to specific job or client requirements. The development and acceptance of more modern procurement routes means that other methods may be more beneficial.

6.7 **Partnering Arrangements** - There is a cost for the Council and contractors in repeatedly tendering contracts for relatively short timescales. Longer term arrangements reduce the contractor's set up costs and associated risks and allow scope for value to be added in how the contract is developed. Longer term arrangements with suppliers may be considered within a partnership framework.

6.8 This approach is novel and potentially contentious, particularly with suppliers who effectively will not be allowed to bid for work. All partnership frameworks should therefore be referred to the Legal Services and Corporate Procurement sections and should be approved by the Cabinet.

6.9 The benefits of this approach must be evidentially based and reflected in measurable performance targets within the framework. Progress against these targets will need to be reported on a regular basis.

6.10 The framework clearly requires a different form of contract and an innovative approach from both the Council and the contractor. It should not be sufficient for a contractor to be successful in a traditional tender process and then to “migrate” into a partnering arrangement. The partnering agreement, from the standpoint of the Contracts Rules, must be subject to the same rules as any
other contract. The partnering arrangement itself should be awarded as a result of a tender process, not least to comply with European procurement legislation.

7. Social Issues

7.1 Relevant Social Issues should be considered before embarking upon the procurement process. This should involve consideration of sustainable objectives at the local and national level.

7.2 Social issues can legitimately be incorporated into the purchasing process. Community Benefits are an example.

7.3 They must be relevant to the subject of the contract.

7.4 Actions must be consistent with the Government’s procurement policy based on value for money.

7.5 Actions must be consistent with the EU Treaty and EU Public Procurement Directive.

7.6 Actions taken on sustainable development considerations can have implications in the shorter, medium and longer term. Therefore, it is essential that sustainable procurement is approached from a whole life cost perspective.

7.7 Regard should be had to the Guidance contained in the Office of Government Commerce Publication “Social Issues in Purchasing” February 2006.

8. Tender Evaluation

8.1 Traditionally, contracts have been let to the contractor who submitted the lowest price following a competitive tender. However in the wider context of Best Value the commissioning Chief Officer has a duty to secure the most economically advantageous solution; this involves taking into account other factors that may “add value” to a tender (e.g. qualitative factors, innovative approaches with ancillary “spin off” benefits)

8.2 The Contracts Rules now offer greater flexibility in considering factors other than price when awarding contracts. However, to maintain transparency and equity of treatment, it is crucial that the ground rules identified in the Rules are observed. The evaluation model must be clearly documented before the tender process begins and must include factors that, as far as is practicable, are measurable or at least evidenced from within the tender returns.

8.3 Officers must be mindful that moving away from price as the basis of selection may leave them and the Council open to formal challenge. Indeed the EU Public Procurement Rules now provide for a 10 day standstill period to allow this to happen. It is essential therefore to proceed with caution and to leave a documented trail recording how all decisions have been reached. The whole process must be demonstrably fair and even handed. Full details of the tender evaluation criteria must be included in the report to the Cabinet when
seeking approval to tender a contract with a value in excess of £400,000. Simple statements such as “40% price and 60% quality” are not acceptable.

8.4 It would be an advantage wherever practicable to include an independent input into the tender evaluation. For example, the evaluation could be completed or checked by staff who are not directly involved in the procurement process. Ideally, the same staff should not shortlist suppliers, evaluate tenders and subsequently manage the contracts.

9. Administration of the Tender Process

9.1 The overall credibility of the tender process requires the strict application of these Rules. They are designed to demonstrate that tenders have not been changed or interfered with in a corrupt manner that gives any particular contractor an unfair advantage.

9.2 On a number of occasions in the past, tenders have been received late and contractors have then made strenuous requests for them to be considered. Ensuring the tender arrives on time and at the correct office is the contractor’s responsibility. This includes a responsibility for the performance of agents acting on behalf of the contractor (e.g. the postal services or couriers). The starting point must always be that these requests will not normally be considered.

9.3 This decision may be reviewed if exceptional circumstances prevail for which the Council must accept some responsibility (e.g. if Council staff have inadvertently misdirected the tender). In all such cases the Divisional Director of Audit and Risk or his nominated representative should be consulted.

9.4 If there is more than one stage to the tender process, for example an initial bid and a “best and final” offer, then the rules outlined in this section must be applied to each stage of the process.

10. Alterations and Negotiation of Tenders

10.1 The introduction of factors other than price into tender evaluations will broaden the scope for post tender negotiations as qualitative factors and different approaches are explored and clarified with all tenderers. This section provides basic ground rules to protect officers from accusations of malpractice.

10.2 While not seeking to constrain innovative approaches, it is again important that officers should proceed with caution. For example, if contracts have been let within European “restricted” procedures, then the scope for changing tender specifications is extremely limited. European rules effectively prohibit post tender negotiations.

10.3 In any event the contract specification must not be so radically transformed in post tender negotiations that the authority is left vulnerable to the charge that it has tendered on one basis and let the contract on a different basis.
10.4 If fundamental changes to contract specifications are sought then officers must consider retendering the contract.

11. **Acceptance of Tenders and Award of Contracts**

11.1 These Rules give commissioning Chief Officers the responsibility in most cases for formally accepting tenders and awarding contracts. The Cabinet will assume this responsibility if any of the following conditions apply:

11.1.1 the contract proposes a partnering arrangement;

11.1.2 the contract is proposed to be awarded to a contractor who has not submitted the most economically advantageous solution, in accordance with the established tender evaluation criteria;

11.1.3 the Cabinet has chosen in advance to become involved in awarding contract (e.g. when notified of plans to let the contract);

11.1.4 in cases where the proposed award is not in line with the conditions agreed at the pre-tender approval stage.

12. **Contract Instructions and Certification**

12.1 These Rules place a responsibility on the commissioning Chief Officer to operate within approved financial estimates requiring Cabinet approval if they are to be exceeded by material amounts.

12.2 This places considerable emphasis on accurate financial forecasting and obliges cost overruns to be reported at the earliest reasonable opportunity. The documentation required to underpin variations also serves as a source of information when reporting projected overspends.

13. **Subcontractors**

13.1 There are two kinds of sub-contractor. A Nominated sub-contractor is specified by the Council as part of the overall contract documentation. If nominated sub-contractors are recruited from the private sector then the Contracts Rules will apply as they would for the main contractor.

13.2 A Domestic sub-contractor is chosen by the main contractor. This sub-contractor should be subject to the same technical and financial vetting as the main contractor. The commissioning Chief Officer should always retain, within the contract documentation, the requirement to be notified of the proposed use of such subcontractors and the right to veto their use.

14. **Action by Members**

14.1 This section reflects the legal position of Members of the Council in relation to contracts of any kind.
15. Reporting and Review of Contracts

15.1 The purpose of these Rules is to reinforce the accountability of commissioning Chief Officers by ensuring Members receive adequate information when awarding, extending or reviewing contracts. These reporting mechanisms assist Members in monitoring the application of schemes of delegation in so far as they apply to contracts.

15.2 Applied in a systematic way this level of reporting should allow lessons to be learnt across the Authority from both good and poor contracting arrangements.

15.3 All such reports must be reported as confidential items to protect the confidentiality of the tender process.

(Contact Officer: Chief Financial Officer Tel: 020 8227 2932)
CONTRACT RULES

1. Introduction

1.1 In these Rules:

1.1.1 the "Assembly" means the Council acting as or through the Assembly, and includes any person or body to which the Assembly delegates functions

1.1.2 the "Council" means the London Borough of Barking and Dagenham

1.1.3 the expression "Cabinet" includes any person or body to which the Cabinet delegates functions

1.1.4 “Code of Practice” is the Contracts Code of Practice approved by the Assembly and set out in the Appendix to these Rules

1.1.5 the “Chief Officer” means the relevant Corporate Director

1.1.6 “Value” shall mean, where known, the precise value or, where not known, the estimated value, of the works, services, goods or materials that will be payable by the Council over the entire contract period (including any extension period). Where the anticipated value is near the turning point between two classifications, the value of the contract shall be treated as if it were in the higher classification

1.1.7 “Partnership” means public sector partnerships in which the Council participates as a constituent participant or lead authority within a separate organisation.

1.2 The term “contract” shall include all the contracts, agreements and orders for the carrying out of work, the provision of services and the supply of goods or materials to, for, or by the Council, by the purchase, lease, rental or hire purchase, including the provision of services to the public on the Council’s land or premises. It shall not include contracts for the employment of staff, or for the sale, purchase, lease or licence of land or buildings.

1.3 These Rules are to be interpreted subject to United Kingdom and European Union legislation, regulations, orders and directives. EU Procurement legislation in particular prohibits discrimination on grounds of national standards or in support of the promotion of local economic interests. These EU Treaty provisions apply to all contracts including those below the EU Public Procurement thresholds.

1.4 Chief Officers will refer to the Chief Executive any questions relating to the interpretation of the Rules.

1.5 These Rules should be applied in accordance with the Code of Practice.
2. **Agency Arrangements, Partnerships and Grants**

2.1 When the Council acts as an agent, any instructions or requirements issued to the Council under the agency agreement take precedence over these Rules, subject to the overriding requirements of Rule 1.3.

2.2 When a body or person acts on the Council’s behalf then it shall be a term of the agreement that these Rules and the Constitution of the Council shall prevail.

2.3 When a consultant or other organisation is employed to undertake a procurement exercise on behalf of the Council, it shall be the commissioning Chief Officer’s responsibility to ensure that these Contract Rules and the Constitution of the Council is followed and complied with by that consultant or organisation.

2.4 Subject to the prior agreement of the Cabinet, when the Council participates in a Partnership, the Standing Orders and Financial Regulations of the Partnership may take precedence over these Rules. In these cases, the Partnership Board would assume the powers and responsibilities of the Cabinet.

2.5 Where the Council is in receipt of grant funding (whether from Government or otherwise), such funding must be used in the manner dictated by the grant agreement and will always be subject to these Contract Rules.

2.6 In some circumstances the Council may enter an agreement with a voluntary or community organisation in the form of a grant which is not subject to the requirement to tender. Such grants must:

2.6.1 be notified to Corporate Procurement;

2.6.2 demonstrate best value; and

2.6.3 be awarded on the Council’s relevant standard terms, as advised by the Legal Practice.

2.7 Where the Council has received grant funding and subsequently enters into a contractual obligation to spend such funding (either through a contract or a grant) and the funding stream is withdrawn earlier than the date stated in the relevant funding agreement, the commissioning Chief Officer must seek advice from the Chief Financial Officer and the Legal Practice regarding the Council’s continuing obligations.

3. **Contract Packaging and Tender Classification Values**

3.1 The commissioning Chief Officer must ensure that orders for goods and services are aggregated into packages both in respect of content and timescales that are the most economically advantageous to the Council. They must also be consistent with the Council’s overall procurement strategies and Best Value planning processes.
3.2 The following shall be the financial classifications referred to in these Rules together with a summary of the relevant tendering requirements.

3.2.1 **Class A contracts of value not exceeding £10,000.**

*No formal tender – duty to secure reasonable value for money*

3.2.2 **Class B contracts of value exceeding £10,000 but not exceeding £50,000**

*Three documented quotes. Wherever possible quotations should be obtained using Council’s Oracle electronic Request For Quote system.*

3.2.3 **Class C contracts of value exceeding £50,000**

*Formal invitation to Tender, including specification (and, where appropriate, the contract conditions) to at least four potential tenderers. EU Public Procurement Regulations apply to contracts with value in excess of the EU thresholds. See Rules 6 & 8 regarding requirements for tendering and advertising.*

3.3 Orders must not be fragmented to circumvent tendering requirements. In cases where a number of contracts, both within and across departments, may be reasonably anticipated, every practical effort should be made to accommodate them into one contract with a view to maximising the Council’s purchasing potential.

3.4 Contracts that form part or the whole of a capital project must be packaged in a manner consistent with the requirements of the authority’s policies for selecting and controlling capital projects.

3.5 The threshold over which the EU Public Procurement Regulations for contracts are applicable is set out in the Code of Practice. This is reviewed periodically.

3.6 **Contracts with value in excess of £400,000**

Proposed contracts with a value in excess of £400,000 must be reported to the Cabinet before any procurement process begins. Reports to the Cabinet must specify the strategy proposed for the procurement, which must include:

3.6.1 outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract;

3.6.2 a recommended procurement procedure and the reasons for the recommendation;

3.6.3 detailed criteria against which the contract is to be awarded (this is now a requirement under the EU Public Procurement Regulations);

3.6.4 request to the Cabinet to indicate whether it wishes to be further informed or consulted on the progress of the procurement and the award of the contract,
or whether it is content for the commissioning Chief Officer to award the contract;

3.6.5 the Value of the contract;

3.6.6 the duration of the contract including any options for extension;

3.6.7 the date the contract was last formally tendered;

3.6.8 where applicable, the identity of the contractor(s) used since the contract was last tendered.

3.7 Forward Plan

Any proposed contract that amounts to a Key Decision must be placed on the Forward Plan

4. Exceptions to Tendering Requirements

4.1 It shall not be necessary to invite tenders for:

4.1.1 Class A contracts (under £10,000)

4.1.2 Class B (£10,000 to £50,000) contracts in cases where three documented quotations have been secured in accordance with the Contracts Code of Practice. Quotations must not be secured by staff with a direct responsibility for managing the subsequent contract.

4.1.3 The supply of goods and services from public purchasing bodies which have already completed a tender process in accordance with EU procedures where appropriate.

4.2 Waivers

4.2.1 The Council can waive the application of a provision of the contract rules (e.g. the requirement to tender contracts), but it cannot waive UK or EU legislation.

4.2.2 A waiver of the requirement to tender contracts may be granted in the following circumstances:

4.2.2.1 where the goods, services or works to be procured are of a specialist or proprietary nature and the appropriate Chief Officer considers, subject to EU Public Procurement Regulations requirements, that no satisfactory alternative is available. The appropriate person to grant a request for a waiver on this basis is the Chief Officer where the value of the contract is less than £50,000, the Chief Officer acting in consultation with the Corporate Director of Finance and Resources (Section151 Officer) where the value of the contract is between £50,000 and £400,000 and the Cabinet where the value of the contract exceeds £400,000;
4.2.2.2 in an emergency, by the commissioning Chief Officer in consultation with the Chief Executive and in accordance with the requirements of the Urgent Action procedure set out in paragraph 17 of Article 1 of the Constitution and subject to any EU Public Procurement Regulations. The matter must then be reported to the next available meeting of the Cabinet;

4.2.2.3 by direction of the Cabinet, subject to the Scrutiny process and any EU Public Procurement Regulations.

4.2.3 In other circumstances where approval to waive one or more of the contract rules (other than the requirement to tender) is required, the approval of such waivers must follow the same rules, including financial thresholds, as for the approval of contracts.

4.3 Contract Extensions

4.3.1 The Cabinet must be notified of all plans to tender or extend contracts of a value in excess of £400,000 or tenders where authority to negotiate is required before invitations to tender are issued.

4.3.2 Subject to 4.3.3 below, the Cabinet must approve any proposed extensions to a contract with a value in excess of £400,000 where that extension has not been provided for as an option within the terms of the original tendered contract. The commissioning Chief Officer will be responsible for approving any proposed extension up to the value of £400,000, in consultation with Chief Financial Officer (Section 151 Officer).

4.3.3 There is virtually no scope for such extensions in respect of contracts that have a value in excess of EU Public Procurement thresholds. In such cases legal advice must always be sought from the Legal Practice.

5. Format and Key Conditions of Contracts and Tenders

5.1 All Partnership frameworks and all contracts shall be in a form approved by the Chief Executive. For smaller value purchases the Council’s general terms and conditions shall normally apply. If a contractor’s terms and conditions of contract are to be considered, the Legal Practice must be consulted.

5.2 Contracts for the provision of work or services valued in excess of £100,000 must be under seal in accordance with the Code of Practice.

5.3 The Chief Officer responsible for a contract shall ensure that the most appropriate measures of financial management and security are employed in connection with such contract in accordance with the Code of Practice.

5.4 Every contract for the carrying out of work or the provision of services shall require the contractor to take out and maintain during the duration of the contract Employers Liability, Third Party Liability, Professional Indemnity and, where appropriate, Road Traffic Liability insurance policies (or similar insurance polices).
5.5 The policies shall provide cover for such sum(s) as the Chief Financial Officer (as S.151 Officer) shall specify in respect of injury or death and/or damage to property arising out of one incident, the number of incidents to be unlimited to any one year.

5.6 Such insurance policies shall contain endorsements sufficient to indemnify the Council against any loss, damage or injury to persons or property arising from the contractor’s operations in connection with the contract.

5.7 Every contract shall contain a condition permitting the Council to cancel the contract and recover from the contractor the amount of any loss resulting from such cancellation, should the contractor, his servant or agent:

5.7.1 offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done); or

5.7.2 commit an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972; or

5.7.3 commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees.

5.8 Any clause limiting the Contractor’s liability shall not apply to this clause.

5.9 All contracts must be based on the Council’s relevant standards terms, unless otherwise agreed by the Legal Practice.

6 Shortlisting of Suppliers to Tender

6.1 Before starting the procurement process reasonable timescales must be planned for the invitation, return and evaluation of tenders. These timescales must be adequate to promote effective competition. In respect of contracts in excess of EU Public Procurement Regulations thresholds, statutory minimum timescales will apply.

6.2 Subject to Rule 3, no Class C contract shall be made unless competitive tenders have been obtained by one of the following methods:

6.2.1 For contracts below European thresholds by selection of tenderers from an approved list or advertisement.

6.2.2 For contracts above European thresholds selection of tenderers may only be made subsequent to a formal contract notice being published in the Official Journal of the European Union. Copies of all such notices must be published on the Council’s web site.

6.3 If the commissioning Chief Officer wishes to select tenderers for a Class C other than by approved list or advertisement the reason should be documented and a report made to the Cabinet for prior approval and legal clearance.
7. **Approved Lists**

7.1 Approved lists of tenderers will be compiled, maintained, used and revised by the appropriate Chief Officer or his authorised agent in accordance with the Code of Practice where goods and services are regularly used.

7.2 Before a list is first compiled, notices inviting applications for inclusion shall be published in appropriate journals. Any subsequent application, deletion or suspension in respect of lists is to be dealt with in accordance with the Code of Practice.

7.3 A copy of these Rules and the Code of Practice will be made available for inspection to all applicants for inclusion on any list and will be supplied to all persons included on any list.

7.4 New and amended lists shall be reported to the Cabinet.

7.5 Selection to submit a tender shall be from the appropriate category of approved lists on the basis of strict rotation, provided that the Chief Officer may select one contractor without regard to rotation. Where an invitation to tender is refused a further contractor shall be selected in strict rotation. Where a contractor is suspended by a Chief Officer they shall be excluded from the selection process.

8. **Advertisement**

8.1 Contracts should be advertised in accordance with this Rule 8 and the Code of Practice.

8.2 All contracts in excess of European thresholds must also be advertised in OJEU in accordance with statutory provisions and timescales.

8.3 Irrespective of whether a proposed contract is of low value (under a relevant threshold) or a Part B service and therefore not subject to the full requirements of the relevant legislation, all contracts must be advertised in a manner that is appropriate to the nature of the goods/works/services being procured. The nature, location and timing of the advertisement must demonstrate adherence to the EU procurement principles of openness and competition. Additionally, the advertisement must be placed in such a manner that it ensures, as far as is possible, that returned tenders represents best value. Advertisements must always be placed on the Council’s website and may also be placed on:

- Portal websites specifically created for contract advertisements;
- National official journals;
- Newspapers;
- Sector-specific magazines and journals; and
- The Official Journal of the European Union (OJEU)/Tenderers electronic Daily (TED)
9. Shortlisting

9.1 Irrespective of how the tenderers are selected, invitations to tender shall be sent to not less than four persons or, if fewer than four are available, then to all persons available.

9.2 If a shortlist of potential tenderers has to be drawn up from a larger response then the criteria and reasons for shortlisting must be documented. That documentation must be retained and kept available for inspection for a minimum of six years after the conclusion of the contract period.

9.3 The commissioning Chief Officer must ensure the shortlisting process is open and transparent in respect of all contractors using a pre-determined selection criteria. For contracts in excess of EU thresholds legal advice should be sought before any company is excluded from the shortlist.

10. Tender Evaluation

10.1 Before tendering any contract, the commissioning Chief Officer must decide the criteria and associated weighting on which tenders and quotations will be evaluated. This must be documented before the start of the advertisement or request for quotation (as appropriate). All those who are invited to tender or quote must be notified of the evaluation criteria.

10.2 The evaluation criteria must establish that the contract will be awarded to the most economically advantageous solution. This should be made explicit in both the Invitation to Tender and any advertisement. Any sub-criteria must be documented in the Invitation to Tender. Non-commercial considerations must not feature in these criteria unless relating to Part B services which are relevant to the subject of the contract. No contractor shall be informed of the weightings attached to each criteria.

10.3 A full documented record must be made of the selection process recording relevant scores for each contractor and a clear statement as to how the final decision was reached. All such decisions must now be communicated to unsuccessful tenderers and are open to challenge therefore this record must be retained and kept available for inspection.

10.4 The selection process must be demonstrably fair to all participants; no contractor should be given information from which an unfair advantage may be gained over rival tenderers who do not have access to that information.

10.5 Where the approval of the Cabinet is required prior to the commencement of the procurement process, the report to the Cabinet must include the detailed tender evaluation criteria.

11. Administration of the Tender Process

11.1 Tenders will be opened in accordance with the Code of Practice as soon as possible after the date and time specified for the receipt of tenders. Electronic tenders may only be received via Bravo Solutions electronic tendering system
which will only allow tenders to be opened and viewed after the closing date and time has passed. Tenders for contracts in excess of £200,000 should be returned to the Corporate Director of Finance and Resources for receipt and opening.

11.2 Tenders received after the specified date and time shall not normally be considered. If the Chief Officer wishes to consider such tenders, in liaison with the Chief Financial Officer (Section 151 Officer), he/she must be satisfied that:

11.2.1 the delay was caused by exceptional circumstances for which the tenderer was not primarily responsible; and

11.2.2 he/she can demonstrate that the tender process has not been compromised as a result

11.3 All tenders shall be opened in the presence of the appropriate Chief Officer or their nominated representative and witnessed in writing by at least one other officer who must have no responsibility or involvement in the contract. Specimen documentation to record tender invitations and outcomes is contained in the Code of Practice.

11.4 In cases where the Council’s own workforce tenders for work at least one witness should be selected from outside the department of the workforce concerned.

11.5 All tender related documentation must be stored in a secure location and shall be kept available for inspection.

11.6 If any Officer or Member has any connection past or present, direct or indirect, with any potential tenderer then that connection should be declared and registered in accordance with the Council’s Codes of Conduct for both Officers and Members. The Officer or Member should then be precluded from participating in any aspect of the procurement process.

12. Alterations and Negotiation of Tenders

12.1 The appropriate Chief Officer may only allow alteration of a tender in accordance with the Code of Practice.

12.2 No negotiations, other than those relating to a received tender, may be conducted without the prior approval of the Cabinet. The results of all negotiations shall be reported to the Cabinet.

12.3 All negotiations shall be conducted in accordance with the Code of Practice. Negotiations must be conducted by or in the presence of at least two officers, one of whom must be technically qualified, on Council premises and a detailed contemporaneous written record kept.
13. **Acceptance of Tenders and Award of Contracts**

13.1 The Cabinet will formally award the following categories of contract after receiving a report on the tender outcome by the commissioning Chief Officer:

13.1.1 Contracts for which the most economically advantageous solution, in accordance with the established tender evaluation criteria, is not being recommended for acceptance. In such cases, the commissioning Chief Officer must provide a written justification;

13.1.2 Contracts for which the award is not in line with the conditions agreed at the pre-tender approval stage;

13.1.3 Contracts for which the Cabinet has chosen in advance to become involved in awarding the contract (e.g. when notified of plans to let the contract).

13.2 With the exception of construction contracts considered to be of a controversial or contentious nature, individual contracts that are to be let under the auspices of the Council’s Construction Framework Agreements do not require the pre-approval of the Cabinet provided those contracts meet the agreed evaluation and award criteria as set out in the Framework Agreements. Details of all contracts awarded under the Council’s Construction Framework Agreements must be reported retrospectively on a quarterly basis.

13.3 For all other contracts, in the absence of any direction to the contrary from the Cabinet, tenders may be accepted by the commissioning Chief Officer where the value is less than £50,000 and by the commissioning Chief Officer, in consultation with the Chief Financial Officer (Section 151 Officer), where the value is in excess of £50,000.

13.4 The Chief Officer may only accept or recommend acceptance of tenders where the necessary financial approval for a scheme as a whole has been made in the Council’s estimates.

13.5 The confidentiality of quotations, tenders and the identity of tenderers must be preserved at all times. Information about one tenderer’s response must not be given to another tenderer.

13.6 Contracts must be evaluated and awarded in accordance with an established Award Criteria.

13.7 Where the Total Contract Value is over £50,000, the appropriate Chief Officer must inform all tenderers of their Intention to Award the contract to the successful tenderer. The Chief Officer must allow a period of not less than 10 days after announcing their Intention to Award to provide unsuccessful tenderers with a period in which to challenge the decision before the Officer awards the contract. If the decision is challenged by an unsuccessful tenderer then the Chief Officer shall not award the contract and shall immediately seek the advice of the Partners of the Legal Practice and inform Corporate Procurement.
13.8 The Chief Officer shall debrief in writing all those tenderers who submitted a tender about the characteristics and relative advantages of the leading tenderer. This should normally include:

- how the award criteria were applied;
- the prices or range of prices submitted, in either case not correlated to tenders' names; and
- the names of tenderers where there were three or more tenderers.

No other information should be given without taking the advice of the Partners of the Legal Practice.

13.9 If requested, the Chief Officer may also give the debriefing information required by Rule 13.7 to tenderers who were deselected in a pre-tender shortlisting process.

14. **Contract Instructions and Certification**

14.1 All instructions and certifications to contractors will be in accordance with the form and conditions of contract in use, in writing and signed by the appropriate Chief Officer.

14.2 Before extra work is undertaken and/or any extra costs incurred, a Chief Officer shall ensure that such work or costs does not exceed the necessary financial approval in the Council’s estimates.

14.3 Before extra work is undertaken and/or any extra costs incurred which would exceed either the budget or the contract sum by 5% or £10,000 whichever is the greater, the prior authority of the Cabinet shall be sought by the appropriate client budget holder. In cases of urgency a Chief Officer may take immediate action but must report this action and the reason for it to the next meeting of the Cabinet.

15. **Sub-Contractors**

15.1 Where a sub-contractor or supplier is to be nominated these Rules will apply in their entirety to the selection and use of that subcontractor.

15.2 No contractor shall enter into any sub-contract without the written consent of the appropriate Chief Officer.

16. **Action by Members**

16.1 No Member shall enter either orally or in writing into any contract on the Council’s behalf.

17. **Reporting and Review of Contracts**

17.1 All reports requesting authority to tender a contract must include the information set down in paragraph 3.6.
17.2 Monitoring and review of contracts shall be undertaken in accordance with the requirements of the Council’s policy for controlling the Capital Programme.

17.3 Final accounts for contracts with a value in excess of £400,000 must be reported to the Audit Committee in accordance with the Code of Practice.

18. Retention of Documents

18.1 Successful tender documents, including copies of reports, adverts, successful tender and any correspondence relating to that tender, tender evaluation documentation, approvals, etc. must be retained for a minimum period of six years, or in the case of contracts under seal, twelve years.

18.2 Unsuccessful tender documentation, pre-qualification questionnaires, etc must be retained for a minimum period of twelve months from the tender closing date.

19. Extension of Contracts

19.1 Contracts may only be extended in accordance with the terms of the award and will always be subject to the terms of the contract an applicable legislation.

19.2 If the value of the extension is in excess of £50,000, the extension must be approved by the commissioning Chief Officer and the Corporate Director of Finance and Resources (Section 151 Officer).

19.3 If the value of the extension is in excess of £400,000, the extension must be approved by the Cabinet.

(Contact Officer: Corporate Director of Finance and Resources: Tel: 020 8227 2932)
1. **Introduction**

1.1 This Contract's Code of Practice is to be read in conjunction with the Contracts Rules and associated guidance notes. It is subject to all applicable United Kingdom and European Union legislation, orders and directives.

1.2 For ease of use, in all subsequent paragraphs of this Code, the number of the paragraph heading will relate to the relevant Contracts Rule.

1.3 The exclusion from the Rules of the employment of staff relates solely to those staff employed directly by the authority. In contrast, the employment of agency staff and consultants will normally fall within the remit of the Rules.

1.4 For self employed consultants in particular this may not be a clear cut issue. All such consultants are therefore required to complete an Employment questionnaire which is available from the Finance and Resources Department.

2. **Contract Packaging and Tender Classification Values**

2.1 There will be occasions when the assessment of the potential value of a contract is, of necessity a “best estimate”. If it transpires that the value was underestimated to such an extent that the incorrect procurement route was followed then this should be reported retrospectively to the Cabinet.

2.2 The Council’s policy on controlling the Capital Programme is relevant in this context in so far as it will require the contract to be packaged in a manner consistent with the original project brief and associated objectives.

2.3 The European Union Public Procurement Regulations only come into play when the total value of a contract is above the relevant threshold. The current thresholds as at 1 January 2008 are (a) for works contracts £3,497,313, (b) for supplies and/or services contracts £139,893. Corporate Procurement can advise on this issue and provide changes to amounts as required.

3. **Exceptions to Tendering Requirements**

3.1 (a) Given the wide range of types of minor purchases that may fall within Class A, no prescriptive rules will apply though officers may usefully refer to the guidelines on this issue.

(b) All quotations should be on letter headed notepaper from the companies concerned and should include a point of contact at the company. In this context faxes would be acceptable if they can be clearly identified as originating from a particular company.

3.2 Quotations must be dated and include sufficient detail to demonstrate that the quotations are being sought on a comparable basis for the same goods or
services.

3.3 The officer requesting the quotations should sign and date them on receipt. They should then be stored in a secure location and be made available for inspection.

4. Format and Key Conditions of Contracts and Tenders

4.1 All contracts entered into by the Council must include appropriate clauses, as set out in the Council's General Conditions of Contract, to deal with:

(a) European Union Standards or other international equivalent;

(b) Health and Safety at Work;

(c) Compliance with requirements of appropriate technical and professional bodies; and

(d) Equal Opportunities

4.2 Every invitation to tender must clearly indicate the character, shape, disposition and amount of the work or state the quality, quantity and description of the services, goods or materials to be supplied. The invitation must also contain a clear reference to the conditions of contract.

4.3 All tenders must indicate the contract period with the earliest and latest dates for commencement and the latest date for completion. Provision must be made in the tender document for commencement and completion to be stated by the tenderer within the range of dates shown.

4.4 All services and works contracts valued in excess of £100,000 must be formally signed and sealed by the Council and the contractor. The main advantage of sealing is the increased length of the limitation period for taking legal action. Sealing procedures also enable a general legal check on contract forms, insurance, etc.

4.5 Contracts for works or services where the value is less than £100,000 may be sealed at the discretion of the Chief Officer. In cases of doubt the Divisional Director of Legal and Democratic Services should be consulted.

4.6 Chief Officers are required to employ the most appropriate means of financial management and security in connection with contracts including:

(a) financial and technical vetting either through an approved list or separate tendering procedures;

(b) contingency sums, retention and maintenance periods;

(c) liquidated damages;

(d) a bond or parent company guarantee;
(e) set off clauses

4.7 The above arrangements should be applied in accordance with the type and size of the contract and contractor involved. When standard form contracts (including the Council's general conditions of contract used in routine orders) include arrangements for (b) and (c) officers must consider the appropriate levels and instruct accordingly.

4.8 Chief Officers must give consideration to the issue of Bonds and/or parent company guarantees where:

(a) the contract is of a considerable size and/or the Council is uncertain about the credentials of a particular contractor or his capacity to sustain the contract; or

(b) there is a substantial parent company whose guarantee would be helpful.

4.9 Chief Officers in doubt as to the appropriate financial management and security arrangements should consult the Chief Financial Officer or the Chief Executive, who may from time to time give guidance on individual or general questions of financial management and security.

4.10 Officers should ensure that tender documents include information as to the contract requirements in respect of financial management and security.

4.11 Chief Officers should ensure that all tender documents and official orders for work or services include the following information:

(a) contract's requirements in respect of insurance including the sum required by the Chief Financial Officer; and

(b) contractor's duty to provide evidence of his insurance to the Council's officers when requested.

4.12 In particular, before any Class C contract for work or services is approved for signature/sealing on behalf of the Council, officers should see:

(a) appropriate insurance policies covering the contractor against the risks referred to in Rule 5 to the sum required by the Chief Financial Officer; or

(b) where policies have previously been examined, or where otherwise appropriate in the officer's discretion cover notes to the same effect as in (a) above; and

(c) evidence that the policy(s) contain a clause indemnifying the Council as principal against claims.

4.13 In respect of Class A or B contracts for works or services, officers should undertake the procedures set out in paragraph 4.3 above wherever appropriate.
5. **Shortlisting of Suppliers to Tenderer**

5.1 If partnership arrangements are being considered then they must be preceded by the selection and tender process outlined in these Rules. These arrangements require specific contract formats that must be tendered. It is not appropriate for a successful tenderer who has bid for traditional contracts to simply migrate into partnership arrangements.

5.2 If this procurement route is being considered, it is important that the potential benefits of any “partnering” arrangement are documented from the outset.

6. **Approved Lists**

6.1 Where an accredited agent or third party such as Constructionline or Exor is used to manage Approved Lists on the Council’s behalf, the Chief Officer must satisfy himself that the agent has appropriate vetting procedures are in place and that the Council retains the right to select who is to be invited to tender.

6.2 Approved Lists shall be maintained by officers or agents of the Council for services that are regularly used. Only one Approved List for an identical category of work or service needs to be maintained within the Council. Departments should, therefore, use other Departments’ Approved Lists when in force and appropriate. One Department should be identified as a lead user for each list. Before a list is created, disbanded or amended other Departments must be consulted. Copies of each departmental Approved List should be lodged with Corporate Procurement.

6.3 Chief Officers may compile new lists or add new contractors to an existing Approved List. They must, however, ensure that sufficient time is allowed for the obtaining and proper examination of the necessary technical and financial references before using the contractor.

6.4 Chief Officers may also, where circumstances warrant, delete contractors from an Approved List. Chief Officers may also, where there is reasonable cause for concern, suspend contractors from an Approved List. Before deletion or suspension however, Chief Officers must consult other Departments and satisfy themselves that the deletion is for a sound and valid reason. Decisions to remove or suspend contractors from an Approved List can be challenged and be subjected to judicial review. In view of this, deletion or suspension of contractors shall be done "positively" and the contractor advised accordingly.

6.5 If in doubt the Chief Officer should seek advice from legal services. However, contractors should not in any circumstances just "not be used" but remain on the Approved List.

6.6 Officers should also regularly review their Approved Lists. New Lists should be created when new services are required but also redundant lists should be disbanded when services are no longer required. Officers should be mindful as to the number of contractors available for inclusion on Approved Lists and that some services, which may start as a specialist nature, may after a time become commonplace and warrant an Approved List of their own.
6.7 Chief Officers must ensure that any new lists formed, old lists disbanded and contractors included or deleted are reported to the Cabinet within a twelve month period. Chief Officers must also ensure that where the contractor is suspended for a period greater than 12 months then this is also reported to the Cabinet. A Chief Officer may reinstate a suspended contractor within a 12 month period without reporting this to the Cabinet, but may not then re-suspend the contractor within a 24 month period without reporting to the Cabinet, as soon as practicable. Where a contractor is suspended by a Chief Officer this fact must be made known to other Chief Officers who will then cease to use the contractor until further notification is received. A Chief Officer may not suspend or delete a contractor from an Approved List if such deletion or suspension results in the list becoming so short as to be ineffective.

6.8 Before creating a new list, an advertisement should be published in at least two newspapers or journals, preferably and where appropriate at least one locally that might be read by persons undertaking such contracts. The advertisement is to clearly describe the purpose of the contract and the nature of the works envisaged. An appropriate period, not less than ten days, should be allowed for response. A copy of the advertisement may also be sent direct to persons known who may be interested.

7. Advertisements

7.1 It is a legal requirement that contracts which exceed EU Public Procurement Thresholds must be advertised in the Official Journal of the European Union (OJEU). Copies of all contract advertisements and/or OJEU notices must be also be published on the Council’s web site. Please refer to Corporate Procurement for assistance. If tender invitations are being sought through an advertisement rather than an approved list the procedures outlined in this Code of Practice shall be applied when placing the advertisement.

7.2 All invitations to tender should be preceded by a preliminary enquiry, by an officer knowledgeable of the contract requirements, to ascertain the contractor’s interest and availability to tender. A written record of all such enquiries must be kept. Enquiries shall be made of contractors who are within the appropriate category and financial limits.

7.3 On the date indicated in the preliminary enquiry, all tender documents should be despatched to the tenderers replying in the affirmative.

8. Documentation of Selection Process

8.1 The basis for both shortlisting and rejecting tenderers should be documented. These decisions must be based on factors that relate explicitly to the contractor’s ability to deliver the contract. If any other issues are to be considered then the legal section should be consulted before any final decisions are notified to the potential tenderers.

9. Tender Evaluation

9.1 The detailed model used for evaluating tenders must be documented before the tender process begins. It must not be changed during the tender process. The
model must be consistent with the broad indications of the factors to be used that is publicised in the documentation issued to contractors when invited.

9.2 The factors used in the evaluation process must be capable of being evidenced or assessed during the tender process either from the documentation submitted by contractors or from their presentations.

9.3 The tender evaluation must be documented and witnessed by at least one officer who is independent of the tender process. This document must be retained and kept available for inspection.

10. Administration of the Tender Process

10.1 Where an invitation to tender is required, every notice of such invitation shall state that no tender will be received except in a PLAIN SEALED envelope which shall bear the word "Tender" followed by the subject to which it relates, and the date and time by which it should be returned, but shall not bear any name or mark indicating the identity of the sender.

10.2 Tenders for contracts in excess of £200,000 should be returned to the Security Investigation Office, Room 111, Town Hall, Barking IG11 7LU for receipt and opening. In this context the Corporate Director of Finance and Resources will assume the responsibilities of the commissioning Chief Officer for administering the tender process.

10.3 All tenders must be opened at the same time and as soon as practicable after the closing time and date of the tender. Subject to the provisions of Rule 11.2, any tender received after the stipulated closing time and date will not be considered and should be returned to the tenderer with a letter recording this fact.

10.4 Tenders shall be opened and recorded and witnessed by two officers neither of whom shall have any involvement in the selection of contractors invited to tender or the subsequent tender evaluation. The commissioning Chief Officer will ensure that the officers opening the tenders are completely independent; they should not be employed in the same work area as that being addressed by the tender process.

10.5 A written record of the tenders invited, received, opened and retained and signed by the officers present, must be kept together with a note of any qualifications that a tenderer may have made that are immediately apparent.

10.6 All tender documents considered must be retained on file and should be kept available for future reference or inspection.

10.7 The tenderer who submitted the most favourable tender received shall be notified that their tender is under consideration. The unsuccessful tenderers shall be notified as soon as practicable. For contracts above the EU Public Procurement Thresholds there are prescribed minimum standstill periods that MUST elapse before any final commitment can be made to the successful tenderer. Information is detailed on the Procurement pages of the Intranet but for further assistance please contact Corporate Procurement.
10.8 The Chief Officer concerned shall invalidate, and note the reason why, any tender which has not been properly completed in all respects, and in particular:

(a) where it appears that the tenderer has broken Contracts Rules or this Code;

(b) where a tender offer is subject to any qualification, amendment or alteration which has not previously been approved by the Chief Officer concerned;

(c) any amendment to the tender price is received after the tenders have been opened, subject to paragraph 9 below;

(d) any tender from which the tender price has for some reason either been omitted or is otherwise not ascertainable;

(e) where a tenderer elects to withdraw for whatever reason;

(f) any tender received where there is evidence to suggest that the tenderers have been in collusion when submitting their tenders.

11. Alterations and Negotiation of Tenders

11.1 Negotiation

11.1.1 In cases where tenders exceed budgetary provision there may be a need for post tender negotiations.

11.1.2 Value for money should always be the key driver when awarding contracts therefore there may be a justifiable need to discuss the qualitative aspects of the tender submission. For example, the tender process may require the submission and discussion of method statements or may provide for alternative methods of service delivery to be considered.

11.1.3 This all adds considerably to the scope for post tender negotiations. In order to safeguard both Members and officers in all cases when tenders are being negotiated, the following procedures shall be adopted:-

(a) negotiation should take place on Council premises in normal working hours;

(b) meetings with contractors should be attended by at least two Council representatives of whom at least one should be technically qualified;

(c) minutes of meetings should be recorded and signed by all Members or officers attending; and

(d) negotiations should be based on or clearly derived from the original tender specification.
11.1.4 European legislation is restrictive in the extent to which tenders may be changed during a period of negotiation. Indeed post tender negotiations are substantially prohibited for contracts in excess of European thresholds let under restricted procedures.

11.1.5 Under no circumstances should negotiations fundamentally change the scope or content of the original tender. It is not acceptable to tender on one basis and award the contract on a different basis.

11.1.6 Where alternative specifications or conditions are allowed for within the tender documentation and such alternatives are submitted by tenderers, officers shall conduct any necessary negotiations in confidence in order to establish, so far as it may be possible, common criteria between tenders in order to ascertain the most advantageous offer for the Council.

11.1.7 In doing so, officers shall ensure that all tenderers have equal opportunity to consider the alternatives and are given the chance to make their offers in the light of such alternatives. Officers shall further ensure that no tenderer be given an opportunity to obtain an unfair advantage over competitors.

11.1.8 Where the most economically advantageous tender received and under consideration exceeds the necessary provision made in the Council's estimates, officers may negotiate. Such negotiating shall be with the first tenderer on the basis of an amended design and/or specification. If the negotiations are unsuccessful, negotiations may proceed with the second tenderer and, if these are unsuccessful, so on to the third and subsequent tenderers. Should all negotiations fail, new tenders shall be invited using redrafted tender documents to coincide with the amended design and/or specification.

11.1.9 Where negotiations relate to matters other than to a received tender (as described above) then prior Cabinet approval must be obtained.

11.1.10 The same principles shall apply with appropriate adjustments where the Council is selling goods or services.

11.1.11 Please remember that all decisions are subject to challenge and unsuccessful tenderers now regularly seek feedback and do challenge procurement decisions.

11.2 Adjustment of Errors

11.2.1 In all cases tenders and the priced bills of quantities (where appropriate) supporting the most economically advantageous tender under consideration shall be examined by the Chief Officer. If errors are detected the tenderer shall be given details of the errors and offered one of the alternatives described below:

(i) Alternative 1
Subject to (ii) below, if the examination reveals errors or a discrepancy between the prices in the bill and the tender figure, the tenderer shall be asked to confirm whether he/she stands by the tender price or withdraws the offer. If the tender is withdrawn the priced bill of the second tender shall be examined. Where the second tender reveals errors or discrepancies the tenderer shall be given a similar opportunity to confirm or withdraw and so on to the third and subsequent tenders.

(ii) **Alternative 2**

At the Chief Officer’s discretion a tenderer may be given the opportunity to amend or correct genuine errors. Should the tenderer elect to amend the tender by the correction of the errors and as a result the tender is no longer the most economically advantageous, the second tender shall be examined so that it can be considered for acceptance and so on to the third and subsequent tenders.

11.2.2 Any amendments correcting an error shall be made in writing by the tenderer and attached to the contract documentation.

11.2.3 If the tenderer elects not to amend the tender offer, an endorsement shall be added to the contract documents indicating that all rates or prices (excluding preliminaries, contingencies, prime cost and provisional sums) inserted by the tenderer shall be considered as adjusted in the same proportion as the corrected total of priced items exceeds or falls short of the original total for such items.

11.2.4 The endorsement shall be signed by the parties and form a part of the Contract.

12. **Acceptance of Tenders and Award of Contracts**

12.1 Where the most economically advantageous tenderer originally received elects to withdraw the tender (for whatever reason) this must be confirmed in writing by the tenderer or failing this, by the Chief Officer. The second original tender now becomes the most economically advantageous and can be dealt with as if it was the most economically advantageous originally received.

12.2 For contracts below £50,000 the commissioning Chief Officer will award the contract. Contracts over £50,000 will be awarded by the commissioning Chief Officer in consultation with the Chief Financial Officer. Where the proposed award of a contract is not in line with the conditions agreed by the Cabinet at the pre-tender approval stage and/or the tender evaluation criteria, or at its request, the Cabinet will formally award the contract.

12.3 All acceptance of tenders must be in writing. In cases where the Cabinet awards the contract then the acceptance must not be issued until the conclusion of the required call-in period after the Cabinet decision.

12.4 For contracts above the EU Public Procurement Thresholds there are prescribed minimum standstill periods that MUST elapse before any final commitment can be made to the successful tenderer. Information is detailed
on the Procurement pages of the Intranet but for further assistance please contact Corporate Procurement.

13. **Allocation and Award of Contracts to More Than One Contractor**

13.1 In cases where it is intended that more than one contractor will be used on identical work the following steps should be followed:

13.1.1 the results of the tender process shall be reported to the commissioning Chief Officer or the Cabinet, as appropriate

13.1.2 the additional costs of using contractors at prices other than the preferred tender should be identified together with the implications of giving the work solely to the preferred tenderer

13.1.3 the results of any subsequent negotiations should be reported back to the commissioning Chief Officer or the Cabinet, as appropriate, before any contractual commitments are made

14. **Contract Instructions and Certification**

14.1 No officer shall sign any contractual document which is not in a previously approved format except with the prior approval of the Chief Executive.

15. **Sub-Contractors**

15.1 The selection of a nominated sub-contractor must be done in accordance with Contracts Rules, in the same way as the selection of the main contractor. Officers must ensure that the conditions of contract appertaining to the main contractor are also enforced by the main contractor against the nominated sub-contractor.

15.2 Where a main contractor wishes to use a domestic sub-contractor, approval must first be sought from the officer and such approval must be given in writing. Care should be taken to ensure that any such domestic sub-contractor(s) are suitable in all respects and therefore are preferably chosen from the Council's Approved List. Chief Officers may, at their discretion, require similar references as those for contractors applying for inclusion on the Council's lists prior to agreeing for them to be nominated by the main contractor as a domestic sub-contractor. Further domestic sub-contractors must in all respects comply with the same conditions as the main contractor.

16. **Reporting and Review of Contracts**

16.1 Final Accounts for contracts in excess of £400,000 or indeed any other final account that Members may wish to see reported must include the following details as a minimum requirement;

16.2 An overview of the objectives of the contract and the extent to which they had been met

16.2.1 Planned start and finish dates
16.2.2  Actual start and finish dates
16.2.3  Reasons for any difference
16.2.4  Contract sum
16.2.5  Actual contract cost
16.2.6  Reasons for any difference
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Appendix A: Interpretation
Introduction

In order to conduct itself efficiently, effectively and in accordance with good corporate governance, the Council needs to establish and adhere to financial management policies and this entails the establishment of financial regulations and rules which lay down the procedures to be followed by officers in discharging their financial duties.

The financial regulations are the framework within which the financial affairs of the authority operate. They set out and govern the way the Council undertakes financial planning, risk management and control processes, budget management, budgetary control and statutory year-end processes.

The regulations provide clarity about the overarching financial accountabilities and responsibilities of individuals, including the Assembly, Cabinet, the Chief Financial Officer, Corporate Directors, Divisional Directors (Heads of Service) and Managers, and provide a framework for decision-making. Where there are specific statutory powers and duties, the financial regulations seek to ensure these are duly complied with, as well as reflecting best professional practices and decisions of the Council.

The financial regulations also govern the way the day-to-day financial administration and financial controls are conducted and exercised. They set out the standards to ensure that the Council’s resources are used wisely and for the purposes intended, ensure the best practice for dealing with financial matters, improve value for money, service delivery and customer satisfaction and to secure the financial standing of the Council.

These regulations should be read in conjunction with all other financial policies of the Council including contract standing orders, the scheme of delegation, the role of committees and employee codes of conduct.

The regulations apply to all activities of the Council. In practice, this means all monies and funds administered by Council officers by virtue of their office. This includes the authority's direct service and trading organisations within the internal market and funds managed on behalf of third parties such as the superannuation fund and private school funds. Locally managed schools have their own financial regulations.

External providers (outsourced services, contractors and consultants for example) are managed through the contract process. The contract document will set out the financial requirements. This will include for example, compliance with key control procedures, generation of service performance statistics, attendance at service client meetings and access to accounts.

The regulations apply to all staff and Members of the Council. However, the prime audience consists of Members, Corporate Directors, Divisional Directors/Heads of Service, delegated budget holders and all staff working in Human Resources, Payroll, Payables, Receivables and Finance.

It is the responsibility of Corporate Directors to ensure that all employees with financial responsibilities are made aware of and have access to these regulations and rules.
Any failure to comply with these rules constitutes gross misconduct and will be followed by disciplinary action as appropriate.

The Chief Financial Officer is responsible for maintaining a continuous review of these Regulations. The Finance Managers, the Divisional Director of Corporate Finance or the Chief Financial Officer should be contacted if further advice, clarity and support are required in the application of the Financial Regulations and Rules.

Interpretation – please refer to Appendix A

**Section 1: Roles and Responsibilities**

Sound financial planning, management and administration are essential in order to:

- ensure and maintain the effective use of resources to achieve agreed service standards;
- provide complete, accurate and transparent accounts that demonstrate accountability to the public;
- comply with legal and corporate accounting requirements;
- ensure the appropriate use and security of financial and physical assets;
- help the Council provide value for money services and conduct its affairs in an efficient, effective and economic manner.

Members and officers of the Council shall carry out their roles in line with the key areas of responsibilities and associated specific financial procedure rules set out below.

<table>
<thead>
<tr>
<th>Roles, Responsibilities and Accountability</th>
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<tbody>
<tr>
<td><strong>Assembly</strong></td>
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<td><strong>Cabinet</strong></td>
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<td><strong>Select Committees</strong></td>
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### Roles, Responsibilities and Accountability

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<tr>
<th>Head of the Paid Service (Chief Executive)</th>
<th>The Head of Paid Service is responsible for:</th>
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<tr>
<td></td>
<td>1. the corporate and overall strategic management of the authority as a whole and the establishment of a framework for management direction, style and standards;</td>
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<td></td>
<td>2. securing a process for resource allocation that ensures due consideration of national policy and corporate priorities;</td>
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<td></td>
<td>3. ensuring arrangements are in place to monitor, manage and measure the performance of the Council.</td>
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<td></td>
<td>He or she must report to and provide information to Cabinet, the Assembly, and other Committees.</td>
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<tr>
<th>Monitoring Officer</th>
<th>The Monitoring Officer is responsible for:</th>
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<tr>
<td></td>
<td>1. promoting and maintaining high standards of financial conduct;</td>
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<td></td>
<td>2. reporting any actual or potential breaches of the law or mal-administration to the Assembly and/or Cabinet;</td>
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<td>3. ensuring that procedures for recording and reporting key decisions are operating effectively;</td>
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<td>4. ensuring that executive decisions and the reasons for them are made public;</td>
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<td>5. advising all councillors and officers about who has authority to take a particular decision;</td>
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<td></td>
<td>6. advising the Cabinet or Assembly about whether a decision is likely to conflict with the Authority’s policy framework or budget;</td>
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<td></td>
<td>7. for maintaining an up-to-date constitution.</td>
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| Chief Financial Officer | The Chief Financial Officer, as the designated statutory Chief Financial Officer (and “Section 151 Officer”), is the Officer responsible for the proper administration of the Council’s financial |
The Chief Financial Officer's responsibilities are:

1. to ensure the co-ordination and integration of service planning, financial planning, asset management, value for money and corporate governance;
2. to ensure that the Council’s financial arrangements secure the proper stewardship and control of all public funds;
3. to provide financial advice, information and support so that resources are managed effectively in delivering the Council’s services;
4. to set corporate financial management standards and agrees with Directorates detailed procedures to meet these standards;
5. to ensure that there is an adequate internal audit and control;
6. to approve financial systems or proposals to introduce new processes or systems (including IT systems) to ensure sound financial controls;
7. to maintain the Council’s principal accounting records and prepares the Council’s annual statement of accounts;
8. to provide information and financial returns to external bodies;
9. to prepare the revenue budget and capital programme;
10. treasury management and banking.

Corporate Directors

Each Corporate Director’s responsibilities are:

1. to observe the Council's financial regulations, monitoring financial performance within their department and managing the service within the available budget and to clearly understand the
<table>
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<th>Roles, Responsibilities and Accountability</th>
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<td>consequences of a lack of control;</td>
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<tr>
<td>2. to ensure that any expenditure incurred within their service is in accordance with both the purpose and objectives of the services being provided. Expenditure must not be incurred or charged to any budget where such expenditure bears no relation to the service being provided;</td>
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<tr>
<td>3. to establish standards of internal control and through their senior management team, ensure the proper identification and cost effective management of financial risk; to plan and maintain the effective use of resources to achieve agreed service delivery standards, take or recommend actions where necessary to stay within, or less than, the agreed budgets set by Council;</td>
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<tr>
<td>4. to achieve and demonstrate value for money for commissioned and provided services;</td>
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<td>5. to ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify staff authorised to act on the Chief Officer's behalf, or on behalf of the Cabinet, in respect of payments, income collection and placing orders, together with the limits of their authority;</td>
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<tr>
<td>Each Chief Officer, or failing them, the Chief Financial Officer, shall report to the Cabinet immediately where they are not complying with these Rules.</td>
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<tr>
<td>6. the control and accountability of employees and the security, custody and control of all of the resources, including plant, buildings, materials, cash and stores, appertaining to his/her department.</td>
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<tr>
<td>7. to operate processes to check that established controls are in place and evaluate their effectiveness and ensure that Budget Holders have effective procedures for safeguarding the Council's resources;</td>
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<tr>
<td>8. to identify the short, medium and long term financial implications of policy, legislative requirements and service standards;</td>
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<tr>
<td>9. to establish clear accountabilities for all managers that include objectives of and responsibility for systems and information;</td>
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<tr>
<td>10. to ensure all their staffs understand and comply with Financial Procedure Rules, Contract Procedure Rules, Council policies and directorate departmental instructions.</td>
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<td>11. to ensure that all employees understand and have access to a</td>
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</tbody>
</table>
### Roles, Responsibilities and Accountability

<table>
<thead>
<tr>
<th>Divisional Directors (Heads of Service)/Budget Holders</th>
<th>Each Divisional Director (Head of Service) and Budget Holder will:</th>
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<tbody>
<tr>
<td></td>
<td>1. determine the appropriate level of control within their areas of responsibility in accordance with advice and guidance provided by the Corporate Director of Finance and Resources, their Corporate Directors and the Council’s auditors;</td>
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<tr>
<td></td>
<td>2. monitor compliance within these regulations, policies and instructions;</td>
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<tr>
<td></td>
<td>3. be accountable for planning and maintaining effective and efficient use of resources to achieve agreed service delivery standards within, or less than, the agreed budgets set by Council;</td>
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<tr>
<td></td>
<td>4. clearly understand the consequences of a lack of control and compliance;</td>
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<td></td>
<td>5. ensure all their staff understand and comply with Financial Regulations and Procedure Rules, Contract Procedure Rules, Council policies and directorate departmental instructions; and have access to a copy of the Council’s Fraud and Corruption Policy and Strategy and associated guidance;</td>
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<tr>
<td></td>
<td>6. identify the short, medium and long term financial implications of policy, legislative requirements and service standards;</td>
</tr>
<tr>
<td></td>
<td>7. achieve and demonstrate value for money for commissioned and provided services, plan service developments and take or recommend actions where necessary to stay within agreed budgets set by the Council;</td>
</tr>
<tr>
<td></td>
<td>8. ensure all staff have effective procedures for safeguarding the Council’s resources;</td>
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<td>Roles, Responsibilities and Accountability</td>
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<td>--------------------------------------------</td>
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<tr>
<td>9. operate processes to check that established controls are in place and evaluate their effectiveness.</td>
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<tr>
<th>All Employees</th>
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<tr>
<td>All employees have a responsibility to follow Financial Regulations and Procedure Rules, Contract Procedure Rules, Code of Conduct, Council policies and directorate instructions.</td>
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</table>

Employees must ensure the Council resources are only used in carrying out the business of the Council and help the Council achieve open and honest administration by supporting approved fraud prevention strategies and avoiding potential conflicts of interest.

Under no circumstances must employees use Council resources or assets for their personal benefit.

Employees must not allow any personal debt owed to the Council to become unmanaged. Personal debt includes, but is not limited to, rent arrears, council tax arrears, arrears arising for leaseholder agreements with the Council, employee loan arrears or employee leasing arrangements. Where any such arrears have been accrued prior to employment with the Council and are still outstanding, employees should undertake to clear those arrears within an agreed and reasonable period of time.

All employees have a responsibility to assist the Council’s audit processes, to keep accurate and comprehensive records to support the transactions undertaken on the Council’s behalf and to report to their Corporate Director any occasions where they believe that Financial Procedure Rules, Contract Procedure Rules, Council Policies or Directorate instructions are not being followed, or where the resources are at risk.

<table>
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<tr>
<th>Internal Audit and Risk Management Services</th>
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<tr>
<td>To provide advice to management on the operation of financial controls to prevent fraud, material errors and misappropriation of funds, to investigate any suspected irregularities and management of risk. These Services will conduct independent reviews of Directorate internal control arrangements and will report non-compliance with the Council’s Financial Regulations and Scheme of Delegation.</td>
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<tr>
<th>External Auditors</th>
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<tr>
<td>The external auditors will report on whether the Council’s accounts and statements present a true and fair view of the Council’s financial position.</td>
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</table>
Each year the Council is required to produce a Medium Term Financial Strategy (MTFS) to provide a framework for the Council to plan and manage the way resources are allocated and spent over the next three year period, to meet the Council’s objectives and to secure value for money. It therefore supports and guides the Council’s annual budget setting process, the corporate planning process including the external environment expected to be faced over the next three years, and facilitates effective service delivery.

The budgets reflect Council priorities and give authority to delegated budget holders to incur expenditure to meet service standards and targets.

In order to ensure a consistent approach across the Council, the Chief Financial Officer stipulates the detailed form and procedures relating to the development of the Medium Term Financial Strategy, revenue and capital budgets by the issue of standard formats (including timetables, information requirements and challenge processes).

Corporate Directors and Heads of Service shall prepare their reports to these standards. They will take into account the need to demonstrate the value for money, efficiency and effectiveness of current services and proposals for change, the policy choices available to the Council and service impact on national and local policy priorities including the implementation of statutory requirements, the risk and opportunities in implementing changes and the impact of proposals in the short, medium and long term.

The Chief Financial Officer shall present the Council’s revenue and capital estimates (draft budget) to Cabinet for approval as part of the budget and Medium Term Financial Strategy process. The draft budget is to be submitted to and considered by Cabinet at its meeting in December, and then again with any amendments incorporated, at its meeting in February. The final draft budget is then to be approved and adopted by Assembly at its meeting in late February prior to the financial year.

Key Timescales*:

- Submission of savings proposals August/ September
- Select Committee Scrutiny of Savings options October/ November
- Cabinet consideration of draft budget report February
- Cabinet approval of Fees & Charges February
- Cabinet approval of Budget and Council Tax Report February
- Assembly approval of Budget February
- Publication of Council Tax leaflet February
- Circulation of Budget Book to Budget Managers March

* These timescales are correct for the 2012/13 budget process and are indicative for all other years (and can be overridden by guidance from Corporate Finance).
2.1 Annual Revenue Budgets

2.1.1 The general format of the budget will be approved by the Council and proposed by the Cabinet on the advice of the Corporate Director of Finance and Resources. The draft budget should include indicative cash limits to different services and projects including proposed contingency funds.

2.1.2 All Chief Officers are responsible for submitting bids to Corporate Finance to meet the departmental savings target set by Cabinet on the advice of the Chief Financial Officer.

2.1.3 Estimates of revenue income and expenditure for the current year revised budget and the following year base/original budget shall be prepared by Chief Officers in consultation with the Chief Financial Officer in accordance with any financial plan(s) approved by the Assembly.

2.1.4 Budgets shall reflect Council priorities and give authority to Budget Holders to incur expenditure to meet service standards and targets.

2.1.5 The Chief Financial Officer shall collate the estimates and submit them for approval to the Cabinet for submission to the Assembly.

2.1.6 The Public Audit & Account Select Committee (PAASC) is responsible for reviewing and providing scrutiny on the draft budget ahead of it going to Cabinet.

2.1.7 Finally, on the advice of the Chief Financial Officer, the budget will be proposed by Cabinet and approved by the Assembly. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.

2.2 Capital Budgets

2.2.1 The Chief Financial Officer shall undertake an annual review of the medium term capital programme and consequential revenue implications for inclusion in the Medium Term Financial Strategy. This review shall take into account the ongoing need for a scheme with particular focus on cost, benefits and risk assessments.

2.2.2 Detailed guidance for the preparation of the Capital Programme including the need for a full project appraisal shall be issued by the Chief Financial Officer.

2.2.3 Proposals for new capital schemes for the following financial year and future three years shall be prepared by Chief Officers in consultation with the Chief Financial Officer in accordance with any financial plan's of the Council. The Programme will then be reported to the Cabinet for submission to the Assembly.

2.2.4 The Programme shall include all schemes which are within the definition of prescribed capital expenditure, and shall show:

   i. Existing schemes for the period of the programme;
ii. New schemes to be started in the period of the Programme;

iii. The estimated capital expenditure which will arise on each new scheme and the relevant form of funding;

iv. Slippage on schemes in progress but not expected to be completed in the current year.

2.2.5 Project appraisals for capital schemes (together with any supporting information) are to be submitted to the Capital Programme Management Office (CPMO) for assessment and inclusion in the Programme, before expenditure can commence.

2.2.6 A delegated authority form is then required before Contractors can be engaged and this form must be signed off by the Delivery Manager, the Project Sponsor, the Programme Sponsor, the relevant Corporate Director, Procurement and Corporate Finance. The delegated authority form details the reason for the project, the options considered, the cabinet approval date, funding available, the contractor selected and the value of the contract awarded.

2.2.7 Capital expenditure shall only be incurred in accordance with the approved Capital Programme. The Corporate Director of Finance and Resources shall be responsible for defining whether expenditure is classed as capital or revenue.

2.2.8 All capital receipts shall be pooled unless otherwise agreed by the Cabinet, for example, to contractual obligations or reduce any set aside of capital receipts or where legislation requires a different approach.

2.2.9 Departmental Borrowing

Where there is insufficient external funding for a capital project, departmental borrowing can be used where the project is expected to generate sufficient savings to cover the costs of borrowing. The funding sources will be recorded on the capital programme once the project has been approved.

The cost of borrowing constitutes two elements; the Minimum Revenue Provision (MRP) and Interest. The costs will be calculated as follows:

- MRP will match the actual MRP charge (straight line basis over the life of the asset);

- The interest charge will also be the same each year and will be the total departmental borrowing multiplied by the interest rate;

- The interest rate will equal the Public Works Loan Board (PWLB) rate of an Equal Instalments of Principal (EIP) loan as at 1st April in the year after the asset become operational with a term equal to that of the asset’s life.

Although the actual interest charged will be greater than a normal EIP loan the fact charges are not incurred until the asset becomes operation will in part
Additionally the complexity of varying the interest charges would be impractical.

Arrangements for charging departments with the costs of departmental borrowing are set out below:

- Borrowing costs are charged the year after the asset becomes operational;
- Budgets to cover the borrowing costs will be transferred by departmental finance and copies provided to central finance once central finance have circulated the charges and central codes to use;
- Budgets will have to be set based on estimated departmental borrowing as final financing figure will not be known until year-end. As such a further in year budget transfer maybe required to match actual outturn. This demonstrates a clear relationship between project cost and revenue implications.

2.2.10 Minimum Revenue Provision

Local authorities are required each year to set aside some of their revenues as provision for debt in respect of capital expenditure financed by borrowing.

The Council uses the Equal Instalment Method to calculate its Minimum Revenue Provision (MRP) which is given by the following formula:

\[
\frac{A - B}{C}
\]

where:

- **A** is the amount of the capital expenditure in respect of the asset financed by borrowing or credit arrangements;
- **B** is the total provision made before the current financial year in respect of that expenditure;
- **C** is the inclusive number of financial years from the current year to that in which the estimated life of the asset expires.

2.3 Reserves and Provisions

2.3.1 The Corporate Director of Finance and Resources is responsible for recommending to the Cabinet the adequate level of unallocated General Fund and HRA Reserves, the Reserves Strategy and any limitations or conditions on the use of such unallocated reserves.

2.3.2 The Corporate Director of Finance and Resources is responsible for recommending to the Cabinet the adequate level of specific provisions and earmarked reserves including the decision-making and authorisation processes for the use of those provisions and reserves.
Section 3: Financial Management

A key component of good financial management is to ensure that the revenue, capital and balance sheet accounts are reviewed regularly throughout the year, not just at year end. The first building block for good financial management is strong stewardship.

Sound financial management and control is important to:

- ensure expenditure incurred within services is in accordance with both the purpose and objectives of the approved budgets, in line with Council priorities and to manage the delivery of services within the available budget;

- early detection of financial risks and implications that may impact on the financial strength and stability of the Council and to implement appropriate remedial actions;

- facilitate the delivery of value for money services.

Budgetary control allows the Council to review and adjust its budget targets during the financial year, ensuring the accountability of budget holders against their allocated budgets. Identifying and justifying variances between budgets and year-end forecast and highlight changing trends and resource requirements, enabling efficient management of surpluses and deficits.

Budget Monitoring

Budget monitoring will be carried out and reported to the Cabinet on a monthly basis who taking into account the advice of the Chief Financial Officer will make any appropriate recommendations to steward the budget in a direction consistent with agreed spending objectives.

Corporate Directors, Divisional Directors (Heads of Services) and delegated budget holders are accountable for spending within budget, reporting any variations and implementing the action proposed to correct variances.

Divisional Directors (Heads of Services) and delegated budget holders must regularly monitor actual income and expenditure against all budgets they are responsible for and ensure that all budget targets are achieved. This includes;

- projection of likely future income and expenditure in order to identify any material potential over or under spends;

- take corrective action without delay and, if action beyond their authority is required, report to their Corporate Director immediately;

- report any material variances from income and expenditure budgets to Corporate Finance, including any impact on future years so that appropriate actions can be taken to contain, reduce or eliminate projected over or under spend.
3.1 Revenue Budget Monitoring

1. Corporate Directors, Divisional Directors (Heads of Services), and delegated budget holders are responsible for monitoring their budgets, and must take appropriate action to ensure they do not exceed their budget for any one financial year.

2. On a monthly basis, Corporate Directors will meet with the Chief Financial Officer with budget monitoring reports to be submitted to Cabinet, setting out the overall financial position of each service and the current projected year-end outturn together with corrective actions as necessary.

3. Where it appears that an approved revenue budget (defined as the individual CIPFA summary subjective analysis for each service, as shown in the annually approved budget book) will overspend by £50,000 or 5% of the Gross Budget (whichever is the smaller) the responsible Corporate Director will notify the Chief Financial Officer and relevant Portfolio Holder, report to Cabinet, and will immediately take steps to rectify the situation.

4. Where a Service / Department is forecasting an overall net overspend of £100,000, then this should culminate in an action plan to Cabinet, which sets out proposals for offsetting it, together with an assessment of the impact these corrective actions will have on service delivery and performance targets.

5. If an overspend in excess of £100,000 is forecast, then in addition that Corporate Director must notify the Chief Financial Officer and submit an action plan. Corporate Directors must also advise if the problem relates solely to the current financial year or if it is a recurring pressure.

6. Where a particular Service has (or is projecting to have) an unspent balance, the relevant Corporate Director must apply to the Cabinet if they wish to earmark these savings for a planned purpose in the next financial year. The Cabinet may agree the use of any under spending, subject to the advice of the Chief Financial Officer as to the overall financial position of the Council.

3.2 Revenue Budget Virement/ Adjustment

Budgets may be transferred within the year using a budget virement or budget adjustment. In both cases, advice must be sought from Corporate Finance before the transfer is agreed.

3.2.1 Revenue Budget Virement

A budget virement is a transfer of a budget from the purposes for which Council originally agreed in setting the budget and Council Tax to another purpose.

Following approval of the annual budget, Chief Officers may approve virements in accordance with the delegations and limits set out below.
<table>
<thead>
<tr>
<th>Revenue Budget Virement</th>
<th>Officer with Delegated Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. <strong>Within own Directorate:</strong></td>
<td></td>
</tr>
<tr>
<td>Up to £100,000</td>
<td>Divisional Directors (Head of Service) with budget responsibility in consultation with the Corporate Director and Group Finance Manager.</td>
</tr>
<tr>
<td>Up to £200,000</td>
<td>Corporate Director in consultation with the Chief Financial Officer.</td>
</tr>
<tr>
<td>2. <strong>Cross Directorate</strong></td>
<td></td>
</tr>
<tr>
<td>Up to £200,000</td>
<td>Corporate Director in consultation with the Chief Financial Officer.</td>
</tr>
</tbody>
</table>

Virements for greater amounts and all supplementary estimates must be approved by the Cabinet. Virements must not be fragmented to circumvent these rules.

Each virement request must indicate whether the virement is permanent (i.e. affect current and future years budgets) or one-off for the current financial year.

The virement must be recorded in the Council’s financial system.

Virement is permitted from the revenue budget to the capital budget but not from the capital budget to the revenue budget.

### 3.2.2 Revenue Budget Adjustment

A budget adjustment is a transfer of a budget from one cost centre to another whilst retaining the original purpose for which the budget was approved.

The approval for all revenue budget adjustment is delegated to / Corporate Directors in consultation with the Chief Financial Officer.

Each budget adjustment request must indicate whether the budget adjustment is permanent (i.e. affect current and future years budgets) or one-off for the current financial year.

The budget adjustment must be recorded in the Council’s financial system.

### 3.3 Carry Forward of Revenue Budgets from One Year to the Next

With the prior written approval of the Chief Financial Officer, Corporate Directors may request for underspends on revenue expenditure of £50,000 per Divisional Director (Head of Service) to be carried from one financial year to another. Any carry-forward exceeding £50,000 per Divisional Director
(Head of Service) in the aggregate requires the approval of the Cabinet, which may also require any overspend to be carried forward.

Only underspends arising from delayed spending of funding received for specific purposes may be carried forward if such underspend was as a result of factors beyond management control or where the Council will suffer a financial loss.

Carry forward may not be allowed if the Directorate’s total budget or the total budget of the Council is overspent at year-end. The first call on any underspend is to rectify the overall financial position.

3.4 Capital Monitoring

1. Before expenditure can commence on any individual scheme within the Capital Programme, the approval of the Cabinet and the Capital Programme Management Office (CPMO) will be required.

2. If an approved capital scheme is forecast to overspend then the relevant Corporate Director must notify the Chief Financial Officer, and also present options for offsetting the overspend.

3. The de minimis level for capitalisation of assets is set at:

- £2,000 for expenditure by schools;
- £6,000 for vehicles;
- £20,000 for all other expenditure.

Related assets may be grouped together to exceed the de minimis level where individually they would not. Examples include expenditure on an IT project or bulk buying of wheelie bins.

3.5 Capital Budget Virements

Capital Virements: Transfers of any amount between schemes should be approved by Cabinet.

Capital re-profiles: Subject to there being no additional funding and no revenue or capital cost implication arising from such a re-profiling then delegated authority is given to Corporate Directors in consultation with the Chief Financial Officer to re-profile the capital budget of a scheme up to a value of £250,000. A series of smaller re-profiles should not be carried out in order to circumvent the total.

3.6 Use of Contingency

The contingency as set in each year’s budget may be called upon by Corporate Directors in consultation with the Chief Financial Officer, for individual items of expenditure of up to £100,000, in excess of which will require Cabinet.
3.7 Financial Advice

3.7.1 The advice of the Chief Financial Officer must be sought regarding any matter which could materially affect the finances or financial systems of the Council before any commitment is made.

3.7.2 Corporate Directors shall ensure the early and continuous involvement of the Finance and Legal functions in proposals leading to reports to Members and in particular large, complex or sensitive proposals. The Chief Financial Officer and the Monitoring Officer must be consulted on any reports to Members in accordance with the Council’s established report clearance procedures. The Chief Financial Officer and/or the Monitoring Officer has the right to withdraw any report where notice has not been given or the full financial and/or legal implications cannot be provided in the timescale available.

Section 4: Closure of Accounts

The Chief Financial Officer is responsible for making arrangements for closing the accounts and producing the annual Statement of Accounts, including all matters relating to their audit and public inspection.

Each Corporate Director is responsible for ensuring that they and their staff adhere to the instructions and timetable requirements set out by the Corporate Finance Service to enable the closure of accounts.

Each Corporate Director / delegated budget holder shall, as soon as possible after the 31 March in each year, notify the Chief Financial Officer of all outstanding expenditure (creditors), income (debtors), payments in advance (PIA), and receipts in advance (RIA) relating to the previous financial year.

Each Chief Officer / delegated budget holder must provide on time any information and evidence (working papers) the Chief Financial Officer requires to produce the Statement of Accounts; complete claims for external funding; and to produce records to meet external audit requirements.

The Statement of Accounts will be prepared in accordance with the CIPFA Code of Accounting Practice, which includes the timescales for its production, and the requirement to produce an Annual Governance Statement (AGS).

The Annual Audit Letter presents the audit opinion of the accounts, as well as comments and recommendations on the Council’s financial standing, the legality of financial transactions and internal control. This will be reported to the Public Audit & Account Select Committee (PAASC) each year, with an appropriate management action plan.

Key Timescales*

- Outturn report to Cabinet mid June
- Statement of accounts issued to PAASC end of June
- Deadline for approval of accounts end of June
- PASSC acting as the Council’s Audit Committee

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Section 5: Risk Management & Control of Resources

5.1 Internal Control

Internal control refers to the aspects of systems and processes devised by management to help ensure the Council’s objectives are achieved in a manner that promotes economical, efficient and effective use of resources and safeguards the Authority’s assets and interests by the prevention and/or detection of error and fraud.

The Chief Financial Officer should ensure that the financial management of the authority is adequate and effective; and that there is a sound system of internal control. The internal controls need to facilitate the effective exercise of the Council’s actions and include the arrangements for managing risk.

Each Corporate Director is ultimately responsible for the internal controls and risk management arrangements within their service. Internal Audit support this through delivery of its Annual Audit Plan, designed to give independent assurance on the internal control and risk management arrangements of the Council.

5.2 Internal Audit

5.2.1 Under the Accounts and Audit Regulations 2011 the Council has a statutory obligation to undertake an adequate and effective internal audit of its accounting records and of its system of internal control. The Chief Internal Auditor has the delegated authority for providing and maintaining this service.

5.2.2 An annual review will be conducted into the effectiveness of internal audit which will be considered by the Public Accounts and Audit Select Committee (PAASC). Such a review will form part of the annual review of the effectiveness of the overall system of internal control and reported in the Annual Governance Statement.

5.2.3 The Chief Internal Auditor, and their nominated officers, shall have authority to:

1. enter at all reasonable times into Council operational premises or onto Council land, (this can also that of the Council’s supplies and contractors where permitted by the contract agreement);

2. have access to all records, documents and correspondence relating to any financial or other transactions of the Council;
3. require such explanations as are necessary concerning any matter under examination; and

4. require any employee of the Council to produce cash, stores or any other Council property under his control.

5.3 Fraud, Corruption, and Theft

5.3.1 Under Section 151 of the Local Government Act 1972 the Council has a statutory obligation to ensure the protection of public funds. Accordingly, the Council maintains an effective system of prevention and detection of fraud, corruption, and theft and associated policies.

5.3.2 The primary responsibility for the prevention, detection, and deterrence of fraud, bribery or money laundering activity lies with each Corporate Director. However, all Council employees have a duty to act to prevent and report occurrences of fraud and theft. This is supported by the Corporate Anti-Fraud Team through its proactive, preventative and reactive work.

5.3.3 Managers should immediately inform the Chief Internal Auditor in any case where fraud/irregularity is suspected, who shall in turn determine what appropriate investigations are required.

5.4 Risk Management

5.4.1 The Cabinet is responsible for approving the Authority's risk management policy statement and strategy and for reviewing the effectiveness of risk management. Cabinet is also ultimately responsible for ensuring that proper insurance exists where appropriate.

5.4.2 The Chief Financial Officer is responsible for the Authority's risk management policy statement and for promoting it throughout the Council.

5.4.3 Corporate Directors are responsible for maintaining risk registers in accordance with the Risk Management policy and framework, issued by the Council's Risk Manager. Chief Officers will regularly review the risks and advise the Council’s Risk Manager appropriately of any material changes as they arise.

5.4.4 All managers are responsible for managing risk, including taking action to mitigate the occurrence of the risk, and for maintaining contingencies (including a business continuity plan) should the risk actually materialise. Managers will need to take into account the matrix rating of the risk and the costs of any mitigating action.

5.4.5 Risk Management and effective Corporate Governance requires the management of all types of risk, financial and non-financial.

5.4.6 All risks should be identified on a 'likelihood / impact' matrix, where each is assessed in terms of having a low, medium or high likelihood and severity, by quantifying the financial impact where possible.
5.4.7 The Council is obligated to run a whistleblower scheme, which all staff should be made aware of by their Manager/Corporate Director and actively encouraged to use when appropriate.

5.5 **Insurances**

5.5.1 The Chief Financial Officer shall effect and periodically review all insurance cover in consultation with other Corporate Directors who shall provide such information as may be required.

5.5.2 Corporate Directors shall promptly notify the Chief Financial Officer of all new risks and any alterations, terminations, loss or liabilities that affect existing insurances. Where appropriate, Corporate Directors should also inform the Police of any losses as soon as possible and advise the Chief Internal Auditor.

5.5.3 Corporate Directors shall consult the Chief Financial Officer in respect of the terms of any indemnity which the Council is required to obtain or provide.

5.6 **Security**

5.6.1 Each Corporate Director is responsible for maintaining security at all times for all Council property, stocks, stores etc. under his/her control. He/she shall consult the Chief Internal Auditor in any case where security is thought to be defective or where special arrangements may be needed.

5.6.2 Maximum limits for cash holding shall be agreed with the Chief Internal Auditor and shall not be exceeded without express permission.

5.6.3 Keys to safes and other similar receptacles must be kept in a secure place or carried by a responsible person at all times. Any loss of keys must be reported to the Chief Internal Auditor as soon as possible.

5.6.4 Each Corporate Director will be responsible for the privacy and security of all information held or accessed by computer equipment within his/her department in accordance with Data Protection and Information Governance best practice.

5.7 **Banking and Cash**

5.7.1 Where a bank account is opened, these accounts must not be overdrawn, unless with the prior approval of the Chief Financial Officer. If this occurs, the Council’s Bankers will report the matter to the Council accordingly.

5.7.2 The Chief Financial Officer must approve all banking and card acquiring arrangements across the Council.

5.8 **Imprest Accounts and Petty Cash**

5.8.1 In conjunction with corporate policy, the use of Purchasing Cards (P-cards) is to be used across the Council where possible in order to minimise the use of cash. The Oracle based i-expenses system is also to be used wherever possible by staff for the reimbursement of personal expenses incurred whilst undertaking Council business.
5.8.2 The Chief Financial Officer shall provide such Imprest Accounts as he/she considers appropriate, and to be used when P-cards and i-Expenses are not possible.

5.8.3 There should be regular reimbursement of the petty cash up to an imprest level; and the holder should ensure there is adequate physical security of the cash.

5.8.4 No income received on behalf of the Council may be paid into an Imprest Account but must be banked or paid to the Authority in accordance with these Rules.

5.8.5 Payments shall be limited to minor items of expenditure and such other specific payments as the Chief Financial Officer may approve and shall be supported by a receipt. This excludes the payment of salaries and wages. No individual item purchased on petty cash shall exceed £50 in value and the total of any petty cash transaction shall not exceed £100 without the Divisional Director (Head of Service) prior approval to individual payments or to specific areas of payment.

5.8.6 An employee responsible for an Imprest Account shall provide the Chief Financial Officer a certificate to the state of the account, annually and also when required otherwise.

5.8.7 On leaving the employment of the Council, or otherwise ceasing to be entitled to hold an Imprest Account, an employee shall account to the Chief Financial Officer for the amount advanced to him/her. No imprest account must be overdrawn

5.9 Cheques

5.9.1 The Council's preferred payment method is by BACS, and cheques should only be raised where BACS is not possible.

5.9.2 All cheques, except those drawn on authorised Imprest Accounts, shall be ordered by the Chief Financial Officer, who shall make proper arrangements for their safe custody.

5.9.3 Means of payment other than by cheque, e.g. bank credit, shall be subject to arrangements approved by the Chief Financial Officer.

5.9.4 Cheques above financial limits set by the Chief Financial Officer shall be manually countersigned by delegated officers authorised to do so by the Chief Financial Officer.

5.10 Electronic Payments

Where payments are to be transmitted electronically, the Chief Financial Officer shall approve the necessary arrangements made to safeguard the Council against losses. Requests for electronic transfers through the banking system must be made to the Corporate Finance (Treasury Management Team) in writing by an authorised signatory.
The Treasury Management team must be given advance warning when such transfers are required. As a general guide, seven days notice is required for payments up to £500,000 and fourteen days for payments in excess of £500,000.

Payment by Direct Debit may only be agreed with the prior approval of the Chief Financial Officer will be required to take any necessary action to safeguard against loss of VAT recovery.

5.11 Investments, Borrowing and Trust Funds

5.11.1 All investments and borrowings of money shall be under the control of the Chief Financial Officer and shall be made by him/her under arrangements approved by them in the name of the Council. These arrangements are detailed in the Council’s Treasury Management Strategy and its appendices.

5.11.2 All securities, the property of which are in the name of the Council or its nominees and the title deeds of all property and its ownership shall be held in the custody of the Council’s Legal Service (or the Council’s bankers, Custodian, Nominees or stockbrokers as appropriate).

5.11.3 The Chief Financial Officer, or the Council’s bankers with the approval of the Council, shall be the Council’s registrar of stocks, bonds, loans and mortgages and shall transact as well as maintain records of all borrowing and investments of money by the Council.

5.11.4 All trust funds shall wherever possible be in the name of the Council.

5.11.5 All employees acting as trustees by virtue of their official positions shall deposit all securities etc. relating to the trust with the Chief Financial Officer, unless the deed otherwise provides.

5.12 Stocks, Stores and Inventories

5.12.1 Each Corporate Director is responsible for keeping all accounts of stocks and stores within their Service.

5.12.2 Each Corporate Director shall arrange for the storekeeper to keep the necessary records, after consultation with the Chief Financial Officer.

5.12.3 Each Corporate Director shall arrange for a system of continuous stocktaking to ensure that all items are checked at least once every year.

5.12.4 Any discrepancy or surplus, obsolete or unusable stock at any depot or stores where the total variation or expected loss does not exceed £500 (or 1% of the total value of stock held at that depot, whichever is the greater) shall be dealt with by the Corporate Director in consultation with the Chief Financial Officer. Where any variation or expected loss exceeds this amount a report must be submitted to the Cabinet.

5.12.5 Inventories shall be maintained by all departments in a form and with such details determined by the Corporate Director. with the concurrence of the Chief Financial Officer.
5.12.6 Each Corporate Director shall be responsible for maintaining an annual check of all inventory items, and for taking appropriate action with regard to surpluses or deficiencies after consultation with the Chief Financial Officer.

5.12.7 Council property shall not be used for anything other than Council business without the prior approval of the responsible Corporate Director.

5.13 **Leases**

5.13.1 Each Corporate Director is responsible for the leases within their Service.

5.13.2 Leases need to be accounted for correctly in compliance with new International Financial Reporting Standards (IFRS).

5.13.3 Where there has been an acquisition of a new lease or a change in an existing one, Corporate Directors should liaise with the Corporate Finance Service in order to agree the appropriate action and treatment of the lease.

5.14 **Write Off, Disposal of Assets and Debts**

5.14.1 Write offs: If assets have been lost, stolen or damaged and the loss is not recoverable from insurance or other sources, they may be written off by the Corporate Directors in conjunction with the Chief Financial Officer.

5.14.2 Corporate Directors may write off other non repeating sums to the value of £2,000. Sums above this limit may be written off in agreement with the Chief Financial Officer up to a value of £10,000. Other write offs proposed in excess of this sum must be subject to a report by the relevant Corporate Directors to the Cabinet, supported by the Chief Financial Officer.

5.14.3 Debts in relation to Revenues and Benefits may be written off in accordance with the debt write off strategy as agreed from time to time by the Cabinet.

5.14.4 Write offs in excess of £2,000 will be reported to the Cabinet on a quarterly basis.

5.14.5 Disposals: Any asset of the Council deemed obsolete or surplus to requirements shall, where the residual value does not exceed £5,000, be disposed of by the Chief Officer in consultation with the Chief Internal Auditor. Where the residual value exceeds £5,000 a report shall be submitted to the Cabinet stating the reason for disposal and the recommended method of disposal. The Capital Finance team are also to be informed of the disposal, as it may affect the Fixed Asset Register.

5.14.6 Any proposals to sell or lease land/property, etc. at less than market value must follow the procedure as laid down in the “Land Acquisitions and Disposal Rules”, which requires full consultation and agreement on the financial implications as approved by the Chief Financial Officer.

5.14.7 All land sales will be approved by the Cabinet and should adhere to the ‘Land Acquisition and Disposal Rules’ within Part D of the Council’s Constitution.
Section 6: Treasury Management Framework


6.2 The Treasury Management Policy Statement (TMPS) shall be reviewed and maintained annually by the Assembly. This statement shall set out the policies and objectives of the Council’s treasury management activities.

6.3 The Chief Financial Officer shall create and maintain suitable Treasury Management Practices (TMPs), which shall set out the manner in which the Council will seek to achieve the policies and objectives set by the Assembly.

6.4 The Chief Financial Officer shall report to the Assembly annually and at regular intervals on all treasury management policies, practices and activities including an annual strategy at the start of the year and annual report at year end.

6.5 The Chief Financial Officer will set Prudential Indicators for the forthcoming and following two financial years. The Chief Financial Officer will provide regular reports to the Cabinet and Assembly and report any breaches or amendments of the Code.

6.6 Prudential Indicators are reported annually via the Treasury Management Strategy before the start of the financial year.

6.7 There are a number of treasury indicators which previously formed part of the prudential code, but which are now more appropriately linked to the Revised Treasury Management Code and guidance. Local authorities are still required to “have regard” to these treasury indicators.

6.8 The key treasury indicators which are still part of the Prudential Code are:

- Authorised limit for external debt
- Operational boundary for external debt
- Actual external debt
- External Debt

6.9 In the medium term local authorities only have the power to borrow for capital purposes.

6.10 The authorised limit – This sets the maximum level of external borrowing on a gross basis (i.e. not net of investments) and is the statutory limit determined under Section 3 (1) of the Local Government Act 2003 (referred to in the legislation as Affordable Limit). This limit needs to be set or revised by members.

6.11 The operational limit – This links directly to the Council’s estimates of the Capital Financing Reserve (CFR) and estimates of other cash flow requirements. This indicator is based on the same estimates as the authorised limits reflecting the most likely prudent but not worst case scenario but without the additional headroom included within the authorised limit for future known
capital needs now. It should act as a monitor indicator to ensure the authorised limit is not breached.

6.12 The Chief Financial Officer shall ensure that all legislative amendments and changes in treasury or capital limits are approved by the Assembly.

6.13 The Chief Financial Officer will be responsible for adopting the changes outlined and compliance with any practices or limits.

**Section 7: Financial Administration, Systems and Procedures**

This section outlines the standards of financial administration, systems and procedures that must be followed to ensure that all employees have a clear understanding of their responsibilities in regards to:

1. Being clear on who is authorised to approve financial transactions;

2. Ensuring staff appointments are made in accordance with employment law, that salaries and wages are properly authorised, that the proper deductions are made (statutory and non-statutory) and all payments are properly recorded and correctly charged;

3. Ordering and paying for goods and services according to the Council’s Contract Procedure Rules, securing value for money, paying only for what the Council receives and dealing with VAT properly;

4. Ensure the Council pays and accounts for tax correctly;

5. Ensuring all sources of income to the Council are identified, claimed and collected;

6. Ensuring that a live and complete record of all Council transactions is maintained.

### 7.1 Approval Limits

The approval of contracts/contractors should be carried out in accordance with the Council’s Contract Rules, which form part of this constitution. This entails amongst other things that proposed contracts greater than £400,000 must be reported to Cabinet before any procurement process begins. Furthermore, the procurement of lower value contracts are subject to a series of procedures and controls as set out in the Contract Rules and the actual award of contracts is subject to approval being granted by one or more Corporate Directors depending upon contract value.

The approval of all payments, (including purchase orders, invoice authorisations, termination payments) should be carried out within each service in accordance with the Council’s internal financial scheme of delegation.
7.2 Human Resources and Payroll – Payments to Employees and Members

7.2.1 The Chief Financial Officer is responsible for the payment of all salaries, wages and pensions, compensation and other emoluments due to current or former employees of the Council, and to Members. Each Corporate Director shall notify the Divisional Director of Human Resources and Organisational Development as soon as possible, of all matters affecting the payment of such emoluments i.e. appointments, resignations, absences from duty etc.

7.2.2 The names of employees authorised to sign any documents affecting pay shall be sent to the Chief Financial Officer by each Corporate Director together with specimen signatures and shall be amended on the occasion of any change. The Corporate Director must sign this notification.

7.2.3 Payments should be paid directly into employees / Members bank account on the specified pay date; and should only be paid to the person concerned, unless otherwise authorised.

7.2.4 All payments made should be in accordance with established pay grades, and rates of pay.

7.3 Ordering and Paying for Goods and Services

7.3.1 All staff and managers are required to ensure that the most appropriate method of payment is used for each item of expenditure (excluding employee’s salary payments) as follows:

1. i-Expenses – used to reimburse staff for expenses incurred in the course of their work for example travelling and subsistence, eye tests, glasses (towards the cost of single vision / bi-focal lenses) and medical certificates.

   The usage of the automated i-expenses system will have authorisation levels decreed by the Organisational hierarchy up to a maximum claim value of £250. Where claims are made in excess of this value, they will not be automatically paid once approved by an appropriate officer, but will be subject to further investigation by the Accounts Payable Manager or designated representative, prior to the release of payment.

   The Chief Executive and Corporate Directors will self approve their expenses with weekly report to the Chief Financial Officer.

2. Purchase Card – used to pay for low value, high volume goods or services such as advanced booking of accommodation and travel expenses, books and periodicals.

3. Purchase Order – all other expenditure that cannot be purchased using i-expenses and purchase card.

   There may be occasions, in cases of emergency, when verbal orders are placed, but these must be the exception rather than the rule and always confirmed by the issue of an authorised official order.

   Under no circumstances may individual employees use the Council’s ordering or payment systems for personal use or benefit.
Failure to comply with these rules constitutes gross misconduct and may be followed by disciplinary action as appropriate.

7.3.2 Payments must be in accordance with the Contract Procedure Rules and the Financial Scheme of Delegation set out within the constitution, in respect of financial limits and Cabinet approval, tendering for contracts, contract extensions and variation orders, and the use of approved supplier lists.

7.3.3 Corporate Directors or Divisional Directors (Heads of Service) must designate specific employees who are authorised to place and approve orders on their behalf and must operate procedures which secure value for money in accordance with Contract Procedure Rules. The procedures must also be properly recorded, communicated to staff, and continuously monitored.

7.3.4 The Council operates an automated purchase to pay process and it is the corporate policy that a requisition be raised using Oracle i-procurement in order for a purchase order to be generated. i-Procurement will have requisition authorisation levels set as follows:

<table>
<thead>
<tr>
<th>Band</th>
<th>Positions</th>
<th>Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenue Expenditure</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A</td>
<td>Any</td>
<td>£0 - £100</td>
</tr>
<tr>
<td>B</td>
<td>Any</td>
<td>£101 - £500</td>
</tr>
<tr>
<td>C</td>
<td>Group Manager</td>
<td>£501 - £5,000</td>
</tr>
<tr>
<td>D</td>
<td>Divisional Director (Head of Service)</td>
<td>£5,001 - £250,000</td>
</tr>
<tr>
<td>E</td>
<td>Corporate Director</td>
<td>Above £250,001</td>
</tr>
</tbody>
</table>

| **Capital Programme**                 |                  |
| A    | Any                            | £0 - £10,000    |
| B    | Delivery Manager/Project Manager | £10,001 - £50,000 |
| C    | Project Sponsor (Group Manager) | £50,001 - £5,000,000 |
| D    | Programme Sponsor (Divisional Director/Head of Service) | Above £5,000,000 |

There may be occasions where these authorisation levels may not be practical, but as these must be the exception rather than the rule, the
Corporate Director will be required to submit a business case for approval by the Chief Financial Officer.

The approvers for Capital Programme will be defined and agreed as part of the Capital Programme Management Office (CPMO) approval process. Also, before spending can commence on capital programmes, the delegated authority form, which approves the award of the contract to a named Contractor, must be completed and signed off by the appropriate Corporate Director, the Procurement Manager and Chief Financial Officer. Only then can a purchase requisition be raised on i-procurement.

Any changes in authorised personnel must be notified immediately to Corporate Finance.

7.3.5 In order to protect individual employees and also minimise the risk of losses through misappropriation or fraud, duties must be arranged to avoid the same member of staff having authority to place orders, receive and pay for goods without the involvement of others. Where limited staff resources make this difficult to achieve, the advice of Internal Audit must be sought regarding compensating controls.

7.3.6 When receiving goods or services checks must immediately be made by the requisitioner/buyer to ensure that:

1. The goods or services are in accordance with the order placed.
2. Any faults or deficiencies are reported to the supplier and remedial action taken.
3. Where necessary, inventories or stock records have been updated.
4. Goods delivered are placed in the safe custody of their authorised recipient.
5. Goods and services are ‘receipted’ on Oracle iProcurement.

7.3.7 Payment must only be made on the satisfactory completion of the order placed. Any proposal to pay in advance of receiving the goods or services must, therefore, be first authorised by the Chief Financial Officer.

7.3.8 Corporate Directors will ensure to the satisfaction of the Chief Financial Officer that procedures and documentation are in place:

1. To verify that expenditure has been properly incurred, and accurate and timely payments are being made (i.e. within 30 days of the invoice being received by the Authority). Where supplier deadlines for payments are specified and they are shorter than 30 days, and especially where early payment discounts are offered, then these timescales should be met where possible.
2. To verify that the goods, services, or works in question have been received or carried out, and are to the quality expected. Goods and
services should be ordered through Oracle iProcurement and ‘goods receipted’ upon delivery.

3. To ensure there is adequate provision in the Budget.

4. To avoid duplicate payments.

5. Incorrect invoices should not be amended but returned to the supplier.

7.3.9 Where items of expenditure cannot be commissioned through the raising of an Oracle iProcurement purchase order, the creditor invoices or requisitions must be certified for payment by the responsible budget officer or designated representative. The names of such authorised employees and specimen signatures shall be authorised by the respective Divisional Director (Head of Service) and passed to the Chief Financial Officer.

7.3.10 The Chief Financial Officer may require, where necessary, evidence that appropriate checks have been undertaken before payment.

7.3.11 Construction Industry Scheme (CIS): When ordering services such as painting, decorating, plumbing or any other general building works deemed to be within the scope of the scheme, Budget Holders must observe the regulations stipulated by Her Majesty’s Revenue and Customs (HMRC). The scheme requires that the Council acts as agent to the HMRC, deducting Income Tax where appropriate. Any enquiries should be referred to the Accounts Payable Manager who will liaise with the HMRC as required.

7.4 Taxation and VAT

7.4.1 The Chief Financial Officer is responsible for maintaining the Authority’s tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate. He / she is also responsible for advising Chief Officers, on all taxation issues that affect the Authority.

7.4.2 The Payment Team must ensure that VAT is checked when paying invoices to ensure that:

1. Transactions where no VAT is paid are correctly identified as Zero Rated, Exempt or Outside the Scope.

2. There is a valid tax invoice and the VAT is correctly calculated.

7.4.3 Delegated budget holders must ensure that tax is correctly charged on income due to the Council.

7.4.4 Corporate Finance Service is to provide a corporate resource that will advise on VAT implications across the Council. Where more technical advice is required departments will be required to fund the cost of that advice.

7.5 Income Accounts and Debtors

7.5.1 Corporate Directors must ensure that accounts are rendered promptly for the recovery of all income due. Elevate East London (EEL) will raise all accounts
as requested by Corporate Directors, who will provide details of goods supplied or services / works rendered.

7.5.2 All money received by an employee on behalf of the Council shall be paid to the Chief Financial Officer, or as he/she may direct, to the Council’s bank account. All cash received on behalf of the Council shall be receipted. No deduction may be made from such money without the Chief Financial Officer authority.

7.5.3 Each employee who banks money shall enter on the paying-in slip the name of his/her department, office or establishment and, where payment is made by cheque, a reference to the related debt (such as the receipt number or the name of the debtor) or otherwise to indicate the origin of the debt, on the reverse of each cheque.

7.5.4 Every transfer of the Council’s money from one employee to another will be evidenced in the records of the department concerned by the signature of the receiving employee.

7.6 Accounting Systems and Processes

7.6.1 The Chief Financial Officer is responsible for the operation of the authority’s accounting systems, the form of accounts and the supporting financial records.

7.6.2 Chief Officers are responsible for the proper operation of financial processes in their own departments.

7.6.3 Any changes made by Chief Officers to the existing financial systems, proposals to introduce new processes or the establishment of new systems (including IT systems) must be agreed in advance by the Chief Financial Officer. Internal Audit must be informed of and involved as appropriate in all changes to systems of internal control before they happen in order that advice can be provided.

7.6.4 Corporate Directors must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Each must also ensure that staff are aware of their responsibilities under freedom of information legislation.

7.6.4 Delegated budget holders in conjunction with the Directorate Finance Managers must ensure that all financial transactions are accounted for in a timely manner in the accounting system using an appropriate code, which properly records the nature of the income or expenditure. All accounting transactions and financial statements produced must conform to the latest legislation and best accounting practices.

7.6.5 Delegated budget holders must ensure that all income and expenditure is accounted for separately and not set off, one against the other. Capital expenditure must be accounted for separately from revenue expenditure.
7.6.6 Delegated budget holders must only use their own designated accounting codes unless written authority has been given by another delegated budget holder or Chief Financial Officer.

7.6.7 The Chief Financial Officer, in conjunction with the delegated budget holders will maintain a definitive list of accounting codes to be used by all departments, which must be reviewed and updated regularly.

7.6.8 It is the responsibility of the relevant Finance Manager to ensure that Control and Suspense accounts are reconciled monthly. A monthly reconciliation must be done for all bank accounts, to prove the correctness of the bank balance and to confirm that all transactions have been processed into the Council’s accounts.

7.6.9 Journal transfers approved by Finance Managers must be used to make accounting adjustments and must show the full details of the transaction and reference to source documents.

7.7 Records and Procedures

7.7.1 Corporate Directors shall keep such records and adopt such procedures as, in the opinion of the Chief Financial Officer, are necessary to record correctly all financial operations of his/her department and to ensure accuracy and proper recovery of all sums due to the Council.

7.7.2 An effective system should be established for the examination and checking of accounts and cash transactions so that, as far as practicable:

1. The provision of such examination and checking of accounts and cash transactions shall be separated from the duties of collecting and disbursing of monies.

2. Officers examining and checking accounts and cash transactions shall not themselves be employed in any of these transactions.

3. Where the principles set out above are not practicable the appropriate Corporate Director and the Chief Financial Officer shall be advised.

4. All arrangements with the Council Bankers, including the opening of new bank accounts, shall be made by the Chief Financial Officer, or under arrangements approved by him/her. All bank accounts should also be fully reconciled as at 31 March each year.

7.8 Trading Accounts

The Chief Financial Officer is responsible for advising on the establishment and operation of trading accounts and business units.
Section 8: External Arrangements

8.1 Joint Venture

8.1.1 Cabinet is responsible for approving delegations, including frameworks for partnerships. Cabinet can delegate functions relating to partnerships to officers, but where functions are delegated, Cabinet remains accountable for them to the Assembly.

8.1.2 The Chief Executive as Head of the Paid Service represents the authority in the Elevate Joint Venture.

8.1.3 The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in the Elevate Joint Venture that apply throughout the Authority.

8.1.4 The Chief Financial Officer must ensure that the accounting arrangements to be adopted relating to the Elevate Joint Venture are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues associated with contractual arrangements entered into. He or she must ensure that the risks have been fully appraised before agreements are entered into.

8.1.5 Chief Officers and their staff, have a client role in respect of the Elevate Joint Venture, and should monitor outputs and service levels accordingly, to ensure that they are in line with the agreed standards.

8.2 External Funding

8.2.1 External funding covers bids to Government and other organisations that are offering funding for projects that meet certain criteria, as well as contributions from organisations and individuals (public or private).

8.2.2 Corporate Directors are ultimately responsible for the external funding within their service, including exploring feasible options and proposals to maximise its availability to the Council and ensuring it is received and properly recorded.

8.2.3 Corporate Directors must provide the Chief Financial Officer, or nominated deputy, with details of all bids for external funding. This should also include details of any matched funding; whether it is revenue or capital; and any future/ongoing revenue implications.

8.2.4 Corporate Directors/ delegated budget holders must not commit expenditure on projects requiring matched funding contributions until the external funding has been confirmed, unless approval has been given by the Chief Financial Officer.

8.2.5 Corporate Directors/ delegated budget holders must ensure that monies are received from the funding body, and where possible this should be before any planned financial commitments are entered into by the Council. Corporate Directors / Divisional Directors (Head of Service) must also advise the Chief
Financial Officer of all grant and subsidy notifications as soon as they are received.

8.2.6 Corporate Directors/ delegated budget holders are also responsible for ensuring that all conditions associated with external funding are met, and that all appropriate information and evidence required to complete grant/subsidy claims is provided on time.

8.2.7 Where the external funding notified is higher than the budget, the surplus amount should be returned to the central contingency unless regulations specify restrictions on its use, in which case it should be used to offset other uncontrollable pressures within the service. Where the funding is less than the budget, the Corporate Director / Divisional Director (Head of Service) should notify the Chief Financial Officer of options for containing the potential overspend.

8.2.8 Some services may be funded (wholly or partly) through time-limited external funding. If / when the possibility of expenditure / commitments slipping past the funding deadline is forecast, the responsible Corporate Director/ delegated budget holder or Chief Officer should notify the Chief Financial Officer, immediately and provide options for reducing expenditure and/or identifying alternative funding. Where there is a risk of external funding being reduced or stopped, budget managers should have an exit strategy in place, which will prevent any impact on other internal Council budgets.

8.3 Work for Third Parties

The Cabinet is responsible for approving the contractual arrangements for any work for third parties or external bodies.
APPENDIX A  INTERPRETATION

A.1 Any reference to an Act of Parliament, Regulation or other legislation shall include a reference to that legislation as amended, applied, consolidated or re-enacted by virtue of any subsequent legislation.

A.2 The expression 'Corporate Director' refers to the position of 'Chief Officer' and includes their authorised representatives.

A.3 The expression "The Chief Financial Officer", is also known as the Council's Section 151 Officer.

A.4 Any reference to the 'Chief Financial Officer' shall include their nominated Deputy.

A.5 The "Assembly" means the Council acting as or through the Assembly, and includes any person or body to which the Assembly delegates functions.

A.6 The "Council" means the London Borough of Barking and Dagenham.

A.7 The expression "Cabinet" includes any person or body to which the Cabinet delegates executive functions.

A.8 "Code of Practice" is the Contracts Code of Practice approved by the Assembly as set out in Part D of the Council Constitution.

A.9 "Value" shall mean, where known, the precise value or, where not known, the estimated value, of the works, services, goods or materials that will be payable by the Council over the entire contract period (including any extension period). Where the anticipated value is near the turning point between two classifications, the value of the contract shall be treated as if it were in the higher classification.

A.10 "Partnership" means public sector partnerships in which the Council participates as a constituent participant or lead authority within a separate organisation.

A.11 The term "contract" shall include all the contracts, agreements and orders for the carrying out of work, the provision of services and the supply of goods or materials to, for, or by the Council, by the purchase, lease, rental or hire purchase, including the provision of services to the public on the Council’s land or premises. It shall not include contracts for the employment of staff, or for the sale, purchase, lease or licence of land or buildings.

A.12 These Rules are to be interpreted subject to United Kingdom and European Union legislation, regulations, orders and directives. EU Procurement legislation in particular prohibits discrimination on grounds of national standards or in support of the promotion of local economic interests. These EU Treaty provisions apply to all contracts including those below the EU Public Procurement thresholds.

A.13 Corporate Directors will refer to the Chief Executive any questions relating to the interpretation of the Rules.

A.14 These Rules should be applied in accordance with the Code of Practice.

A.15 Reference to Chief Internal Auditor includes Group Manager, Internal Audit and Corporate Anti-Fraud.

(Contact Chief Financial Officer: Tel: 020 8724 8427)
EMPLOYMENT RULES

1. All Employees

1.1 The Council has a recruitment and selection policy and operational requirements which all Members and Managers who undertake recruitment, selection and appointment must apply.

1.2 The Council requires that any candidate for appointment as an employee must state, in writing, whether, to his/her knowledge; they are related in any way to a Councillor, an employee of the Council or their partner. This includes any step relationships, or relationships through adoption or fostering.

1.2.1 Recruitment literature includes a statement to this effect and application forms provide a section to enable the applicant to make any such declarations.

1.2.2 No candidate so related will be appointed without the authority of the relevant Chief Officer or an employee nominated by him/her.

1.3 The Council, in its policy and associated recruitment literature, states that all appointments will be made on the basis of job related criteria. The Council will, therefore, disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. Equally, a Councillor may not seek support for any person for any appointment with the Council.

2. Appointments

2.1 The appointment of the Chief Executive (Head of Paid Service), Monitoring Officer, Chief Financial Officer (Section 151 Officer), Chief Officers and JNC Officers (Deputy Chief Officers) should be made by Members, conducted in accordance with the Council’s Scheme of Delegation (Part C of the Constitution).

(The term “Deputy Chief Officer” is defined in the Local Government and Housing Act 1989)

2.2 The appointment of employees below Deputy Chief Officer may not be made by Members, and should be conducted in accordance with the Council’s Scheme of Delegation (Part C of the Constitution).

2.3 The appointment of an assistant to any political group, where such posts exist in accordance with Section 9 of the Local Government and Housing Act 1989 as approved by the Chief Executive, shall be made in accordance with the wishes of the political group concerned. The following legislation prohibitions shall apply:
(a) the making of an appointment to any post allocated to a political group until the Authority has allocated a post to each of the groups which qualify for one;

(b) the allocation of a political assistant to a political group which does not qualify for one; and

(c) the allocation of more than one post to any political group up to a maximum of three.

A political group must have at least six councillor seats to qualify. Where more than three political groups qualify, those with the highest number of councillors will have priority.
CONFERENCES, VISITS AND HOSPITALITY RULES

1. Introduction

1.1 The way that Members and staff are expected to behave is set out in agreed Codes of Conduct. The key principles behind these Codes include the need to act with integrity, and, in particular, not to do anything which could call into question the validity of an action. The public's perception of the way that Members and staff act is very important and these rules should ensure appropriate, reasonable and accountable actions when Members and staff are involved in certain events. It is particularly important that actions are transparent and therefore the rules do require certain registers and records to be kept for possible inspection or scrutiny.

2. Meetings, Visits and Conferences

2.1 The rules apply to the following meetings, conferences and visits involving attendance by Members and/or staff:

2.1.1 Conferences relating to a particular profession or service held outside the Borough;

2.1.2 Visits outside the Borough to other authorities and organisations to explore policy or service initiatives, or to develop partnership or twinning relations; and

2.1.3 Discretionary meetings, conferences and ‘away-days’ usually held within or near the Borough which are called by Members or staff to address specific issues, or to return hospitality received (this does not include training events similar to those which you would expect to find in the Staff Development Programme).

2.1.4 In the rest of the rules, any of these will be referred to as "the event".

2.2 The rules will not apply in exceptional circumstances where attendance at meetings or conferences is deemed essential in the context of the individual capability of a manager. In these cases the Chief Executive will retain delegated authority to authorise attendance.

2.3 The rules will also not apply in the case of special, personal invitations to the Leader of the Council to events which do not specially fall into the categories in paragraph 2.1 above. In such cases the Leader of the Council reserves the right to judge whether or not the invitation should be accepted and, at his/her discretion, he/she may pass the invitation to another Member. Only travel expenses will be funded in such instances. A record will be kept by the Leader’s PA.

2.4 If the total cost is likely to exceed £3,000 the event must be approved by the Cabinet - in advance where possible. (Note – the total cost does not include the cost of officer time).

2.5 Where a programme of events is involved the approval of the Cabinet should be obtained at the beginning of the year.
2.6 In exceptional cases where timescales prevent prior approval, the appropriate Corporate Director* has authority, in consultation with the Leader or Deputy Leader of the Council, to approve the event but must submit a report to the Cabinet at the earliest opportunity.

2.7 The relevance of the event and the expected benefits of attendance must be explained in the report. The names of those planning to attend should also be given with appropriate justification.

2.8 Numbers attending must be kept to a minimum and attendance limited to those who have a relevant interest. An officer may accompany a Member(s) on any Council visits outside the United Kingdom, if deemed appropriate.

2.9 If a Member or staff wish to attend any event in a private capacity, that capacity should be made clear from the beginning to all involved. If the potential exists for a conflict of interest between private involvement and official duties, the Cabinet should be notified before the event takes place.

2.10 With the exception of the Mayor’s spouse, partner, consort, attendance at events by spouses and partners only is generally not allowed. However, it is recognised that there may be exceptional occasions when such attendance is appropriate.

2.11 A separate register is kept by the Members Support Officer recording details of attendance on visits outside the United Kingdom where any part of the event is funded by the Council. Any reciprocal arrangements are recorded in the same register. Details should be passed to the Members Support Officer for recording at the earliest opportunity.

3. Expenses

3.1 Incidental expenses should be kept to a minimum.

3.2 Any expenses not directly related to the event should normally be paid for personally by the Member or staff concerned (for example, the costs of any entertainment or leisure activities). Reimbursement of such expenses will only be considered if a written justification is provided. It is not, however, unreasonable for example, that someone should make a brief call home by telephone, email or fax when staying away and to include this on Council expenses.

3.3 Meals bought en route should fall within the subsistence regulations discussed in rule 9. The cost of refreshments between meals will only be refunded by the Council if they are reasonable.

4. Choice of Venue

4.1 When the location of an event is discretionary, Council premises and facilities should be used. Any exceptions to this must be approved by the Corporate Director*. The need to “get away from the office” is not an acceptable reason for using private locations.
4.2 Official meetings between Members, Members and staff, or staff must take place in the Borough in appropriate Council premises, (i.e. administrative accommodation), unless unavoidable (for example, at the invitation of an independent third party).

5. Working Lunches and Out of Hours Meetings

5.1 Meals taken in the Borough by staff should be paid for by the individuals concerned unless this is impractical (for example, an all day conference).

5.2 Discretionary meetings between Members and/or staff should be arranged, where possible, during normal working hours on Council premises. Out of hours and lunch hour meetings should be exceptional.

5.3 Food should only be provided where no reasonable alternative is available. When food is provided or funded by the Council, the relevant Corporate Director should authorise it and record the justification. The Council should not be seen to be unnecessarily subsidising meals nor to be providing them as an inducement to attract attendance at an event. The amount and standard of provision should be kept to a reasonable level. No food should be provided off Council premises.

6. Staff Leaving Parties and similar

6.1 Members of staff at all levels are expected to personally fund the whole cost of any retirement or other leaving event, save that upon request to their Corporate Director and the Divisional Director of Asset Management and Capital Delivery and subject to room availability, the Council will waive the room hire cost for any event held in any meeting room within the Council’s administrative buildings.

7. Accommodation

7.1 An event should be organised to minimise the extent of overnight stay.

7.2 Where practical, accommodation should not exceed a three star rating (or its equivalent when foreign travel is involved). Anything in excess should be justified in writing by the relevant Corporate Director* (for example, where alternative accommodation is not available or additional travel costs would be incurred).

8. Travel Arrangements

8.1 The choice of travel should be made with a view to keeping the cost of the visit as low as possible. People should share vehicles and travel together where practical. However, cheaper methods of transport should not be considered if this results in an additional overnight stay and greater overall cost.

8.2 First class or club class travel is not normally provided for Members or staff, but in exceptional circumstances the Chief Executive can approve it for Members, and a Corporate Director may approve it for staff. In the case of either Members or officers, specific justification must be documented.
9. **Allowances**

9.1 Subsistence should be seen as a reimbursement rather than as an allowance. Expenditure should be documented with supporting receipts where possible. Where receipts are not provided, the expenditure will be taxed. Where possible, one individual should be nominated to keep all receipts relating to a particular event.

9.2 Where meals and accommodation are paid for by the Council or others, subsistence cannot additionally be claimed. Overnight subsistence covers the cost of meals and/or accommodation.

9.3 In cases where a member of staff organises petty cash advances for a group event, they should inform accompanying Members and staff at the beginning so that all claimable expenditure can be channelled through that individual.

9.4 Travel claims should only be submitted by those Members or staff who provided the transport or paid for the tickets.

10. **Employee Overtime**

10.1 Overtime will only be paid for approved duties, and only for time reasonably spent outside of normal office hours, for example travelling to and from the venue, or for work linked to the event. Alternatively, time off in lieu, rather than overtime, may be granted.

11. **Financial Issues**

11.1 The funding of events should be finalised as far as possible in advance. This should allow most bills to be paid through the Council’s creditor system and minimise the amount of cash that needs to be carried.

11.2 When a cash advance is sought, the intended use should be clearly documented. Both receipts and unspent cash must be returned to the Corporate Director of Finance & Commercial Services at the end of the visit with a list of all expenditure.

11.3 The additional cost of spouses or partners must be clearly documented by the appropriate Finance section and a full recovery made as soon as possible. The calculation is not always easy but the objective should be to demonstrate that spouses or partners have not been paid for or subsidised by the Council. Where any doubt exists the matter should be discussed with the Audit & Risk Controller.

12. **Review Arrangements**

12.1 At the end of each event requiring Cabinet authorisation (see Section 2.3), a further report should be made to the Corporate Management Team within two weeks giving:

12.1.1 a brief summary of the event and the benefits of attendance

12.1.2 the full costs (including a comparison with the original estimates)
12.1.3 where relevant, the value of attending in the future.

13. **Hospitality and Gifts Received**

13.1 If gifts are offered to Members or staff in their Council role, they should not be accepted if they have anything more than a token value (for example, bottles of wine, boxes of chocolates, flowers, pens, calendars and diaries).

13.2 More significant gifts should be refused where practicable to do so and where refusal would not offend. Where this is not possible the gifts may be kept by the individual provided the value is considered to be less than £50.

13.3 Any gifts considered to be worth £50 or more must be entered in the relevant gifts and hospitality register and must be reported in writing to the Monitoring Officer with a recommendation for their disposal in a manner which is not to the sole advantage of the recipient (e.g. donation to charity). If considered appropriate, the Monitoring Officer will advise that the matter be reported to the Cabinet for consideration.

13.4 Decisions on whether to accept hospitality should be made by the following tests of reasonableness:

13.4.1 the scale and type of hospitality should not bring into question the motive of the person or organisation offering it. If there is any doubt at all about the motive, or if the hospitality could be viewed as being intended to influence judgement, the hospitality should not be accepted;

13.4.2 the proposed hospitality should be limited to Members or staff who have a relevant interest;

13.4.3 the hospitality should be directly linked to Council business and/or the well being of the community.

13.5 All hospitality received by Members and staff considered to be worth £50 or more must be recorded in the appropriate gifts and hospitality register and must be reported in writing to the Monitoring Officer.

13.6 These registers are available for inspection by the public. The register recording Members’ gifts and hospitality is maintained by Members’ Services. Staff registers are kept in each department.

13.7 Where hospitality received includes meals and accommodation, subsistence must not be claimed.

13.8 Hospitality or gifts refused need not be recorded in the register unless the motive was in doubt or they were offered with a view to influencing judgement in some way. In these cases, the matter should be reported to the Monitoring Officer.
14. Hospitality and Gifts Given

14.1 The approval of the Cabinet should be sought before any individual gifts are purchased with a value over £100. The value and purpose should be clear. The recipient should be clearly associated with Council business. Where practical or appropriate, gifts should be selected from an official range of items kept by Members’ Services.

14.2 The provision of hospitality to visitors should follow similar tests of reasonableness to those discussed in rule 13. All participants should have a link to the event. When appropriate, Council facilities should be used.

14.3 The level of hospitality provided should be on a scale relevant to the normal conduct of Council business. Existing subsistence allowances offer a reasonable guide in respect of hospitality funded by the Council. It is accepted that there might be a need for some flexibility in respect of schemes funded by the European Union where the nature of the scheme presumes a reciprocal level of funding for “networking” and other forms of international cooperation. For these activities the level of hospitality given should be similar to that normally received but remain at a reasonable level.

14.4 All hospitality given by Members and staff to visitors must be recorded in a register which is available for public inspection. The register for Members’ hospitality is maintained by Members’ Services. Staff registers are kept in each department.

15. Fees Received

15.1 Where Members or staff receive a fee for speaking or otherwise assisting at an event as a representative of the Council, it should be credited to a Council budget. The relevant Corporate Director* should decide which budget is most appropriate. If a gift is offered in lieu of, or in addition to, a fee, the rules in section 13 should be followed.

15.2 Where Members are asked to speak at an event in a personal capacity they should not expect officers to accompany or assist them.

16. Records and Registers

16.1 It is essential that records and registers are kept up to date and accessible for inspection or scrutiny if necessary.

16.2 Within departments, the Corporate Director is responsible for ensuring that all records/authorisations/justifications etc. relating to events are kept on one file and that staff are aware of this and where to find the hospitality registers.

* in the absence of the Corporate Director, the relevant Divisional Director may take the necessary action

(Contact Officer: Divisional Director of Legal & Democratic Services
Tel: 020 8227 2114)
LAND ACQUISITIONS AND DISPOSALS RULES

1. Background

1.1 The acquisition and disposal of land by local authorities is controlled by statute, and was the subject of reports by the Audit Commission (1980) and the Commission for Local Administration (1995). These reports highlighted the various pressures that can influence Councils, their Councillors and employees, in dealing with land, and set out guidelines to encourage best practice.

1.2 The guidelines place emphasis on adopting procedures that are transparent and consistent, and therefore fair and proper. These Rules embody those guidelines and take into account the Council’s community priorities, and the recommendations of an internal audit assessment of Council’s practices completed in 1996.

1.3 Land is a valuable finite resource which is a corporately owned asset. Land must be managed and wisely utilised to achieve the Council’s many wide and varied corporate aims and objectives.

2. Application

2.1 The Rules apply to all relevant land acquisitions and disposals except:

(i) where any provision is waived by the Cabinet by urgent action under Rule 17 of the General Rules for Meetings (Article 1 of Part B of the Constitution). The reason for any such waiver shall be set out in the appropriate minutes of the Cabinet;

or

(ii) when the disposal of an interest in property results from statute and the Council cannot resist the disposal, e.g. the property being acquired by Compulsory Purchase Order or a lessee operating their rights under the leasehold enfranchisement legislation.

2.2 References to land in the Rules include any property constructed on land or land itself. The terms "acquisition" and "disposal" apply to any relevant interest in land, including freehold, leasehold, tenancies, licences, restrictive covenants, wayleaves, easements, options, etc. The sale of Council owned housing stock held in the Housing Revenue Account and disposed of under the provisions of the Housing Act (1985) Part V Is excluded from these rules.

2.3 Reference to a Service Division or Section shall be to the Head of Service or appropriate Group Manager or to a person properly authorised to deputise for the Group Manager.

3. Control by the Cabinet

3.1 All strategic decisions about the use, acquisition and disposal of land and property assets is the remit of the Cabinet. Formulation of strategic decisions is
overseen by the Property Appraisal Group (PAG) and the Cabinet. The allocation of space in corporate buildings is initially considered by the Asset Management Group and if appropriate referred to the Accommodation Programme Board (APB) and if no resolution can be agreed by the APB the issue must then be referred to the Corporate Management Team (CMT). Any disposals as a result of statute and those that the Council cannot legally resist will be an exception to the procedure, in which case the Corporate Director of Resources will progress the disposal.

3.2 The disposal of all property either long-lease (over 20 years) or by the sale of the freehold, or land swap must be approved by the Cabinet. This provision does not affect the delegation to Chief Officers to dispose of minor interests in land up to the value specified in the Scheme of Delegation (Part C, Section N).

3.3 The decision to dispose of surplus or under utilised property must be made corporately. A Disposal Protocol (agreed by Cabinet on 17 July 2007) is in place to ensure comprehensive consultation with officers, residents and Councillors (see Appendix). An Appraisal for Retention / Disposal must be compiled and considered by PAG (form available from Property Services).

3.4 Once the PAG accept the need to decide on the disposal of property, Property Services should ensure that the appropriate Ward Councillors are consulted. The PAG shall then consider the results of that consultation and should the PAG (see Appendix) agree with the proposal to dispose of surplus or under utilised property the proposal shall be referred to the Cabinet for approval.

3.5 The decision to enter into leases for periods of up to 20 years for land and property assets with a capital value of less than £2m together with any tenancies, licences, restrictive covenants, wayleaves, easements, options, etc. is delegated to the Corporate Director of Finance and Resources. (If the lease is for part of a land holding or property the capital value is the value of the whole asset and not just the area being leased when determining if it is a Delegated Decision).

4. Employee Responsibilities

4.1 In order to provide clarity and certainty, any proposals to acquire, dispose or change the use of land shall be undertaken by the Strategic Asset Management and Capital Delivery Division (SAMCD) which acts as the Council’s landlord and a clearing-house for such policies before they are finally determined and implemented.

4.2 Property Services are responsible for professional advice to the Council on valuation and land matters, and for supplying or procuring valuation services to implement land sales, purchases or changes of use. These services may include surveying, security, ground investigations, valuation and negotiation. No other section shall initiate these activities, nor make any contact with another party during active negotiations, in relation to a land transaction, except under procedures agreed with Property Services.
4.3 Where the Council’s objectives for land are initiated by a service other than Property Services Division the responsible employee must afford Property Services the opportunity to consider and comment on the proposal, and to contribute to any relevant report to the Cabinet. All reports which alter the Council’s objectives for land and property shall be reported to the Cabinet prior to adoption.

4.4 All services / Corporate Directors have a duty to ensure the efficient and cost effective use of land they occupy or manage. Where Services have identified objectives involving the use of surplus or under utilised land and buildings Directors shall raise the issue with Property Services. Property Services will then be responsible for implementing the agreed action, subject to Cabinet approval where relevant and in consultation with CMT, Legal Partners and Corporate Finance.

4.5 The above corporate procedures may be assisted by consideration of appropriate matters by the PAG.

4.6 Where land is to be acquired to facilitate a non-Council development this will normally be to meet agreed planning policies. The acquisition or disposal shall be managed and negotiated by the Property Services Section of the SAMCD. All decisions as to disposal and acquisition are to be taken in accordance with the Scheme of Delegation. The provision of finance for land acquisitions is subject to the Council’s Capital Programme procedures.

4.7 For the purposes of clarity the decision related to Compulsory Purchase Orders is reserved to the Cabinet, however, the process required for compulsory purchase order(s), shall be managed by the appropriate Service. The agreement of the level of compensation shall be negotiated by Property Services.

4.8 The Commission for Local Administration advises that where the Council’s Valuer considers that a proposed disposal is not in the best interests of the Council having regard to the state of the market, the condition of the property and its realisable or anticipated potential, the effects of disposal on retained property, or for any other reason, the Valuer should make this clear in a report to the Cabinet giving the reasons in full.

4.9 Property Services will ensure that appropriate service managers are apprised of progress, and consulted on all major stages of land transactions, including any proposal to report under rule 4.8.

4.10 Property Services are responsible for compliance with statutory requirements in land transactions, and for securing the most advantageous consideration (both monetary and non-monetary) commensurate with achieving corporate objectives, in any transaction.

4.11 The co-ordination of advice on corporate policy for land and buildings shall be guided by, the PAG and if necessary, referred to the Corporate Group to obtain recommendation for the Cabinet.
4.12 Services proposing the release of the operational land of any service as surplus to requirements, must give adequate notice to Property Services and shall identify adequate budgetary provision for the interim management of the surplus land, pending decision as to its future use. On agreement of the appropriate budget and the transfer of the budget to Property Services, Property Services will be responsible for the future management of the vacant property until it is sold or redeveloped. If the Service Manager and the Group Manager (Property Services) cannot agree the budgetary provision necessary to manage the property, the matter shall be referred to the Chief Financial Officer for final determination.

5. Statutory Responsibilities

5.1 On disposal of land, the Council may not sell at a consideration less than the best that can reasonably be obtained. The exceptions to this general principle are in relation disposal on short leasehold interest (leases for less than seven years), disposal in accordance with the General Disposal Consent (2003) or with the specific approval of the Secretary of State/Minister for the Department of Communities and Local Government. The approved process for this is that an Appraisal at Undervalue must be completed and considered by the PAG and if supported referred to the Cabinet for consent.

5.2 The price payable by the Council on the acquisition of land is not so closely prescribed by statute. However, the Council is bound by its overall fiduciary duties, and would be acting unlawfully if it did not have clear and supportable reasons for purchases above market value.

5.3 Property Services are responsible, on advice from Legal Services where appropriate, for ensuring that the Council’s statutory obligations regarding the price to be paid or received for land transactions are met, and for ensuring the validity of any valuation advice received from private sector contractors.

5.4 Terms for a transaction shall not be finalised unless supported by a current written recommendation from an appropriately qualified valuation surveyor. The recommendation relied upon and any relevant supporting information shall be deposited and retained in the Property Services transaction file.

6. Land Disposal Procedures

6.1 The method used to dispose of land shall be the most effective method to secure the best terms reasonably available, as determined by Property Services.

6.2 Where land is to be disposed of by:

- Auction - a current written valuation shall be obtained, and the sale shall be subject to a reserve price of not less than that valuation;

- Public Tender - the Council’s Contracts Rules relating to tenders for contracts shall apply subject to any necessary adaptation approved by the Corporate Director of Resources to meet the requirements of a land disposal
(tenderers shall be provided with information about any criteria to be used in evaluating the bids).

6.3 Land may also be disposed of by informal tender, or competition, including where specific prospective purchasers are invited to tender. In this case the application of the Contracts Rules will not be appropriate, but participants shall be informed in advance of the procedures and the criteria for assessing proposals on a like for like basis.

6.4 Disposal by private treaty (negotiation) may be appropriate in order to respond to development proposals from the private sector, where disposal is to a ‘special purchaser’ (a purchaser with an interest in an adjoining property or with an inferior or superior interest in the property) or where the end use for the land is of importance to Council policy. However, it is a disadvantage that this method is less capable than others of demonstrating fairness, and that the best price reasonably obtainable has been secured (particularly if negotiations are restricted to a single party). This method must, therefore, be used with caution, and the progress of negotiations shall be recorded in writing and retained on the disposal file in Property Services.

7. General

7.1 The Disposal Protocol (approved by the Cabinet on 17 July 2007) is outlined in the Appendix and Section 3 above, and shall be complied with as the corporate process for disposals.

7.2 Any proposal to buy land for a value greater than or to sell land for a price less than Market Value will require specific authorisation (as agreed by Cabinet Minute 322 on 8 March 2005). The Authorisation will be obtained by using the procedures and format approved by the Cabinet on 8 March 2005 and set out in paragraphs 5.1 and 7.3 of these Rules.

7.3 The procedure approved by the Cabinet for disposal at undervalue is:

Any proposals to sell or lease at undervalue (whether or not the Secretary of State’s consent may be required) should be considered initially by the PAG as an appraisal panel. The recommendations and reasons will be reported to the Cabinet when seeking the necessary consent for disposal of a particular property at undervalue if it is supported by the PAG.

The form (obtainable from Property Services) making the proposal for a disposal shall be submitted to the PAG and must include the following information:

(i) A valuation report undertaken by a valuer who is a member of the Royal Institution of Chartered Surveyors (RICS) setting out the restricted and unrestricted values of the property.

(ii) A proposal by the sponsor of the capital value of the proposal to the Council and those benefits of the proposal which are capable of monetary assessment (e.g. operational savings, income generation, levering in additional financial resources etc) together with an assessment with
supporting evidence of the value of non-monetary benefits (crime reduction, health improvements, social benefits to the community).

(iii) A statement from the Sponsor showing how the disposal at Undervalue will contribute to agreed Council and Community Priorities and will not adversely affect other priorities and a clear statement showing where and how the scheme fits within service priorities (as they may be required to cover the shortfall of the receipt from their own capital funds).

(iv) a clear statement from the Sponsor that the benefits can not be achieved unless the scheme proceeds at undervalue and confirm that no alternative means of funding is available.

(v) Confirmation from the Divisional Director of Legal and Democratic Services that the proposal falls within the terms of the revised General Disposal Consent.

(vi) A full and detailed financial assessment of the impact of disposing of the asset on both the existing Capital Programme and the Council’s Medium Term Financial Strategy provided by the Chief Financial Officer.

7.4 The Sponsor, following the appraisal by PAG would refer the matter to the Corporate Group for recommendation to the Cabinet for a decision.

(Contact Officer: Divisional Director of Assets and Commercial Services 020 8227 3300)
Property identified as potentially surplus to requirements by service department in consultation with Property Services. This process is to include the involvement of the Lead Member.

Property Services writes to Divisional Directors, copying in CMT and Cabinet members to advise of the property surplus to requirements. Recipients are asked to inform Property Services of any possible use for the property – by the council or community and are given three weeks to respond.

Retention or Disposal Appraisal conducted

Recommendation referred to the Property Appraisal Group (chaired by the Cabinet Portfolio Holder for Resources)
- Corporate Director of Finance and Resources
- Divisional Director of Assets and Commercial Services,
- Divisional Director of Regeneration,
- Divisional Director of Adult Commissioning
- Group Manager Property Services,
- Chief Financial Officer.

Disposal: Budget and responsibility for site transferred to property services

Consultation with Ward Councillors and neighbouring Ward Councillors where a site is on or close to a Ward boundary

Investigation of any Ward Councillor's objections, Corporate Group to resolve issues

Adjust list for disposal as appropriate

Consultation and opportunity for final comment from Property Appraisal Group

Agreed list submitted for approval with report to Cabinet
Part E

Codes and Protocols
Part E Codes and Protocols

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Code of Conduct for Councillors

London Borough of Barking and Dagenham

1. As an elected member or co-opted member ("Member") of the London Borough of Barking and Dagenham (the "Council"); I have a responsibility to represent the Community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

2. As a Member I have a duty to maintain high standards of conduct. This Code of Conduct ("the Code") helps to discharge this duty by providing the standards of conduct expected of Members when acting in their official capacity.

3. This Code regulates the conduct of Members. It does not apply to or seek to regulate the performance, politics or policies of the Council or its individual councillors. These are matters decided by the residents at local elections.

Principles of good conduct

4. In accordance with the provisions of the Localism Act 2011, when acting in the capacity of a Member I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

   **Selflessness**
   To serve only the public interest and never improperly confer an advantage or disadvantage on any person

   **Integrity**
   Not to place myself in situations where my integrity may be questioned, not to behave improperly and on all occasions to avoid the appearance of such behaviour

   **Objectivity**
   To make decisions on merit, including when making appointments, awarding contracts or recommending individuals for rewards or benefits.

   **Accountability**
   To be accountable to the public for my actions and the manner in which I carry out my responsibilities and to co-operate fully and honestly with any scrutiny appropriate to my Office.
OPENNESS
To be as open as possible about my actions and those of the Council and be prepared to give reasons for those actions.

HONESTY
Not to place myself in situations where my honesty may be questioned, not to behave improperly and on all occasions, to avoid the appearance of such behaviour.

LEADERSHIP
To promote and support these principles by leadership and by example and to always act in a way that secures or preserves public confidence.

Standards of Conduct

5.1 I understand that when I sign up to this Code I must comply with the following standards of conduct / behaviour, which are consistent with the above principles:

i. To act solely in the public interest and never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for myself, my family, friend or close associates.

ii. Not to place myself under a financial or other obligation to outside individuals or organisations that might seek to influence me in the performance of my official duties.

iii. To make all decisions on merit when carrying out public duties, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits.

iv. To be accountable for my decisions to the public and to co-operate fully with whatever scrutiny is appropriate to my office.

v. To be as open as possible about my decisions and actions and the decisions and actions of my authority and to be prepared to give reasons for those decisions and actions.

vi. To register as required and declare any disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest, as set out in this Code.

vii. When using or authorising the use by others of the resources of this authority, to ensure that such resources are not used improperly for political purposes (including party political purposes) and to have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

viii. To behave in accordance with all our legal obligations, alongside any requirements contained within this authority’s policies, protocols and procedures, including on the use of the authority’s resources and dealing with confidential information appropriately.
ix. To value and respect colleagues, staff, partners and public, engaging with them in an appropriate manner that underpins the mutual respect between us that is essential to good local government and not to act in a manner that could be deemed as bullying, harassment or intimidation.

x. To promote and support high standards of conduct by leadership and by example.

5.2 I understand that these standards of conduct apply to me when I am acting in my official capacity as a Member and if I breach one or more of these standards someone may make a complaint against me.

6 Disclosable Pecuniary Interests

6.1 You have a disclosable pecuniary interest in any business of your authority if it is of a description set out in 6.2 below and is either:

(a) An interest of yours
(b) An interest of your spouse
(c) An interest of your civil partner
(d) An interest of a person you are living with as a spouse or civil partner

and in the case of paragraphs 6.1(b) – 6.1(c) (“relevant persons”) where you are aware that that relevant person has the interest.

6.2 It relates to or is likely to affect:

i. Any employment, office, trade, profession or vocation carried on by you or a relevant person for profit or gain;

ii. Any payment or provision of any other financial benefit (other than from your authority) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a member, or towards your 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 other than from a registered political party;

iii. Any beneficial interest in securities of a body where:

1. that body (to your knowledge) has a place of business or land in the area of your authority and

2. either:
a. the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
b. the beneficial interest exceeds one hundredth of the total issued share capital of the share capital of that body, if of more than one class, the total nominal value of the shares of any one class.

iv. Any contract for goods, services or works which has not been fully discharged between you or a relevant person and your authority or a body in which you or they have a beneficial interest;

v. A beneficial interest in any land in your authority’s area;

vi. Any tenancy where to your knowledge:

(a) the landlord is your authority and
(b) the tenant is a body in which you or a relevant person has a beneficial interest.

vii. A licence of any land in your authority’s area (alone or jointly with others) that you or a relevant person occupy for a month or longer.

7. Other Pecuniary Interests

7.1 You have a pecuniary interest in any business of your authority where it relates to or is likely to affect:

i. any person or body who employs or has appointed you;

ii. any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specific in paragraph 6.2.(iii) which has been fully discharged within the last 12 months.

8. Non-Pecuniary Interests

8.1 You have a non-pecuniary interest in any business of your authority where either:-

(a) it relates to or is likely to affect:

i. any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
ii. any body:

1. exercising functions of a public nature;
2. directed to charitable purposes; or
3. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);

of which you are a member or in a position of general control or management;

iii. the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;

iv. a decision in relation to that business which might reasonably be regarded as affecting your wellbeing or the wellbeing of a relevant person to a greater extent that the majority of other council tax payers, ratepayers or inhabitants of the electoral ward, as the case may be, affected by the decision.

9. Disclosure of Interests

9.1 Subject to sub-paragraphs 9.2 to 9.5, where you have a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of your authority and you are present at a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.

9.2 Sub-paragraph 9.1 only applies where you are aware or ought reasonably to be aware of the existence of the pecuniary or non pecuniary interest.

9.3 Where you have an interest in any business of your authority which would be disclosable by virtue of paragraph 9.1 but by virtue of paragraph 13 (sensitive interests) details of the interest are not registered in your authority’s published register of members’ interests and that the interest is a disclosable pecuniary interest (if that is the case), you need not disclose the nature of the interest to the meeting.

9.4 Where you have a pecuniary interest in any business of your authority and a function of your authority may be discharged by you acting alone in relation to that business, you must ensure you notify the authority’s Monitoring Officer of the existence and nature of that interest within 28 days of becoming aware that you will be dealing with the matter even if more than 28 days before you will actually deal with the business.
9.5 Where you have an interest in any business of your authority which would be
disclosable by virtue of paragraph 9.1 and you have made an executive decision
in relation to that business you must ensure that any written statement of that
decision records the existence and nature of that interest.

9.6 In this paragraph “executive decision” is to be construed in accordance with any
regulations made by the Secretary of State under section 22 of the Local

10. Disclosure of Interests generally

10.1 Subject to sub-paragraph 10.2 where you have a pecuniary interest in any
business of your authority you also have a disclosable interest in that business
where the interest is one which a member of the public with knowledge of the
relevant facts would reasonably regard as so significant that it is likely to
prejudice your judgment in the public interest.

10.2 You do not have a disclosable pecuniary interest in any business of your
authority where that business

i. does not affect your financial position or the financial position of a person
   or body described in paragraph 8.1 (a) i. and ii.;

ii. does not relate to the determining of any approval, consent, licence,
    permission or registration in relation to you or any person or body
    described in paragraph 8.1 (a) i and ii; or

iii. relates to the functions of your authority in respect of

(a) housing, where you are a tenant of your authority provided that
    those functions do not relate particularly to your tenancy or lease;

(b) school meals or school transport and travelling expenses, where
    you are a parent or guardian of a child in full time education, or are
    a parent governor of a school, unless it relates particularly to the
    school which the child attends;

(c) statutory sick pay under Part XI of the Social Security Contributions
    and Benefits Act 1992, where you are in receipt of, or are entitled to
    the receipt of, such pay;

(d) an allowance, payment or indemnity given to members;

(e) any ceremoniary honour given to members; and
(f) setting council tax or a precept under the Local Government Finance Act 1992.

11. Effect of Disclosable Pecuniary Interests on participation

11.1 Where you are present at any meeting of the authority or of any committee, sub-committee, joint committee or joint sub-committee, and you have a pecuniary interest in any matter to be or being considered at the meeting, and you are aware that this condition is met, you must:

(a) disclose the interest at the meeting; and

(b) withdraw from the meeting room for the relevant item, and

(c) not participate in any discussion and/or vote on the matter

unless you have received a dispensation from the Authority’s Proper Officer (Monitoring Officer). The process for applying for a dispensation can be found in the Council’s Constitution or advice can be sought from the Monitoring Officer.

Additionally you may not:

(d) exercise executive functions in relation to matters for which you are aware that you have a disclosable pecuniary interest or

(e) seek improperly to influence a decision about matters for which you are aware that you have a disclosable pecuniary interest

11.2 If a function of your authority may be discharged by a member acting alone and you have a disclosable pecuniary interest in any matter to be dealt with or being dealt with in the course of discharging that function, you may not take any steps or any further steps in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by yourself).

11.3 If you have a pecuniary interest other than a disclosable pecuniary interest in any business of your authority which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgment of the public interest and you are present at a meeting of the authority at which such business is to be considered or is being considered you must:-

11.3.1 disclose the existence and nature of the interest in accordance with paragraph 9.1 (but subject to paragraph 9.3).
11.3.2 Withdraw from the room or chamber where the meeting considering the business is being held, unless you have obtained a dispensation from your authority’s proper officer in a case where paragraph 11.3 applies, immediately after making your representations or in any other case when the business is under consideration unless you have obtained a dispensation from your authority’s proper officer.

12. Registration of Members’ Interests

Subject to paragraph 13, a Member must, within 28 days of

(a) this Code being adopted by or applied to your authority; or

(b) your election, re-election or appointment or re-appointment to office (where that is later), or co-opted onto the authority

register in your authority’s register of members’ interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of:

(i) disclosable pecuniary interests as referred to in paragraph 6 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner in so far as you are aware of their interests at that time

(ii) other pecuniary interests referred to in paragraph 7 that you have.

(c) Subject to paragraph 13, you must within 28 days of becoming aware of any new disclosable pecuniary interest as referred to in paragraph 6 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner, or change to any disclosable pecuniary interest registered under paragraphs 12.(i) or (ii) above

by providing written notification to your authority’s Monitoring Officer.

13. Sensitive Information

13.1 Where you have a disclosable pecuniary interest referred to in paragraph 6 or other pecuniary interest referred to in paragraph 7 and the nature of the interest is such that you and your authority’s Monitoring Officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the authority’s register then copies of the register available for inspection and any published version of the register should not include details of the interest but may state that
you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.

13.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 13.1 is no longer sensitive information, notify your authority’s monitoring officer.

13.3 In this Code “sensitive information” means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subject to violence or intimidation.

14. Gifts and Hospitality

14.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value of £50 or more which you have accepted as a Member from any person or body other than the authority.

14.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.

14.3 Detailed information as to gifts and hospitality given and received can be found in the Council’s Constitution or advice can be sought from the Monitoring Officer.

(Contact Officer: The Council’s Monitoring Officer – Tel: 020 8227 2114)
Members’ Code of Conduct for Planning Matters

A. Introduction

1. The Council is the Local Planning Authority for Barking and Dagenham.

2. The Council's planning decisions must be taken with regard to policies contained in its adopted Development Plan, any supplementary planning guidance and any other material planning considerations. These decisions are made by Committees of elected Members (the Development Control Board) and also by officers under delegated powers.

3. The Council’s current Development Plan is the Local Development Framework (LDF). The LDF must conform to Government Guidance and the London Plan. Planning decisions must be taken in accordance with policies contained in the Development Plan and other material planning considerations such as the National Planning Policy Framework and the London Plan unless material planning considerations justify a departure.

4. Many minor applications are dealt with by officers under delegated authority, as provided for under the Councils Constitution and as a requirement of government performance standards for planning, major schemes and those raising substantial objections are determined by the Development Control Board.

5. This Members Code of Conduct for Planning Matters sets out the rules and procedures for the Council’s Development Control Board when determining planning applications and enforcement actions and considering site specific policy issues both in the lead up to and at a Development Control Board meeting. This Code reflects the Council’s Members’ Code of Conduct and the Employees’ Code of Conduct.

6. The law relating to the planning process obliges Members to act in a quasi-judicial and independent manner. They are required to consider planning applications and enforcement matters and site specific policy issues solely on their own merits, in line with published relevant policy.

7. The key objectives of this Code are:

   7.1 to protect the Council and individual Members from allegations of unfairness, findings of maladministration and legal challenge

   7.2 to ensure that the role of officers, developers and applicants/members of the public are understood

8. To ensure these objectives are maintained all Members of the Council are advised to be familiar with the Code. If there are any concerns or lack of clarity about a planning matter advice will be readily available from Officers. This will help avoid potential conflicts of interest, which may occur from time to time. If there should be any risk of unresolved conflicts with this Code Officers have been instructed to raise their concerns with the Chair of the Development Control Board, who will be asked to take appropriate action, including giving specific advice to Members.
B. The Code

1. How to avoid a conflict of interest and still assist your constituents

1.1 In making their decisions Members of Development Control Board are required to have a neutral position on any application. This means they cannot be seen to side with either the applicant or the objector/s prior to the hearing of the application when all the relevant facts are known. Adhering to the following rules will ensure that public confidence in the Development Control Board is maintained and also serve to minimise the prospect of non-planning related matters clouding the judgment of Members. This is a requirement of the law and this guidance is aimed to assist Members in complying with this complex area of legislation and case law. Officers are always available to assist individual Members on these matters.

1.2 As their role is quasi-judicial, Members of the Development Control Board must not be involved in the support of, or the opposition to planning applications or enforcement actions. This could be considered as “predetermining” an application for permission or an enforcement action that may be considered by the Board. Similarly, Members of the Development Control Board should not allow themselves to be influenced by members of the public and developers who might approach them and they should not be influenced by party politics or the views of other Members. If Members do have particularly strong views on a particular planning matter they should seek advice from the Divisional Director of Legal and Democratic Services who is the Council’s Monitoring Officer, or the Divisional Director of Regeneration and Economic Development in order to minimise any risk to themselves.

1.3 As decision-makers Members of the Development Control Board should approach all applications with an open mind. If they express a view prior to the decision they could be seen to be predetermining the application that is to say they have already made their mind up. They must avoid the appearance of being influenced by those with whom they have a special relationship such as fellow Members, at any stage prior to determination. Members should similarly avoid making public statements as to their support of, or opposition to, any application. This could be considered to be pre-judging the proposal and as such, could bring into question whether Members are acting independently on the merits of the case. While the Localism Act 2011 provides that that it is not conclusive of a closed mind by the fact that a Member may have said something about an application before hearing it may be very difficult to avoid giving such an impression.

1.4 If Members should receive lobbying material relating to potential applications, they should not respond and should forward it to the Council’s Development Control Manager. If a Member is approached by an individual or an organisation in relation to a particular planning application on the agenda of an upcoming meeting, the Member should explain that they are unable to personally comment on the application but that the person or organisation may:

1.4.1 Where the application is not yet on the agenda, write to the Planning Officer responsible for the particular application/enforcement action who will take
into account any material planning considerations raised in the representations when preparing the report for the Development Control Board;

1.4.2 Contact the Democratic Services Officer to request to speak at the meeting;

1.4.3 Contact an alternative Councillor who is not a member of the Development Control Board.

1.5 It is recommended that they make a written note of any approach made to them.

1.6 If a Development Control Board Member decides to become involved in organising the support of or opposition to a planning application, then that Member should accordingly declare an interest at the beginning of the meeting (see “When to declare an Interest” below) and remove themselves from taking part in the matter. By becoming involved in a planning application prior to the meeting other than to read the Planning Officer’s report and to attend a Site Visit accompanied by the Planning Officers, the Member risks forfeiting his or her right to take part in the discussion or vote on that particular item.

1.7 Ward Councillors who wish to make representations to the Development Control Board should in particular note 1.2 and 1.3 on influencing other Members, 3.1 on Declarations of Interest and 6.3 and 6.4. If any doubt exists in a Member’s mind about possible interests they should seek advice from the Divisional Director of Legal and Democratic Services (Monitoring Officer) in advance of the meeting.

2. What is an interest?

2.1 In accordance with the provisions of the Localism Act 2011 there are three possible interests’ namely disclosable pecuniary interests; pecuniary interests and non-pecuniary interests

2.2 If a Member of the Board has an interest then he/she must declare the interest as soon as it becomes known.

2.3 If any doubt exists in a Member’s mind, they are advised to seek advice from the Monitoring Officer in advance 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 Member, not with officers.

3. Interests and What to do

3.1 Pecuniary Interests

3.1.1 These are defined in the Members Code of Conduct and consist of disclosable pecuniary interests and non-disclosable pecuniary interests. If the interest is disclosable as defined under the Localism Act 2011 then the Member should not take part whilst that matter is being considered, unless they have been issued with a Dispensation from the authority’s Proper Officer. If the interest is pecuniary but not within the statutory definition of disclosable then the test of whether the interest is one that a member of the public with the knowledge of the relevant facts would
reasonably regard it to be so significant that it is likely to prejudice the Member’s judgement of the public interest. If it does then the Member cannot take part whilst the matter is being discussed.

3.1.2 It is strongly recommended that as soon as Members receive their papers they check each application to make sure that they do not have an interest of any kind. If they consider themselves to have an interest they should notify the Democratic Services Officer responsible for the Development Control Board as soon as possible in advance of the meeting. If it later becomes apparent to the Member that he/she has an interest (which may not be until the meeting) this should be declared as soon as it becomes apparent.

3.1.3 The Member should immediately withdraw from the meeting by leaving the room, thereby no further part in that business. If in withdrawing from the meeting the Board becomes inquorate then the item will have to be deferred pending establishing a quorate meeting.

3.2 Non Pecuniary Interests

3.2.1 A Member shall be regarded as having an interest which would be prejudicial to the proceedings if it relates to a planning matter and the interest is one that a member of the public with the knowledge of the relevant facts would reasonably regard it to be so significant that it is likely to prejudice the Member’s judgement. In such circumstances a Member is advised to leave the room, so that there can be no doubt that they did not influence the Board who made the decision. In case of doubt, the best advice is to withdraw from dealing with the application.

3.2.2 A common potential non-pecuniary interest arises where the Member resides near a development which is the subject of a planning application. While it is for the Member to judge, a useful rule of thumb is “will my enjoyment of my property be affected either positively or negatively by this application?” If the answer is in the affirmative, the Member should declare an interest and exclude themselves from discussion and voting on that item.

3.2.3 If a Member has a concern as to whether they may have such an interest they should seek advice from the Monitoring Officer.

4. Decision-Making: Material Planning Considerations

4.1 Members should only consider the planning merits of an application as set out before the Development Control Board in determining whether or not to grant planning permission. Members are not to give weight to non-planning related matters that may be raised by members of the public.

4.2 Further, an applicant or objector may not raise any substantial new information at a meeting (including by way of correspondence, other documents, photographs or models) at the Development Control Board meeting without due notice or the consent of the Board.

4.3 Any attempts by applicants or objectors (or their agents) to introduce such information in breach of this Code must not be taken into consideration by Members.
Planning applications are considered with regard to the policies set out in the Development Plan the London Plan and the National Planning Policy Framework. Applications must be determined in accordance with policy unless there are material planning considerations to indicate otherwise. Material considerations include the site history, appeal decisions, Central and London Government Guidance. All these policies and factors must be weighed together before a decision at Development Control Board level is made.

If a decision of a Development Control Board appears to be made on other than planning grounds it could be open to legal challenge. If it is appealed, and a Planning Inspector or the Court decides the decision to be flawed, it may be overturned. This could have serious cost implications for the Council.

If the majority of Members on a Development Control Board make a decision which is contrary to the Planning Officer’s recommendations, reasons for the decision need to be given. Officers will at this point outline to Members the implications of the decision they are making.

Site Visits Protocol

Members will not make any decisions or discuss the merits or otherwise of a case during the site visit but may seek clarification, particularly about the layout of the site, from the accompanying Planning Officers.

The Democratic Support Officer will record the time/date of the site visit, Members in attendance and any other relevant information.

Conduct at Meetings

Members who are not present throughout an entire item for whatever reason must refrain from participating in the discussion on that item and must not vote on it.

As this is a legal process it is vital that Members must be seen to act fairly – Members 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.

Members who are not members of the Development Control Board may speak at a meeting with the agreement of the Chair. Councillors should sit separately from the members of the Development Control Board and they should declare whether they have had any contact with the applicant/objec tor/property owner or their agents, and whether they are speaking on behalf of a third party, and if so, who.

Members who are not members of the Development Control Board must not communicate with the Members in respect of any undetermined planning matter in any other manner than that described above in the lead up to or during the course of the meeting.
7. Speaking at Meetings as an interested party or applicant.

7.1 If you have an interest in a matter being discussed at a meeting, you must declare that you have an interest and the nature of that interest as soon as that interest becomes apparent to you. You cannot take part in that matter unless you have been granted a dispensation from the authority’s Proper Officer.

7.2 You should then leave the room, unless members of the public are allowed to make representations, give evidence or answer questions about the matter, by statutory right or otherwise. If that is the case if you too are eligible you can also attend the meeting for that purpose only. You should not sit with Members of the Board and your right to address the Board is the same as other Members of the public.

7.3 In addition, you must not seek to improperly influence a decision in which you have an interest. This rule is similar to your general obligation not to use your position as a Member improperly to your or someone else’s advantage or disadvantage.

8. Breaching the Code

8.1 Failure to comply with this Code of Conduct for Planning Matters could lead to a Member being in breach of the Members’ Code of Conduct. Breaches of the Code will be referred to the Council’s Standards Committee.

9. Training

9.1 Members of the Development Control Board are required to attend planning training organised by the Council at which they will need to demonstrate a level of knowledge to the extent that until they have done so they shall not partake in the decision making process of the Board.

9.2 Members are encouraged to attend any other specialised training sessions provided, since these will be designed to extend Members’ knowledge of planning law, regulations procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist Members in carrying out their role properly and effectively.

(Contact Officer: The Council’s Monitoring Officer - Tel. 020 8227 2114)
MEMBERS’ CODE OF CONDUCT FOR LICENSING AND REGULATORY MATTERS

1. Introduction

1.1 The Licensing Act 2003 (the "Act") transferred responsibility for the licensing of the supply and sale of alcohol, and rationalised this with the control of regulated entertainment and late night refreshment. The Council is required to determine applications for licensed premises and personal licences under the Act. There is a set period for consultation. During that period persons can make relevant representations. These representations must relate to the four statutory Licensing Objectives as set out in the Act.

2. The Four Licensing Objectives

2.1 The Act requires that the Licensing Functions are carried out with a view to promote the statutory Licensing Objectives of:

(a) the prevention of Crime and disorder
(b) public safety;
(c) the prevention of public nuisance; and
(d) the protection of children from harm

2.2 If relevant representations are made and not resolved or withdrawn then the Act requires the application must be determined by a statutory Licensing Committee established under the Act. For Barking & Dagenham the Licensing Committee functions are performed by the Licensing and Regulatory Board (the "Board").

3. The Hearing

3.1 The determination of licensing applications must be held in a quasi judicial manner. This means the Board must ensure that the application is determined in a fair and impartial manner and in accordance with natural justice. The Hearing is subject to statutory regulation.

3.2 If an applicant or person who made relevant representations is dissatisfied with the decision of the Board then they can appeal to the Magistrates' Court within 21 days of receiving written notice of the decision. The appeal will take the form of a re-hearing.

3.3 Members must be mindful of the requirements of the Members Code of Conduct and to avoid predisposition, predetermination or bias. The Board’s hearing of applications need to be compliant with these requirements as alleged breaches could lead to judicial review applications to the High Court or complaints to the Council’s Standards Committee. Members can ensure that challenges are avoided by following a fair and impartial procedure. This means all parties entitled to address the hearing must be given a full and fair opportunity to present their case before a Committee of Members with an open mind about the application.

4. To avoid risk of challenge Members should have regard to the following:-
4.1 Ward Councillors

4.1.1 The Council Licensing Policy for Licensing Act 2003 applications requires that Members of the Board will not hear cases that relate to premises in their own Ward. At the point the item arises in the proceedings the Member must declare they are a Ward Member and step down from the Board. They may remain in the room but only if they sit within the public gallery.

5. What is an interest?

5.1 In accordance with the provisions of the Localism Act 2011 there are three possible interests' namely disclosable pecuniary interests; pecuniary interests and non-pecuniary interests

5.2 If a Member of the Board has an interest then he/she must declare the interest as soon as it becomes known.

5.3 If any doubt exists in a Member’s mind, they are advised to seek advice from the Monitoring Officer in advance 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 Member and not with officers.

6. Interests and What to do

6.1 Pecuniary Interests

6.1.1 “Pecuniary Interests” - These are defined in the Members Code of Conduct and consist of disclosable pecuniary interests and non-disclosable pecuniary interests. If the interest is a disclosable pecuniary interest under the Localism Act 2011 then the Member should not take part whilst that matter is being considered, unless they have been issued with a Dispensation from the authority’s Proper Officer. If the interest is pecuniary but not within the statutory definition of disclosable then the test of whether the interest is one that a member of the public with the knowledge of the relevant facts would reasonably regard it to be so significant that it is likely to prejudice the Member’s judgement of the public interest. If it does then the Member cannot take part whilst the matter is being discussed.

6.1.2 It is strongly recommended that as soon as Members receive their papers they check each application to make sure that they do not have an interest of any kind. If they consider themselves to have an interest they should notify the Democratic Services Officer responsible for the Licensing and Regulatory Board as soon as possible in advance of the meeting. If it later becomes apparent to the Member that he/she has an interest (which may not be until the meeting) this should be declared as soon as it becomes apparent.

6.1.3 The Member should immediately withdraw from the meeting by leaving the room, thereby no taking no further part in that business. If in withdrawing from the meeting the Board becomes inquorate then the item will have to be deferred pending establishing a quorate meeting.
6.2. **Non Pecuniary Interests**

6.2.1 A Member will still be regarded as having an interest which would be prejudicial to the proceedings if it relates to a licensing/regulatory matter and the interest is one that a member of the public with the knowledge of the relevant facts would reasonably regard it to be so significant that it is likely to prejudice the Member’s judgement of the public interest. In such circumstances a Member is advised to leave the room, so that there can be no doubt that the Member did not influence the Board who made the decision. In case of doubt, the best advice is to withdraw from dealing with the application.

6.2.2 As a guide a Member of the Board will be likely to be regarded as having an interest prejudicial to a licensing application if:

(i) they live near the premises in question, or
(ii) they are a regular visitor to the premises, or
(iii) they belong to a lobby group which may be affected by the outcome of the application.

If a Member has a concern as to whether they may have such an interest they are invited to seek advice from the Monitoring Officer.

6.2.3 A Member who declares they have a non pecuniary interest should have regard to the following:

- If the Member is an applicant; or has an interest beyond representing their constituents they will have an interest in a matter being discussed at a meeting.

- A Member is only permitted to be in the room on the same terms as other members of the public who are allowed to make representations, give evidence or answer questions about the matter, by statutory right or otherwise. If that is the case and the Member is also eligible, then they can attend the meeting for that purpose only. A Member should not sit with Members of the Board and the Member’s right to address the Board is the same as those other members of the public.

- In addition, a Member must not seek to improperly influence a decision in which they have an interest. This rule is similar to the general obligation not to use the position as a Member improperly to their or someone else’s advantage or disadvantage.

6.3 **Pre-determined Views and Bias**

6.3.1 The Council has to ensure that justice is done and seen to be done.

6.3.2 Predetermination or bias would occur where a Member has a closed mind to the merits of any argument either for or against a particular issue and makes a decision without considering all the relevant facts.

6.3.3 This means any Member or prospective Member of the Board must be very careful about what they say in public about the Council’s licensing policies or the way in
which applications will be determined. While the Localism Act 2011 provides that it is not conclusive of a closed mind of pre-determination by the fact that a Member may have said something about an application before hearing it may be very difficult to avoid such an impression.

6.3.4 **Ward Members** - For the avoidance of doubt, simply being a Ward Member for the Ward in which the premises is located, is not in itself a pecuniary or non-pecuniary interest. The reason why a Ward Member cannot hear a matter is because the Council's Licensing Policy states that Ward Members will not determine matters which relate to their Ward to avoid the impression of bias.

7. **Members’ right to address the Board**

7.1 Unlike other proceedings of the Council, the right to address the Board is set out in legislation. The only persons who may address the Board during a hearing of an application are those who have made relevant representations. A Member of the Council or a local MP may act as a representative and make relevant representations on behalf of any of these individuals or groups if they are specifically asked to do so.

7.2 Constituents’ concerns may be orally presented to the Board by a Member if they:

7.2.1 have been specifically asked to represent an interested party as set out above; or

7.2.2 have either made a relevant representation within the requisite time or represents an interested party who has made a relevant representation within the requisite time.

and are not prevented from so doing by reason of an interest.

7.3 These are the only criteria that can be taken into account, and override any provisions in the Constitution enabling a Member to address a Council as of right.

(Contact Officer: Monitoring Officer - Tel. 020 8227 2114)
EMPLOYEES’ CODE OF CONDUCT

[Note - a new Model Code is currently being worked on by the Government. In the meantime, the Council is working to the following Code which has been in existence for many years]

1. Introduction

1.1 The public is entitled to expect the highest standards of conduct from all employees who work for this Council. In recognition of this, and to avoid uncertainty in the matter, the Council has adopted this Code of Conduct which sets out the guidelines to help maintain and improve standards.

1.2 Equally, the Code is designed to protect employees from misunderstanding or criticism which may be unjustly levelled at them.

1.3 The Code is applicable to all Council employees, who share responsibility for its effectiveness, and has been endorsed by the recognised trade unions. Adherence to its provisions is therefore a condition of employment for all, and any breach of the Code may result in action being taken under the Council’s Disciplinary Procedure.

2. General Standards

2.1 Employees are expected to give the highest possible standard of service to the public and, where it is part of their duties, to provide appropriate advice to Councillors and fellow employees with impartiality.

2.2 Employees are expected to bring to the attention of the appropriate level of management, any deficiency in the provision of service.

2.3 Employees must report to the appropriate manager any impropriety, breach, or suspected breach of this code.

NOTES:

i) The “appropriate level of management” may vary depending on the particular situation and could be any of the following: Line Manager; Service Manager; Divisional Director, Divisional Director of Human Resources and Organisational Development, Chief Officer, or Chief Executive.

ii) Where necessary, employees may by-pass their own management structure.

2.4 Any employee who, in good faith, reports an impropriety, breach or suspected breach of the Code, may do so without fear of consequence.

2.5 Equally however, employees are reminded that allegations or accusations which are deemed to be malicious will be subject to investigation under the Council’s Disciplinary Procedures.
3. Use of Financial Resources

3.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

4. Disclosure of Information

4.1 The law requires that certain types of information must be available to Members, auditors, Government departments, service users and the public: employees must be clear about which information may be disclosed, in which circumstances, and must act accordingly.

4.2 Employees must not use any information obtained in the course of their employment for personal gain or benefit, nor pass this on to others who might use it in such a way. Any particular information received by an employee from a Councillor which is personal to that Councillor and does not belong to the Council must not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.

4.3 The Data Protection Act 1984 places a legal requirement on all employees to refrain from disclosing, or making use of for their private advantage, or the advantage of any third party, any information held on a computer and not available to the public which they may acquire during the course of their employment with the Council.

5. Off Duty Hours and Outside Commitments

5.1 Employees’ off duty hours are their personal concern but they must not subordinate their duty to private interests or put themselves in a position where official duty and private interests conflict.

5.2 Private work which might involve any dealings with the Council must be disclosed and can only be done with the express consent of the Chief Officer.

5.3 Employees graded on the Senior Officer level and above must not engage in any other business or take up any other appointment without the express consent of their Chief Officer.

5.4 Employees must declare to an appropriate manager any financial interests which could conflict with the Council’s interests.

5.5 Employees must declare to an appropriate manager any non-financial interests that they consider could bring about conflict with the Council’s interests, including acting as a school governor within schools maintained by the Council; membership of an NHS trust board; involvement with any organisation or pressure group which may seek to influence the Council’s policies; etc.
5.6 Employees must declare to an appropriate manager membership of the Freemasons or any other organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct.

6. **Political Neutrality**

6.1 Employees serve the Council as a whole. It follows they must serve all Councillors and not just those of the controlling group, and must ensure that the individual rights of all Councillors are respected.

6.2 Employees who are required to advise political groups must do so in ways which do not compromise their political neutrality.

6.3 Employees, whether or not politically restricted, must follow every lawful expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work.

*(NOTE: The above requirements do not apply to political assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989).*

7. **Relationships**

7.1 **With Councillors:** Mutual respect between employees and Councillors is essential to good local government, but close personal familiarity between employees and individual Councillors should be avoided as this can damage the relationship and prove embarrassing to other employees and Councillors.

7.2 **With the Local Community and Service Users:** Employees must always remember their responsibilities to the local community and service users, and must ensure courteous, efficient and impartial service delivery at all times.

7.3 **With Contractors:** Employees must disclose, to the appropriate manager, all relationships of a business or private nature with external contractors, or potential contractors. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour shown to businesses run by, for example, friends, partners or relatives in the tendering process. Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, must declare that relationship to the appropriate manager.

7.4 **With Other Employees or Applicants for Employment:** All selection, appointments and promotions throughout the Council’s service are made purely on clear and justifiable job related criteria. In order to avoid any possible accusation of bias, employees who are related to, or have a close personal relationship outside work with, an applicant, must not take part in the process.

7.5 Similarly, employees must not be involved in decisions relating to discipline or pay adjustments for any other employee who is a friend, partner or relative.
8. Equality Issues

8.1 All members of the local community, customers and other employees have a right to be treated with fairness and equity and all employees must ensure that policies relating to equality issues, as agreed by the Council, are complied with in addition to the requirements of the law.

8.2 In particular, employees are reminded that discrimination against or harassment of an employee, a prospective employee, a client or member of the public, on any of the grounds set out in the Council’s Equal Opportunities in Employment Policy, will incur action under the Council’s Disciplinary Procedure.

9. Separation of Roles During Tendering and in Supervision of Contracts

9.1 Employees involved in the tendering process and dealing with contractors must be clear on the separation of client and contractor roles within the Council. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.

9.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors, including the in-house team.

9.3 Employees who are privy to confidential information on tenders or costs for either internal or external contractors must not disclose that information to any unauthorised party or organisation.

9.4 Employees contemplating a management buy-out must, as soon as they have formed a definite intent, inform the appropriate manager and withdraw from the contract awarding processes.

9.5 Employees must ensure that no special favour is shown to current or recent former employees or their partners, friends, relatives or associates, in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

10. Corruption

10.1 It is a serious criminal offence for employees corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity. If such an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

11. Gifts and Hospitality

11.1 Employees must treat with extreme caution any offer or gift, favour or hospitality that is made to them personally, as the organisation or person making the offer may be doing or seeking to do business with the Council, or
may be applying to the Council for planning permission or some other kind of decision.

11.2 Employees must not accept significant personal gifts from contractors and outside suppliers, but may keep insignificant items of token value such as pens, diaries etc.

11.3 Employees must only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented, and must always be properly authorised and recorded.

11.4 Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the Council gives consent in advance and where the Council is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment, etc. are required, employees should ensure that authorities meet the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.

11.5 When receiving authorised hospitality employees should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.

11.6 When hospitality has to be declined, those making the offer should be courteously but firmly informed of the procedures and standards operating within the Council.

*(NOTE: Where there is any doubt about the significance of gifts or hospitality, or about the intentions of contractors and outside suppliers who make such offers, these should always be refused and the matter discussed with the appropriate level of management).*

12. **Sponsorship - Giving and Receiving**

12.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

12.2 Where the Council wishes to sponsor an event or service neither an employee nor any friend, partner or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

13. **Registration of Interests**
13.1 In line with the Code, employees have a duty to disclose any interest, financial or otherwise, which may conflict with those of the Council.

13.2 These interests will be recorded in a Council Register of Employees' Interests, which is confidential and not open to members of the public.

(Contact Officer: Divisional Director of Human Resources and Organisational Development: 020 8227 2382)
# PROTOCOL RE: MEMBER AND EMPLOYEE RELATIONS

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1. **INTRODUCTION**

1.1 Barking and Dagenham has traditionally enjoyed excellent relations between Members and employees. Mutual respect and understanding between both is essential to good local government.

1.2 The purpose of this Protocol is to guide Members and employees of the Council in their working relations with one another. It brings together many of the practices and values which have previously contributed to a successful partnership but also acknowledges areas which have sometimes caused embarrassment or difficulty. The Protocol also reflects the cultural change which has occurred under modernisation and has regard to the increasing joint working between Members and employees, and with external partners. Equalities, natural justice and reasonableness are strong underlying intentions throughout.

1.3 The Protocol is intended to be clear and understandable by all. Importantly, it seeks to exclude any scope for misunderstanding which might lead to unreasonable behaviour or inappropriate action. The Protocol therefore offers some form of protection for both Members and employees.

1.4 The Protocol is underpinned by the separate Codes of Conduct which apply to Members and employees.

1.5 The Protocol also operates under the general premise that both Members and employees are working towards the same goals and priorities. It has regard to the Council’s wish to be open and honest in its dealings within and outside the Council, to work corporately, and to do so in a manner which encourages a participative culture.

1.6 The Protocol has been endorsed by the Standards Committee, the Assembly, the majority and minority party groups individually, the Chief Executive and his Management Team, and the Trade Unions. It will be reviewed annually by the Standards Committee who will make recommendations to the Assembly as appropriate.

1.7 The Protocol first came into effect in May 2001. It applies to all elected Members of the Council, and, where relevant, statutory co-opted members, and to all employees of the Council, with the exception of those who are employed at schools. It is also intended that the Protocol should apply to any consultants, contractors or agency personnel working on behalf of the Council and it is the responsibility of the employing manager to ensure that relevant sections of the document are brought to the attention of such workers at the beginning of their employment.

2. **THE DISTINCTIVE ROLES OF MEMBERS AND EMPLOYEES**

2.1 It is important that both Members and employees respect their distinctive roles in order for relations to be clear and appropriate.
2.1.1 Members:

(i) Members are elected democratically. It is their policies, ideas and decisions that people vote for.

(ii) It is their role to:

(a) Represent the local community and ensure that its best interests are considered during policy making
(b) Set the Council's strategic direction, the policy framework, corporate goals, overall priorities and targets
(c) Develop policy proposals with professional advice from employees
(d) Monitor the implementation and effect of their decisions
(e) Add a political dimension when appropriate

2.1.2 Employees:

(i) Employees are employed by the Council to undertake an organisational role. It is their job to:

(a) Deliver services to the community according to the policies and requirements set by the Council
(b) Draft policy proposals which accord with the overall framework set by Members
(c) Give professional advice in the course of policy development
(d) Manage the organisation

2.1.3 Put simply, Members are responsible for determining policy and the Council's strategic direction; employees are responsible and accountable for suggesting and implementing policy, and delivering services.

2.1.4 Given these roles, employees are employed to work within and pursue Council policies and priorities, unaffected by personal inclinations.

2.1.5 Employees are accountable to their managers and ultimately their Chief Officer. They work to the instructions of their manager, and not to individual Members of the Council - whatever office a Member might hold. Members should not interfere with matters that are properly the responsibility of employees. It follows that Members should not get involved in any operational situations. If a Member considers that something is seriously of concern, they should report the matter to the relevant Corporate Director or Divisional Director and leave it with them to sort out as necessary. Members should not engage with staff on the ground regarding what they perceive to be a problem, nor must they inflame any such problem by engaging with any customers who may be in the vicinity at the time.

2.1.6 The Council's Scheme of Delegation (Part C of the Constitution) explains in more detail where specific responsibilities lie.
3. WHAT MEMBERS CAN EXPECT OF EMPLOYEES

3.1 Members can expect employees:

3.1.1 To do their job effectively and efficiently

3.1.2 To strive to provide services which offer best value

3.1.3 To behave in a manner which accords with the standards set by the Council

3.1.4 To be helpful, respectful and courteous to Members

3.1.5 To assist Members in carrying out their role as Members of the Council in connection with Council business (employees cannot, however, assist with party political or campaigning activity, or with private business)

3.1.6 To deal with Members' enquiries fairly and efficiently

3.1.7 To be open and honest with Members. To tell the whole story, giving any bad news as well as the good.

3.1.8 To keep Members well informed

3.1.9 To work with all Members equally and fairly

3.1.10 To act lawfully

3.1.11 To give advice or recommendations based on reasoned options

3.1.12 To ensure that Members have all the information necessary to make informed judgements in a timely fashion and presented in a way which is easy to understand in accordance with Plain English guidance wherever practicable

3.1.13 To maintain confidentiality where it is proper for them to do so

3.1.14 Not to canvass Members or otherwise seek to gain favour from them for personal or career advantage

3.1.15 To have regard to social hours and generally to be sensible about contacting Members at potentially inconvenient times, unless in an emergency or otherwise agreed

3.1.16 Not to raise personal issues related to their employment with Members.

4. WHAT EMPLOYEES CAN EXPECT OF MEMBERS

4.1 Employees can expect Members:

4.1.1 To accept that employees are accountable to their Manager
4.1.2 Not to become involved in the day to day management of the Council

4.1.3 To fully consider advice and recommendations for the purpose of making informed judgements

4.1.4 Not to ask employees to breach Council policy or procedures, or to act unlawfully, or outside the terms of their job

4.1.5 Not to exert influence or pressure, or request special treatment, because they are a Member

4.1.6 Not to request unauthorised access to resources or information held by the Council

4.1.7 Not to attempt to intervene in case management nor attempt to delve into the personal details of individuals and families

4.1.8 To accept that employees act independently of political bias

4.1.9 To treat employees in a reasonable manner and with respect

4.1.10 To be open and honest with employees

4.1.11 To act lawfully

4.1.12 To maintain confidentiality when appropriate to do so

4.1.13 To respect that employees have private lives and not to contact them outside normal working hours, or at home, unless in an emergency, or if the employee is officially working from home, or otherwise agreed.

5. POLITICAL NEUTRALITY AND IMPARTIALITY OF EMPLOYEES

5.1 The National Code of Conduct for local government employees states:

“Employees serve the Authority as a whole. They must serve all Councillors and not just those of the controlling group, and must ensure that the individual rights of all Councillors are respected”.

5.2 Members should understand that employees will generally operate in a politically neutral capacity. By law, some posts are specifically designated as “politically restricted”, meaning that they cannot be filled by employees who are linked to a political party or group, either through direct involvement or by, for example, canvassing on their behalf. These are mainly posts at a senior level within the organisation or where the post-holders are regularly involved, as part of their work, in advising Members.

5.3 Members should not discuss party politics with employees nor must they assume that there is an allegiance to a particular party. Members should not place employees in an embarrassing situation where, for example, they feel they have to agree with a particular political line, whether this be nationally or
locally based, although employees must follow the overall objectives of the Council and must not work against them.

5.4 Within the framework of a formal meeting, however, it is natural that Members will make political statements. Employees should have a general awareness of the Council’s political direction and acknowledge that at a strategic level this is bound to have an influence. But, it is not for employees to challenge such direction and they will co-operate with it – unless it is illegal.

5.5 It is not improper that employees may sometimes wish to seek political guidance in framing policy proposals. However, when they write reports or give advice they have a duty to give professional advice and to make Members aware of all the options available.

5.6 Employees must not demonstrate their personal political allegiances or intentions in carrying out their duties and must not display any party political literature in or on Council premises, equipment, or Council vehicles etc.

6. PARTY GROUP MEETINGS

6.1 It is common practice for party groups to give preliminary, informal consideration to Council business in advance of the formal decision making process. Whilst it is not normal practice, employees may be asked to attend party group meetings to brief Members in a professional capacity. However, this is seen as happening rarely, not regularly, and attendance may only occur with the express permission of the Chief Executive. Such attendance will be on the understanding that other party groups will be similarly served should they so request. The political neutrality of any employee attending a group meeting must be respected.

6.2 Employees will respect the confidentiality of any party group discussions at which they are present and, in particular, not relay any such discussion to another group.

6.3 All requests for an employee to attend a party group meeting should be made through the Chief Executive (or, in their absence, another member of the Management Team, i.e. a Corporate Director) who will judge which employee is the most appropriate to attend. This avoids any danger of an individual employee being identified with the party concerned. The employee will be at senior (usually Corporate Director or Senior Manager) level.

6.4 Employees may not attend Group Meetings in a private capacity without the express permission of the Chief Executive. Employees’ attendance at Group Meetings will take place in the presence of London Borough of Barking and Dagenham Members only.

6.5 Employees may also be asked to give support in other ways such as briefing Chairs or spokespersons prior to a formal meeting. Again, whilst in practice such support is likely to be in most demand from whichever party group is in control of the Council, such support is available to all groups.
6.6 In all these instances it is important that Members and employees understand the following:

6.6.1 employee support cannot extend beyond providing information and advice in relation to Council business – employees cannot be involved in party business. Where possible, this rule can be assisted if employees are not present when party business is being discussed – thought should be given to the way in which the business for the meeting in question is structured

6.6.2 party group meetings cannot make Council decisions and any conclusions reached cannot be interpreted as such or acted upon

6.6.3 where employees provide information and advice to a political group this cannot act as a substitute for providing all necessary detail to a formal meeting.

6.7 Special care is needed where employees are involved in providing information or advice to a party group which includes non-Members of the Council. Such people are not bound by the Members Code of Conduct (in particular the provisions concerning declaration of interests and confidentiality). Employees may not, therefore, be able to provide confidential detail as they would to a Members only meeting.

6.8 Any cases of particular difficulty or uncertainty in relation to employee advice to party groups should be raised with the Chief Executive.

7. GENERAL CONTACTS WITH EMPLOYEES

7.1 Members are free to approach any Council department for any information, explanation or advice that they need to assist them in carrying out their role as a Member.

7.2 Contact between Members and employees should be via the relevant Corporate Director or Divisional Director with the exception that all case work should be channelled through a Members’ Casework officer, details of whom will be provided to Members. The other exceptions are Members Support and Democratic Services officers for day to day general support and matters relating to meetings.

7.3 Members should always contact the Corporate Director or Divisional Director, or the Council’s Monitoring Officer, regarding anything very serious or sensitive.

7.4 Care must be taken to ensure that a complaint, as opposed to an enquiry, on behalf of a constituent is put through the official complaints procedure, and in so doing that an email is acknowledged within one working day, letters and faxes within five working days and that a full response to a letter, fax or email is provided within ten working days.
7.5 Details of an appropriate contact employee is given in all written communications with Members.

7.6 Members are required to ensure that Members' Services are provided at all times with an address for the delivery of any hard copy correspondence. As far as possible, however, written communications will be through email. Electronic communications with Members will only be via recognised council email addresses.

7.7 Members should not put pressure on any employee in relation to matters which have been delegated to employees. This might lead employees to make decisions that:

7.7.1 are not objective and cannot be accounted for; or
7.7.2 unfairly favour one Member or group of the public over another

7.8 Equally, Members should avoid bringing any influence to bear on an employee to take any action which is:

7.8.1 against normal procedures or Council policy
7.8.2 a breach of the Code of Conduct for Employees
7.8.3 in conflict with the Council's Constitution
7.8.4 unlawful
7.8.5 related to commercial transactions

7.9 Meetings which take place between Members and employees are effectively private meetings to discuss Council-related business. Members should not therefore invite external visitors such as party officials or workers, or commercial representatives, to such meetings.

7.10 Employees have a duty to report to their Corporate Director any attempt to exert improper influence. The Chief Executive will also personally wish to be made aware of any such instances and investigate as necessary.

7.11 Members must avoid becoming involved in any employee related matters as this could jeopardise official consultation, grievance, disciplinary and appeal procedures.
7.12 Members should similarly not seek to obtain staff views on any particular situation with a view to using the information to promote something for their personal advantage.

(See also the section on Documents and Information - Accessibility and Confidentiality).

8. **ROLES ON OUTSIDE ORGANISATIONS AND GROUPS**

8.1 It is natural that some Members and employees will be members - in their own right - of organisations or groups (political, voluntary or otherwise), within the community. Some Members and employees may work for such bodies.

8.2 It is essential that Members and employees do not use their Council position to obtain preferential treatment for the organisation or group concerned in a way that a non-Member or non-employee could not. To do so would be totally improper. In particular it would make it very awkward for staff who might find it difficult to suggest that a Member should use the proper channels when they are clearly not carrying out constituency work.

8.3 If a Member or employee has a role on an outside organisation or group, whether it be in a personal capacity or as a result of a position held on the Council, it is important to be aware that this could create a conflict of interest. A Member can act in the interest of the external body but must recognise the need not to take part in any Council decisions that affect the organisation or group - whether they be nominated by the Council or not - or to take part in any work associated with the organisation or group which could place them in a situation whereby they might be asked to make a judgement on a Council action.

8.4 Members and employees should remove themselves from any potential conflict of interest. Where there is doubt, it is always wise to err on the side of caution.

9. **FAMILIARITY, FRIENDSHIPS AND RELATIONSHIPS**

9.1 Close personal familiarity, in the office or at meetings, between individual Members and employees should be avoided as this can damage working relationships and prove embarrassing to colleagues on both sides. In particular, it could bring into question an employee's ability to deal impartially with other Members, and vice-versa.

9.2 However, it is recognised that personal, family or business relationships or friendships will exist between some Members and employees. These should be made known by a Member to the Leader of the party group (or another Member of the group if so designated as the contact point), and by an employee to their Corporate Director - for their information. The Corporate Director will inform the Chief Executive and the Divisional Director of Human Resources and Organisational Development.

9.3 Persons engaged in such friendships or relationships should take special care not to seek, or be seen, to influence their positions through their respective
friend or partner. Name dropping to seek advantage is totally unacceptable. People should also go out of their way to ensure that colleagues are not placed in an awkward or embarrassing situation as a result of a friendship or relationship.

9.4 A Member involved in a relationship or otherwise associated with an employee should declare an interest if, on any occasion, they are involved in decision-making directly related to the employee concerned, or the service in which they work. Where appropriate, they should seek to avoid being a member of a related meeting.

9.5 Certain informal gestures in a formal work setting may be innocently made but could be perceived by the recipient to be unwelcome or embarrassing. Such gestures should always be avoided. Similarly, jokes or pranks should be avoided.

9.6 Members must be careful never to become engaged in any matter related to an individual officer’s employment (except through formal meetings when these are relevant). Any officer attempting to raise such issues with Members should be advised to take the matter up with their manager and/or their trade union representative, and the Member should take no part in any discussion.

9.7 Members should not invite or encourage employees to partake in unofficial social activities, irrespective of whether this is outside normal working hours. This could be perceived by the recipient to be unwelcome and may result in them feeling obliged to become involved.

10. EMPLOYEES AND THEIR PERSONAL LIFE

10.1 Many employees live in the Borough and may wish to attend local events or public meetings in a personal capacity - for example, a Ward Surgery. Members should respect this and not seek to “use” the individual concerned as an employee at such times.

10.2 Where necessary, for example, in a Ward Surgery, anything discussed by an employee (in confidence or otherwise) as a resident should be so respected by the Member and not discussed in the workplace.

10.3 At public meetings and the like, an employee, as a resident, may wish to voice concerns about certain services or facilities in the area, or to ask questions or make suggestions. This is natural and acceptable to a certain degree. However, that person should not maliciously undermine the Council by adverse or negative comments. At all times, employees must observe the standards set out in the national Code of Conduct for Employees. Also, any employees who hold politically restricted posts are generally prohibited from speaking publicly with the apparent intention of affecting support for a political party.

10.4 The area in which an employee lives should have no bearing on their employment and Members should not, at any time, show favour to those who live in the Borough or those who originated from the area. Employees should
not publicly demonstrate support for a political party in carrying out their duties.

11. MEMBERS AND THEIR USE OF COUNCIL SERVICES AS A RESIDENT OF THE BOROUGH

11.1 There will be many times when Members use Council services as a resident - sometimes the service may be of a sensitive, confidential or personal nature (e.g. a social service, financial benefits etc.) and there may be some awkwardness or embarrassment on either side.

11.2 In all instances, the employee providing the service will maintain full confidentiality where this is appropriate and will treat the Member concerned in the same way as any other customer. The Member will not seek or expect any preferential treatment.

12. TRADE UNIONS

12.1 The Council has traditionally welcomed and recognised trade union membership and the important role that trade union involvement and participation offers. Relations are generally very good.

12.2 The Employee Joint Consultative Committee provides a forum for effective communication and consultation between employee representatives and the Council. This meeting is represented on the Council side by Members and on the employee side by trade union officials. It provides an opportunity to promote and foster good employee relations, and prevent or remove any friction or misunderstanding.

12.3 Trade union representatives may sometimes express views on behalf of their union which may be critical of the Council as an employer. This is acceptable in this context and a normal part of trade union negotiations or discussions. The fact that a representative may speak out in this way on behalf of colleagues should not be held against that person in their personal employment.

13. CONDUCT AT MEETINGS AND EVENTS

13.1 Members and employees should observe the degree of formality in behaviour that is appropriate to the event.

13.2 A formal approach should generally be applied in open meetings although the use of first name terms is acceptable if there is a consensus. The important issue is that the audience should be able to identify who is speaking or being addressed.

13.3 Such formality between Members and employees is not usually necessary at social events. However, any event attended as a result of the Member or employee's role with the Council should have regard to the fact that close personal familiarity might embarrass others or damage external relationships, and therefore should be avoided. Where there is doubt, a more formal approach is potentially less damaging than a casual one.
14. DOCUMENTS AND INFORMATION - ACCESSIBILITY AND CONFIDENTIALITY

14.1 General

14.1.1 Members are free to approach any Council Department to provide them with such information, explanation or advice (about that Department's functions) as they may reasonably need to assist them in carrying out their role as a Member of the Council. This can range from a request for general information about some aspect of a Department's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the relevant Divisional Director or service manager. Employees have a duty to assist Members with their requests subject to any statutory limitations referred to in this document. Where an employee is unable to assist they should provide a full explanation.

14.1.2 Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a committee meeting. This right applies irrespective of whether the Member is a member of the committee concerned. This right does not, however, apply to any matters which are subject to restricted circulation and Members should not pressure an employee to provide such reports or tell them what they are about. In the main, these reports will contain personal information about named employees (further detail is provided in the Appendix).

14.1.3 The common law right of Members is much broader and is based on the principle that any Member has a right to inspect Council documents provided they can justify that the information is reasonably necessary to enable the Member to perform their duties as a councillor. This is commonly referred to as the "need to know" principle. It can sometimes be unclear.

14.1.4 The exercise of this right depends, therefore, on the Member's ability to demonstrate that they have the necessary "need to know". In this respect a Member has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. However, on the other hand, subject to any Data Protection issues, Members would have a right to trawl files and documents should they feel this would be beneficial to any scrutiny investigation.

14.1.5 A service manager may make the judgement but if they are in any doubt they will seek advice from their Corporate Director or Divisional Director. In the event of dispute, the Chief Executive will determine the matter. The judgement about documents required for scrutiny purposes is the responsibility of the Divisional Director of Legal & Democratic Services.

14.1.6 In some circumstances (e.g. a committee Member wishing to inspect documents relating to the functions of that committee), a Member's "need to know" will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms, in writing to the Chief Executive.
14.1.7 Whilst the term "Council document" is very broad and includes, for example, any document produced with Council resources, it is accepted by convention that a Member of one party group will not have a "need to know", and therefore has no right to inspect a document which forms part of the internal workings of another party group.

14.1.8 Any Council information provided to a Member must only be used for the purpose for which it was provided i.e. in connection with the proper performance of their duties as a Member of the Council.

14.1.9 Where any document, copy correspondence or information is so marked or said to be confidential, Members and employees must strictly observe this. This also applies to any information which is generally recognised as being of a confidential nature. It is always best to err on the side of caution or seek advice if necessary.

14.1.10 There will be occasions when Members may find themselves in the position of having to refer child protection concerns to the Corporate Director of Children’s Services and/or vulnerable adult protection concerns to the Corporate Director of Adult and Community Services. It is important for Members to understand that in doing so the department cannot guarantee anonymity and the Member’s identity may become known should the case progress to Court.

14.1.11 A Member must not prevent another person from gaining access to information to which that person is entitled to by law.

14.2 Data Protection

14.2.1 It is very important that Members obtain a constituent’s consent to enable them to act on their behalf and to receive personal data about the individual or family concerned in connection with a case. Members must understand that if a constituent gives consent it only entitles them to receive data which is relevant to the matter concerned, and they can only use it for that purpose.

14.2.2 Employees who hold data have to be extremely careful about the release of personal information. However, they are generally advised that if a Member states that a constituent has given consent to them, the employee should accept their word and regard this as sufficient for their purposes. Members must, however, understand that the onus is on them should there ever be any data protection repercussions.

14.2.3 Members may, of course, choose, for their own protection, to obtain written consent from the constituent and clearly this is advisable wherever possible. Either way, the responsibility lies with the Member to (a) satisfy themselves that the constituent is who he/she claims to be, (b) specifically ask the constituent if he/she wants the Member or MP to act as their representative, and (c) if so, explain that this will mean that the Member will be asking the Council's employees to reveal personal data about them. They should check that the constituent is happy with this. The Member should keep a
brief record of any such conversations and relay this information to the department concerned when passing on the enquiry or complaint.

14.2.4 If an enquiry is referred by a Member by telephone, email or letter and this very clearly includes significant, detailed personal data which has been given to the Member by an individual, this will normally be sufficient to prove to the employee that the constituent has approached the Member with a view to them acting on their behalf. Where a telephone enquiry is made and the employee concerned does not recognise the Member’s voice, the employee may wish to telephone the Member back or ask him/her a particular question to satisfy him/herself that it actually the Member making the enquiry.

14.2.5 Where third parties are involved it is essential that the consent of the individual who is the subject of the enquiry, has given their consent, for example, in the case of a son enquiring about his mother’s tenancy.

14.2.6 If employees have any doubt whatsoever about revealing personal data to a Member they will consult a manager immediately.

14.2.7 Data Protection Regulations also set out the circumstances in which sensitive personal data can be provided to Members. Sensitive data is that which includes information relating to a person’s:

(a) racial or ethnic origin
(b) political opinions
(c) religious or other similar beliefs
(d) trade union membership
(e) physical or mental health or condition
(f) sexual life
(g) offences (including alleged offences)
(h) criminal proceedings (including outcomes and sentences)

14.2.8 The Regulations are quite complex and there are numerous conditions that apply in different circumstances. Members only need to be aware of the existence of the regulations and understand that any requests for access to such sensitive data must be dealt with on a case by case basis. Detailed advice can be obtained from the Divisional Director of Legal and Democratic Services.

14.2.9 Where sensitive data can be provided to Members there may be reasons why that data cannot be passed on by the Member to the individual who the information relates to. Briefly, this relates to situations where the individual may harm themselves or others as a result of having access to the information. Similarly it is necessary to safeguard the employees and other professionals dealing with the individual.

14.2.10 Any request for information which falls within the description of sensitive personal data, can only be made to the Chief Executive as he/she is the person designated by the Council as having responsibility for ensuring that the Council complies with its obligations under the Data Protection legislation.
14.2.11 All requests must be in writing and signed by the Member and, where possible, the individual concerned. A form has been devised for this purpose. To enable the process to function speedily and efficiently, the Chief Executive can ask the relevant Corporate Director or Divisional Director to assist in any dealing with requests for sensitive personal data, but the initial request must be to the Chief Executive.

14.2.12 On receiving any sensitive personal data a Member continues to be subject to the same degree of confidentiality and restriction of disclosure as the Council and its employees. This means that the information must only be used for the purpose for which it was provided. It can only be shared with individuals who are covered by the same confidentiality agreement or who the Chief Executive (or Corporate Director/Divisional Director) has agreed can have access to the information.

14.3 Summary of Members' Right of Access

<table>
<thead>
<tr>
<th>Situation</th>
<th>Right of Access</th>
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<tbody>
<tr>
<td>Open agenda reports and supporting documentation</td>
<td>Full and unrestricted access to all Members</td>
</tr>
<tr>
<td>Member of a committee with a restricted access report</td>
<td>Full and unrestricted access to the Members of that committee only</td>
</tr>
<tr>
<td>Member but not of a Committee with a restricted access report</td>
<td>Access depends upon Members demonstrating:</td>
</tr>
<tr>
<td></td>
<td>• &quot;Need to Know&quot;</td>
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<td></td>
<td>• Scrutiny role</td>
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<td></td>
<td>• Consent of individual</td>
</tr>
<tr>
<td></td>
<td>• Exception identified in this guidance</td>
</tr>
<tr>
<td>Member wishes to see employee details</td>
<td>Disclosure if within exceptions of &quot;Employee Related Information&quot; otherwise no disclosure</td>
</tr>
<tr>
<td>Member without written authorisation to inspect/receive sensitive personal information</td>
<td>Seek initial advice from the Divisional Director of Legal Services before making a formal request to the Chief Executive. Each case will depend on the circumstances</td>
</tr>
<tr>
<td>Member with written authorisation to inspect/receive sensitive personal information</td>
<td>Member will need to show written authorisation to inspect/receive sensitive personal information</td>
</tr>
<tr>
<td>The Full Electoral Register</td>
<td>Information relating to the Member's Ward only</td>
</tr>
<tr>
<td>The Edited Register</td>
<td>Information across all Wards</td>
</tr>
</tbody>
</table>
14.4 Employee Related Information

14.4.1 Information about individual employees will, generally, not be released. This is because, as an employer, the Council is obliged to respect confidentiality. There are Data Protection and Human Rights issues.

14.4.2 There will, however, be some circumstances when the general principles will be set aside. These are:-

(1) where an employee's action or inaction has led to potential or actual harm to the community, or presents a serious risk to the community;

(2) where the employee's action or inaction has caused serious financial loss to the Council or the community;

(3) where the employee's action or inaction has caused damage to the Council's reputation;

(4) where the actions or inaction of the employee has caused, or is likely to cause, an issue relating to public confidence in the Council's services;

(5) where the action or inaction of the employee has caused or is likely to cause an issue relating to statutory or government bodies' confidence in the Council's services;

(6) where the employee's action or inaction needs to be informed to Members for them to make decisions in relation to Council business;

(7) where a Corporate Director, in consultation with the Chief Executive and the Divisional Director of Human Resources and Organisational Development, reaches the view that the matter is of such gravity that Members should be informed and, if need be, consulted as to action that needs to be taken;

(8) where it will be necessary for Members to authorise action, including legal action, directed either at the employee concerned or that business to which the employee's action or inaction relates.

14.4.3 In any of these instances, details may be passed to the following Members only on a strictly confidential basis on advice from the Chief Executive: Leader and Deputy Leader of the Council.

14.4.4 Only with the Chief Executive's authority, in consultation with those Members, will the information be released to other Members.

(A specific protocol on dealing with human resource issues at meetings is attached as an appendix to this document)
14.5 Requests by Other Elected Representatives

14.5.1 For clarity, this section of the Protocol also deals with other elected political representatives including Members of the UK Parliament (MPs), the European Parliament (MEPs) and the Greater London Authority (MGLAs).

14.5.2 Other elected representatives' right of access to Council Agenda Reports is no greater than a member of the public. They therefore have a right to access all open agenda material. They do not have a right to access any material, which is exempt from publication under Schedule 12A of the Local Government Act 1972 (as amended). They do not have any right to access details about employees.

14.5.3 The right of other elected representatives to sensitive personal data will depend upon the context that a request is made and, as with Members, advice should be sought from the Divisional Director of Legal and Democratic Services.

14.6 Summary of Other Elected Representatives Right of Access

<table>
<thead>
<tr>
<th>Situation</th>
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<tbody>
<tr>
<td>Open Council agenda reports and supporting documentation</td>
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</tr>
<tr>
<td>A restricted access Committee report</td>
<td>No access</td>
</tr>
<tr>
<td>Employee details</td>
<td>No access</td>
</tr>
<tr>
<td>Without written authorisation to inspect or receive sensitive personal information</td>
<td>Seek initial advice from the Divisional Director of Legal Services before making a formal request to the Chief Executive. Each case will depend on the circumstances</td>
</tr>
<tr>
<td>With written authorisation to inspect/receive sensitive personal information</td>
<td>Will need to show written authorisation to inspect/receive sensitive personal information</td>
</tr>
<tr>
<td>The Full Electoral Register</td>
<td>MPs: Information relating to the MPs Constituency MEPs and MGLAs: Information relating to both constituencies</td>
</tr>
<tr>
<td>The Edited Register</td>
<td>Information across both constituencies</td>
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15. CORRESPONDENCE

15.1 Correspondence (hard copy or email) between an individual Member and an employee will not normally be copied (by the employee) to another Member. Where the employee feels that this is appropriate, it will be made clear to the original Member. Clearly this will not apply to any correspondence which is marked 'Confidential' unless there are justified reasons which will be discussed with the originating Member.

15.2 A Cabinet Member has no special right of access to copies of correspondence passing between another Member and an employee which relates to the Cabinet Member’s portfolio.

15.3 When writing to a Member, or group of Members, the correspondence will clearly indicate the names of any others who have been sent the same correspondence, including any who have been copied in for their information. This is in the spirit of openness and to avoid any surprises or later allegations around ‘silent copies’.

16. COMPLAINTS, ALLEGATIONS AND CRITICISM

Sadly, but inevitably in such a large organisation, there will be occasions (hopefully rare) when a Member or employee may wish to complain about the other, make allegations, or criticise actions. It is important that procedures are in place to deal with any such cases and these are detailed below.

Note: all references to “complaints” below include complaints, allegations and/or criticisms.

16.1 Complaints by Members about employees

16.1.1 All complaints must be in writing, marked "private and confidential" and sent to the individuals referred to in the following paragraphs, who will determine how best to deal with the matter. Where necessary, the recipient of the complaint will consult with other senior officers and/or Members, as considered necessary, including the Section 151 Officer regarding any matters of financial control or fraud, and the Divisional Director of Human Resources and Organisational Development where procedural advice is necessary.

16.1.2 A complaint by a Member about an employee should be made to the Corporate Director of the service in question. If, however, a Member feels that the matter is one which could be determined by the Divisional Director, the complaint may be referred directly to that person with a copy to the relevant Corporate Director.

16.1.3 A complaint by a Member against a Corporate Director should be made to the Chief Executive.

16.1.4 A complaint by a Member against the Chief Executive should be made to the Leader of the Council.
16.1.5 A complaint by a Member against an employee (at any level) and the Chief Executive should be made to the Leader of the Council.

16.1.6 A complaint by a Member against an employee (at any level) and a Member of the Council should be made to the Monitoring Officer.

16.1.7 A complaint by a Member about a former employee should be made to the Corporate Director of the former employee’s department.

16.1.8 Members have a right to know if action has been taken to correct a matter, but they must not either:

(i) insist, or be seen to insist, that an employee is disciplined; or

(ii) influence the level of any disciplinary action which might be taken against an employee.

16.1.9 In all cases, Members and employees have an obligation to maintain confidentiality throughout.

16.1.10 As soon as possible but within ten working days, the recipient of the complaint will acknowledge receipt in writing and give an indication of what action they intend to take and/or what procedures they intend to follow, together with an estimation of any time lines.

16.1.11 Members have a right to be told the outcome of any employee disciplinary case, but no entitlement to detailed information about the hearing or its conduct.

16.1.12 If a Member is not satisfied that action has been taken to set an employee matter straight, they may refer the matter directly to the Chief Executive for independent assessment or, if the case is about the Chief Executive, to the Divisional Director of Human Resources and Organisational Development.

16.1.13 Members must not sit on any meeting of the Personnel Board dealing with an employee case which they have been involved with.

16.1.14 Members have the right to generally question, criticise or complain about reports or the actions of employees, but they should always:

(i) avoid personal attacks on employees; and

(ii) ensure that any criticism is constructive and well founded with relevant evidence at the outset where appropriate.

16.1.15 Members should avoid undermining employees at meetings, or in any public forum. This would be damaging, both to effective working relationships and to the public image of the Council.

16.1.16 Where a Member has had reason to question, criticise or complain about the actions of a particular employee, once the issue has been dealt with through
appropriate mechanisms, irrespective of the outcome, professional behaviour is expected from both parties - there must be no grudge to bear on either side. To do so openly or behind the scenes will only fuel continued unrest and is not in the Council's interests. Any such difficulties will be referred by the employee to their Corporate Director, or in the case of a Corporate Director to the Chief Executive, or by the Member to their respective party group leader.

16.2 Complaints by Employees

16.2.1 Any complaints by an employee about a Member or a former Member should be discussed confidentially in the first instance with the employee’s Divisional Director or Corporate Director who, in turn, will discuss with the Monitoring Officer the best course of action. However, where a breach of the Members Code of Conduct is alleged, the complaint must be in writing using the form available on the website at the following link:

http://www.lb bd.gov.uk/CouncilandDemocracy/Complaints/Pages/CouncillorComplaint.aspx

and must be sent to the Monitoring Officer, marked “private and confidential”. The Monitoring Officer will refer the matter, as appropriate, to the Council’s Standards Committee.

16.3 Complaints by Members about Members

16.3.1 A complaint by a Member about another Member should be made in writing marked “private and confidential” to the Monitoring Officer. If the complaint alleges a breach of the Members' Code of Conduct the complainant should use the form available for this purpose on the website at the following link:

http://www.lb bd.gov.uk/CouncilandDemocracy/Complaints/Pages/CouncillorComplaint.aspx

The Monitoring Officer will refer such complaints, as appropriate, to the Council’s Standards Committee.

16.3.2 If, however, the matter is a party issue, it should be dealt with through party mechanisms with no officer involvement.

16.4 Complaints by Employees about Employees

In most circumstances it will be appropriate to use the relevant procedure (such as the grievance, or harassment and bullying procedures). If the complainant can show that none of these are appropriate the matter should be referred by the complainant to his/her line manager or the Divisional Director of Human Resources and Organisational Development.

17. BREACHES OF THE PROTOCOL
17.1 Relevant Sections offer advice as to how to deal with any difficulties around or breaches of this Protocol. It is hoped that these routes will successfully and quickly resolve any issues.

17.2 A breach of the Protocol by a Member may be reported to the Monitoring Officer, who will decide how the matter should be dealt with. Where a breach of the Protocol constitutes a breach of the Members’ Code of Conduct, the Monitoring Officer will refer the matter to a Standards sub-committee for assessment.

17.3 The Monitoring Officer will acknowledge receipt of the complaint within five working days and give an indication of how it is proposed to deal with it.

17.4 In instances of a breach of the Protocol by an employee, the matter will be dealt with through the Council’s disciplinary or other relevant employee related procedures.

18. REVIEW AND REVISION

18.1 This Protocol will be reviewed annually by the Standards Committee who will make any recommendations for revision to the Assembly.

18.2 The Protocol is part of the Council’s Constitution and the Assembly is responsible for its adoption and any revisions necessary.

18.3 Any typographical or minor revisions can be agreed by the Divisional Director of Legal and Democratic Services.

(Contact Officer: Divisional Director of Legal & Democratic Services: Tel. 020 8227 2114)
APPENDIX TO MEMBER/EMPLOYEE RELATIONS PROTOCOL

DEALING WITH HUMAN RESOURCE ISSUES AT COUNCIL MEETINGS

1. Introduction

1.1 When Members consider items about the people we employ, in their capacity as the employer, they must be mindful of a number of matters:

1.1.1 Employees have rights, on an individual basis, to be treated fairly. (This includes expecting the employer to maintain confidentiality about an individual’s personal and employment details).

1.1.2 Information relating to employees is often confidential in nature and should not be available widely throughout the organisation (at Member or employee level). Only those who need to know should know.

1.1.3 Members, as the employer, should have the opportunity to consider, debate and decide upon issues without managers/employees being present.

1.1.4 A variety of decisions on Human Resource (HR) matters, including the fair treatment of people by their employer, are subject to external scrutiny.

1.2 For these reasons:

1.2.1 Written information to Members on HR management and/or personal HR matters, which address employee’s issues in respect of an individual, should be restricted to relevant Members and appropriate employees. This information should not be included as part of the usual circulation for a report.

1.2.2 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.

2 Guidelines

2.1 The following persons should have access to all private and confidential reports about Human Resources matters which relate to individual employees and attend Council meetings where such matters are dealt with (no other persons should have such access or attend meetings unless otherwise determined by the Chief Executive and/or the Divisional Director of Human Resources and Organisational Develop):

2.1.1 Members of the meeting considering the matter;

2.1.2 Other Members of the Council – only if they can demonstrate a “need to know” as specified elsewhere in this guidance;
2.1.3 The Chief Executive;

2.1.4 The Divisional Director of Human Resources and Organisational Development;

2.1.5 The Divisional Director of Legal & Democratic Services (Monitoring Officer);

2.1.6 The Corporate Director of the relevant department;

2.1.7 Any other officers authorised by the Chief Executive and/or the Divisional Director of Human Resources and Organisational Development (usually these are restricted to the relevant Democratic Services Officer and specified Human Resources Officers); and

2.1.8 Independent members of the Standards Committee (SC) for SC purposes only.

2.2 The following additional guidelines also apply:

2.2.1 There may be meetings where it is appropriate to invite representatives of the Trades Unions. In such cases, appropriate arrangements will be made by the Divisional Director of Human Resources and Organisational Development and the relevant Democratic Services Officer.

(Contact Officer: Divisional Director of Human Resources and Organisational Development    Tel. 020 8227 2382)
Guide for Members’ Use of Council Resources, Facilities and Equipment

1. Introduction

1.1 This Guide is for all Members of the Council. Where relevant, it also applies to statutory co-opted members on the Children’s Services Select Committee (for education matters), and independent members of the Standards Committee.

1.2 You can only use or access Council resources, facilities and equipment in your role as a councillor. This Guide is to help you to understand what use you may make of Council resources, facilities and equipment, and to be clear about what you cannot ask for or expect. The intention is to avoid any misunderstandings and to safeguard you from any inappropriate use.

2 There are a number of principles and requirements which underpin the Guide:

2.1 **Honesty and Integrity** - one of the nationally agreed principles governing conduct by Members and co-opted members is -

"Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour"

2.2 **The Members’ Code of Conduct** includes a requirement that Members and co-opted members -

"Must, when using or authorising the use by others of the resources of the authority -

(i) act in accordance with your authority's reasonable requirements; and

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes)"

2.3 **The Member - Employee Relations Protocol** explains that in a work sense -

Members can expect employees to assist them in carrying out their role as Members of the Council in connection with Council business (they cannot, however, assist with party political or campaigning activity, or with private business)

2.4 However, the Protocol provides for senior employees (with the express permission of the Chief Executive) to brief Members in a party group setting on the understanding that all party groups will be served similarly if they so request. This provision only relates to giving information and advice on Council business.

2.5 The Protocol also requires that Members will not ask employees to give them unauthorised access to resources.
2.6 **Data Protection Legislation** restricts the release of personal data and controls its use where access to such information is granted.

3. The Guide has been developed by the Standards Committee and its key officers. They have a responsibility to encourage high standards of behaviour by Members.

4. It has been adopted by the Assembly for inclusion in the Council's Constitution.

5. The general message throughout this guide is:

5.1 **Council resources, facilities and equipment may only be used by Members for Council business.**

5.2 Any role in a personal capacity such as a School Governor, being on an external organisation or connected with party politics is not regarded as Council business.

5.3 If you are appointed by the Council as a School Governor, this is classed as Council business but there are certain restrictions on accessing Council resources. These are explained in this guide.

6. **Employee Resources**

6.1 Employees are able to help and support you in your role as a councillor. The Member-Employee Relations Protocol sets out in detail expectations on both sides and aims to make sure there are good and appropriate working relationships.

6.2 In terms of Members asking employees for assistance you may make full use of the support offered by the Members' Services Section. The employees are there to help you.

6.3 You may also ask or expect employees to:

6.3.1 help you in resolving Council related case work or enquiries;

6.3.2 help you with research, briefings and administration associated with a position as a Council representative (that is, approved by the Cabinet or the Assembly) on an external organisation or as a School Governor;

6.3.3 help you make travel and accommodation arrangements for conferences, seminars or other external events which are either approved by the Cabinet, (where necessary), linked to a position or responsibility held on the Council, or otherwise associated with Members' personal development as a councillor; and

6.3.4 help you with Ward material, stationery and posters on the understanding that the same help is offered to all Wards and Members on an equal basis. This
may mean that the scale of any help may have to be limited, depending on take up.

6.4 You may not ask or expect employees to:

6.4.1 process or assist with anything which is party political, or which could be misinterpreted as being so;

6.4.2 undertake research, administration, or word processing in connection with party group activities;

6.4.3 help you in your personal role as a School Governor other than in connection with formal enquiries of the Council;

6.4.4 help you in your personal capacity on an outside body or charity other than in connection with formal enquiries of the Council;

6.4.5 assist you in your role as an assistant to a Member of Parliament (MP), a Member of the European Parliament (MEP), a Member of the Greater London Assembly (MGLA), or as an employee of a political party other than in connection with formal enquiries of the Council;

6.4.6 help you with any private work; or

6.4.7 do anything which goes against the provisions of the Member - Employee Relations Protocol.

7 Facilities

7.1 Facilities in Council administrative buildings (meeting rooms, Members' Rooms, Mayor's Parlours, and public space areas) can normally only be used by Members for Council related activities. However, it is recognised that party political groups need to meet and this is accepted as part of the democratic process. You may therefore use meeting rooms within Council buildings for party group purposes during reasonable hours without charge. Council administrative buildings may not, however, be used for public meetings associated with a party political group.

7.2 It is also accepted practice that the meeting rooms are available to local Members of Parliament for surgeries, and, by permission of the Chief Executive, by Members for Ward Surgeries. This is based on the understanding that all Members will be considered equally.

7.3 Premises for ward surgeries should be arranged by Members but Council funds are available to pay standard rates for those surgeries located within the boundaries of the Borough.

7.4 Where Council premises are available for hire to members of the public, you may hire the premises for personal or other non-Council business on the same terms and conditions as a member of the public. However, you must not do anything which might bring the Council into disrepute through inappropriate use of Council premises or standards of behaviour.
7.5 You may:

7.5.1 make use of the relevant party Members' Rooms at Barking Town Hall and Dagenham Civic Centre for reading, research, use of the information technology, use of the telephone, and discussions with Member colleagues and officers on Council related business but on the understanding that the facility is shared with all other party members;

7.5.2 use the telephones for brief, personal, local calls. International calls cannot be made without contacting the operator by dialling ‘O’ (any such personal calls will be billed to you separately); and

7.5.3 make use of the Council's web site to provide readers with non party political information about yourself. Provided all Members are treated equally, you can show your respective political party. For example: "Councillor A N Other, Labour Councillor for .... Ward". However you cannot include personal, political commentary such as: "As .... (party) Councillor for .... Ward I have demonstrated my commitment to the Ward by ...." etc. etc.

7.6 You should not:

7.6.1 expect to have sole use of the Members' Rooms except under exceptional circumstances and with the consent of the Chief Executive. The rooms are available for all Members to use during office hours and when evening meetings are being held; or

7.6.2 bring visitors into Council buildings relating to national/regional politics, or any other guests not relating to Council business. If any clarity is required on this matter, advice on compliance should be sought from the Chief Executive.

7.6.3 display, or expect to have displayed, in council buildings or on council premises, any material which is party political including leaflets, posters, election campaign sheets, petitions, party newspapers or news sheets etc.

8. Stationery, postage, photocopier and other equipment

8.1 You should be adequately stocked at home with stationery, pens, ink cartridges, files, pads, computer discs and any other necessary equipment in order to carry out your duties as a councillor. In addition, at the start of each municipal year, you will be supplied with a stock of personalised business cards.

8.2 You should:

8.2.1 make sure that stocks of stationery are adequate;

8.2.2 always use appropriate Council headed paper for Council business; and

8.2.3 return any unused stocks of stationery and other equipment, including parking permits, when ceasing to be a councillor.
8.3 You may:

8.3.1 ask for Ward posters or other material for use in connection with Ward surgeries; and

8.3.2 make use of the Council's photocopying facilities for Council business.

8.4 You may not:

8.4.1 use Council stationery for personal use or for use as a School Governor regardless of whether or not the position is held in a personal or a Council capacity (contact the relevant School in this respect);

8.4.2 use Council stationery and your position as a councillor to influence a personal situation;

8.4.3 use the Council's postage franking facilities for personal mail;

8.4.4 use the photocopier or other equipment for party political material, or in connection with your role as an assistant to an MP, MEP or MGLA unless using a designated code which allows the costs to be billed to the relevant party/MP/MEP/MGLA for payment;

8.4.5 include party political logos or party political commentary on Council stationery, or distribute party political material in the same envelope or package as Council correspondence; or

8.4.6 use any designatory letters after your name, in line with Council custom and practice, e.g. BA hons, with the exception of honours granted by any Head of State.

9. **Transport**

9.1 You should make your own transport arrangements in connection with Council business. Generally, this will mean use of your own car, use of public transport, or, perhaps, receiving a lift from a colleague.

9.2 If you are eligible for a Blue Badge, or are otherwise unable to make use of your own transport due to a medical condition or incapacity (such as a broken leg), or in any other exceptional circumstances, you may apply to the Chief Executive who in liaison with the Leader of the Council will consider special assistance. Exceptional circumstances will include, for example, where an evening event would mean late travel that might not be safe or convenient, and/or where you need to work during the journey and that would not be possible on public transport. If your application is confirmed you may contact the Transport Manager who will arrange mini cab assistance in connection with the following Council business:

9.2.1 Travel to and from Council and Member level meetings within the Borough.

9.2.2 Travel to and from other official meetings within the Borough in connection with Council business.
9.2.3 Travel to and from official site visits within the Borough.

9.2.4 Travel to and from official meetings outside the Borough.

9.2.5 Travel to and from official visits outside the Borough.

9.2.6 Travel to and from rail, bus or underground stations or airports in connection with Council business.

9.3 Council transport will be provided for all Members for civic, ceremonial and awards functions or similar. These include Ceremonial Council meetings, the Civic Service, Remembrance Sunday, the Civic Reception and the Royal Garden Party. Special provision is also given for your partner or guest if they live or are staying in the Borough and have accepted an official invitation to any of these functions.

9.4 Council transport will also be provided for all Members where they have been appointed by the Assembly or another formal meeting of the Council to attend any meetings or visits outside the Borough in connection with Council business.

9.5 You should:

9.5.1 where you are eligible, aim to ask for transport before 4.00 p.m. the day before the service is needed;

9.5.2 give all relevant details when asking for transport as these must be recorded by the Transport Manager (you must explain the purpose of the journey and the destination);

9.5.3 expect to share vehicles with other Members (the Transport Manager will look for best value when a number of Members are travelling to the same destination at around the same time); and

9.5.4 be ready at the agreed time.

9.6 You should not:

9.6.1 where you are eligible for transport for Council business, ask for transport for personal visits, ward surgeries, political meetings or School Governing Body meetings regardless of whether or not the position as a Governor is personal or Council related. These requests will be declined by the Transport Manager;

9.6.2 ask for a specific vehicle or mini cab. The Transport Manager will select the most appropriate vehicle/company for the journey subject to availability;

9.6.3 plan the route to the required destination. The driver will select the best route depending on the time of day and other factors;
9.6.4 worry about applying for a Congestion Charge pass. The driver will organise this; or

9.6.5 if using Council transport, expect to use the driver's mobile phone during a journey other than for urgent inland calls and only for a brief period. The driver's phone must be charged and available for their own use and any incoming calls.

10. **Other Transport**

10.1 The Rules for Conferences, Visits and Hospitality (Part D of the Council’s Constitution) set out the general rules for travel arrangements for Council related business. These state:

   The choice of travel should be made with a view to keeping the cost of the visit as low as possible. People should share vehicles and travel together where practical. However, cheaper methods of transport should not be considered if this results in an additional overnight stay and greater overall cost.

   First class or club class travel is not normally provided for Members or staff, but in exceptional circumstances the Chief Executive can approve it for Members, and a Corporate Director may approve it for staff. In the case of either Members or officers, specific justification must be documented.

10.2 You should:

   10.2.1 liaise with other colleagues who may be travelling to the same destination and share where possible; and

   10.2.2 feel free to arrange a journey and tickets yourself if you wish to with the above principles in mind. You may also ask Members' Services for help.

11. **Telephones**

11.1 You are expected to use your own private telephone(s) for Council business at your expense. This includes mobile telephones. If you feel that your Council position warrants a mobile telephone, or other similar equipment, you should purchase your own, again at your own expense including all call costs.

11.2 If you have a Council computer and associated telephone handset you can receive incoming business calls on that line – see the relevant section later.

11.3 A Council mobile telephone will be made available for Council use by the Mayor and Deputy Mayor when attending Mayoral functions for the purpose of, for example, contacting the driver when ready to leave.
12. Using Council Equipment at Home

12.1 You can be provided with a personal computer, printer and scanner, linked telephone and fax facility at home. A small desk for the equipment can be provided on request, as can a small paper shredder and a mini-dictating machine.

12.2 Requests for any other electronic devices such as Blackberries, IPads and IPods etc., or home equipment in general will not normally be granted unless there are exceptional circumstances, in which case the Chief Executive, in liaison with the Leader of the Council, may grant approval.

12.3 If you wish to use your own equipment (e.g. personal computer) in place of Council provided equipment, this must be at your own expense. You will however only be able to access emails (through imail) and other Council systems (including email) via Citrix using an RSA token. The LBBD IT Client Team can advise only on the use of personal equipment. No technical support for such equipment will be available. You are not permitted to plug any personal device onto the Council's Network unless it has first been risk assessed by the Client Team.

12.4 In general, any Council equipment, whether permanent, temporary, fixed or portable, is provided for use by you for Council business.

12.5 You should:

12.5.1 look after all Council equipment and keep it reasonably tidy and clean;

12.5.2 make sure it is not a health or safety risk to anyone (Members are responsible for assessing risk and taking appropriate action to eliminate risk); and

12.5.3 return any equipment to the Council when ceasing to be a councillor.

12.6 You should not:

12.6.1 allow use of any equipment by family or friends; or

12.6.2 personally purchase any equipment for Council use. Always contact Members' Services who will make sure that goods are properly purchased in line with agreed procedures.

13. Council computers and associated telephone lines

13.1 You may:

13.1.1 use the telephone line but only for incoming calls and outgoing faxes;

13.1.2 use the computer as much as possible to reduce the number of hard copies of documents; and
13.1.3 use the computer for personal e-mails, and the Internet for personal as well as Council purposes, provided they are accessed through the Council system as installed by the I.T. system. This means that access should be by clicking on the Outlook icon, or the Internet Explorer icon. This provision is on the basis that such personal use is not excessive and would not place in doubt the integrity of the Member.

13.2 You should:

13.2.1 take advantage of relevant training to advance computer skills;

13.2.2 be aware that e-mail usage is monitored as part of the Council’s security policy (consider e-mail as no more private than something which is mailed through the post);

13.2.3 take care when drafting emails to avoid any potential for later complaint. For example, avoid personal attacks and potentially rude or offensive language.

13.2.4 be aware that websites visited are also monitored (if you accidentally connect to a site containing sexually explicit or other offensive material, let the Information Technology staff know so they can block access. Most of these sites should already be blocked);

13.2.5 call the Help Desk if you cannot resolve any technical difficulties, or Members’ Services for any general advice;

13.2.6 log off the computer when not in use for financial and safety reasons;

13.2.7 take reasonable care not to allow family or friends access to any personal data about constituents or any confidential information;

13.2.8 record details of any fax calls in case of later query; and

13.2.9 note that details of any bills which are considered to be excessive will be brought to the attention of the Chief Executive who will liaise with the Member concerned as to usage. If necessary reimbursement will be asked for from the Member for any exceptional personal usage costs. (See the section on ‘Breaches of this Guide’ towards the end of the document)

13.3 You should not:

13.3.1 use your computer to access undesirable web sites. These include sites containing information of a pornographic, sexist and racist nature.

13.3.2 use the telephone line for outgoing calls; or

13.3.3 expect to be granted access to computer based systems containing personal data.
14. Expenses

14.1 You may claim for travelling expenses and meal allowances (known as subsistence allowances) in connection with Council related business. Forms are available on the intranet for making monthly claims.

14.2 You should:

14.2.1 give relevant receipts with the claim form where possible; and
14.2.2 make claims on a regular basis rather than allowing them to build up.

14.3 You should not:

14.3.1 claim for meals if they are provided at no charge; and
14.3.2 claim any expenses in relation to a School Governor role (regardless of whether the role is personal or Council related). Any claims should be sent to the School and may be paid if the Governing Body agrees. However, school funds are limited and expenses are rarely approved.

14.4 Expenses associated with attendance at external conferences and the like can be confusing so this example may help:

You are attending a two-day conference in Bath, staying overnight in a hotel. The conference starts at 10.00 a.m. You are travelling by train leaving Euston at 7.00 a.m. and returning the following day on the 4.30 p.m. train which arrives at Euston at 6.30 p.m. Lunch is provided by the conference organisers on both days. The hotel's rates include an evening meal on the first day and breakfast on the second morning.

It is acceptable for you to claim the breakfast allowance on the first day and the rate for afternoon tea on the second. You should not, however, claim for lunch on either day, nor for the evening meal or breakfast as these are already provided for either as part of the conference fee or the hotel's rates.

If the hotel's rates are less than the 24-hour subsistence rate, you are not entitled to claim the difference.

15. Breaches of this Guide

15.1 Although this document is intended as a guide, it is important to warn that if you knowingly act against the advice, you could be in danger of breaching the Members' Code of Conduct or other protocols. This could be serious.

15.2 If any situation is unclear or not provided for in the guide, you should always ask advice either from the contacts mentioned at the end of this guide, or from the Monitoring Officer.
15.3 In all cases, a general note of the query and the advice given (but not the name of the enquirer) will be passed to the Divisional Director of Legal and Democratic Services. This will be used to brief other Members as necessary or generally be brought to the attention of the Standards Committee at an appropriate time.

15.4 In an attempt to protect Members, any areas of serious concern that come to the attention of an officer in the course of their duties will be reported to the Chief Executive. The Chief Executive will consult with the Monitoring Officer and take whatever action he or she feels is necessary to resolve the matter.

15.5 In the event that resources have been inappropriately used for non-Council purposes or otherwise in breach of any protocol or code, the Chief Executive will have the right to recover the costs involved from the Member or Members concerned. If payment is not be made within 28 days of the initial request, the Chief Executive is authorised to recover the outstanding sum through deductions from the Member’s Allowance. The Member has a right of appeal to the Standards Committee against the Chief Executive’s initial request for payment if he or she feels that the situation is unfair or unreasonable. An appeal should be submitted to the Monitoring Officer within ten days of the Chief Executive’s formal notification of the proposed action. This provision allows for the Chief Executive (and, as appropriate, the Monitoring Officer) to be provided by relevant officers with personal data about Members relevant to such circumstances. The relevant party leader will be informed of any instances whereby the Chief Executive has brought the misuse of resources to the attention of a Member of their Group and sought to recover any costs.

16. **Review and Revision**

16.1 This guide will generally be reviewed each year. Any suggested or necessary revisions to the guide will be considered by the Standards Committee on an annual basis or, if urgent, at their next meeting. In either event, any revisions recommended by the Standards Committee will be put to the Assembly for approval.

16.2 The Divisional Director of Legal and Democratic Services will arrange for any administrative amendments or typing errors to be corrected.

17. **Contacts**

17.1 Members’ Services (for general support, research, stationery etc.)

   📞  020 8227 2116

17.2 Information Technology (for Council owned home computers and IT training)

   📞  020 8227 2013
17.3  Computers Help Desk (for technical difficulties or advice)
    📞  020 8227 2013

17.4  Council Transport
    📞  020 8227 2692/2931

17.5  Travel and Subsistence Claims - Finance
    📞  020 8227 2018

(Contact Officer: Divisional Director of Legal and Democratic Services, Tel. 020 8227 2114)
LONDON BOROUGH OF BARKING AND DAGENHAM

CODE OF CORPORATE GOVERNANCE

1. Introduction

1.1 Corporate governance is the system by which we (the Council) direct and control our functions, and relate to our community. Good corporate governance is essential to making sure there is credibility and confidence in the public services we provide.

1.2 This Code sets out our commitments and how we make sure that our corporate governance arrangements are sound and effective, and that relevant systems and processes are regularly monitored.

1.3 It has been developed in line with four general principles of good corporate governance. The principles are:

1.3.1 **Openness** in decision-making and management processes, and in the approach of individuals within the Council.

1.3.2 **Inclusively** to make sure that the community and others who have an interest in the Council, have the opportunity to engage effectively with decision-making processes and Council actions.

1.3.3 **Integrity** based on honesty, selflessness and objectivity, together with high standards of conduct, propriety and probity in running the Council's affairs and managing public monies.

1.3.4 **Accountability** to make sure that the Council, Members (elected councillors) and staff are responsible for decisions and actions, and submit themselves to appropriate external scrutiny.

1.4 Code follows a Framework recommended to local authorities jointly by the Chartered Institute of Public Finance and Accountancy (CIPFA) and the Society of Local Authority Chief Executives and Senior Managers (SOLACE).

2. Commitments

2.1 We are committed to:

2.1.1 working for and with local communities, and exercising leadership where appropriate

2.1.2 acting as an ambassador to promote the well-being of the Borough

2.1.3 making sure there is continuous improvement in service delivery

2.1.4 making sure that agreed policies are implemented and decisions carried out
2.1.5 making sure that political and management structures and processes are effective in governing decision-making

2.1.6 establishing a systematic strategy, framework and process for managing risk

2.1.7 making sure there are high standards of conduct by Members, staff and agents employed to work for us, and encouraging others who work with us to respect certain standards of behaviour.

3. Meeting these commitments

3.1 To achieve the principles of good corporate governance and to show our commitment, we have an extensive range of systems, procedures, processes and actions. We also have plans to do other work which will strengthen this further.

3.2 Details are summarised under five dimensions:

1 Community Focus
2 Service Delivery Arrangements
3 Structures and Processes
4 Risk Management and Internal Control
5 Standards of Conduct

3.2.1 Community Focus - We undertake to:

(1) publish an annual Best Value Performance Plan, including a Summary, to inform the community of our key activities and achievements, how we have performed over the previous year in terms of service delivery, and what our future plans are to improve service quality

(2) publish an Annual Accounts report telling the community about our financial position

(3) implement, monitor and periodically revise a Community Strategy, in consultation with the Barking and Dagenham Partnership (the Local Strategic Partnership), and in doing so work with our partners and the community to achieve our vision for the Borough

(4) promise, through a Consultation Strategy, that consultation will be planned well in advance and targeted to secure the views of the whole community, including hard to reach groups. Also that consultation will be used to improve policies and service delivery

(5) promise, through a Communications, Reputation and Branding Strategy and Manual, that we will be as open as possible in our dealings

(6) respond positively to the Freedom of Information Act 2000
(7) create a vision for community engagement and empowerment in the Borough and follow up on related actions

(8) support and encourage the active involvement of residents in the process of local authority decision making

(9) specifically involve residents in local democracy and listen to their views through relevant forums enabling them to have a real say in how the Council operates and delivers services

(10) promote equality for everyone and reflect the full diversity of the community in all our activities and functions through an Equalities and Diversity Policy. This means, amongst other things, that we undertake to do all we can to provide equality of access to our services for all residents based on individual and community need.

3.2.2 Service Delivery Arrangements - We undertake to:

(1) manage and measure the performance of the Council through an integrated management framework. The Corporate Plan sets out the Council’s priorities, outcomes and performance measures, which sets the framework for the service planning process. This provides appropriate links between corporate and service aims, makes sure that strategies and objectives are directed towards priorities, and sets and monitors standards and performance targets for service delivery. Service plans focus on the delivery of transformational activity with relevant considerations such as equalities and diversity, risk, customer focus, value for money and sustainability being taken into account

(2) measure performance through a rigorous and sound process, including regular monitoring and reporting to Members and senior management on qualitative and quantitative aspects of performance. For example, the Corporate Management Team (CMT) and the Cabinet receive quarterly reports on National Indicator performance and areas of risk in relation to the Comprehensive Area Assessment inspection framework.

(3) link finances to priorities through our budget process. This includes consulting the community for their views on the Council's budget strategy

(4) foster effective relationships and partnerships with other public sector agencies, and the private and voluntary sectors. (The Barking and Dagenham Partnership mentioned earlier is a good example of this)

(5) deliver services to meet the needs of the local community, and in a way which is effective and appropriate. This includes comparing and considering outsourcing where it is efficient and effective to do so. As a result, some services have been put out externally

(6) fully consider the findings and recommendations of external auditors and inspectors, and put in place arrangements to implement and
monitor agreed actions. The Public Accounts and Audit Select Committee is responsible for this.

(7) target the poorer performing services through regular reports to the Public Accounts and Audit Select Committee. This way we undertake to identify any barriers to improvement and make sure there is progress in tackling problems and improving services.

(8) publish service standards so that our residents are clear about the standards they should expect and the time frame in which they should be provided.

3.2.3 Structures and Processes - We undertake to:

(1) set out clearly in our Constitution the political management arrangements, financial, contracts and other rules and protocols within which the Council must operate.

(2) clearly define in our Scheme of Delegation, in the Constitution, the responsibilities of the various meetings of the political structure and the authority which is delegated to Chief Officers. Compliance with the Scheme is checked quarterly by the Council’s Monitoring Officer.

(3) provide for our Assembly (our regular meeting of all Members) to formally set the strategic direction of the authority. The Assembly gives the Cabinet power to make decisions on all major issues affecting the Council, particularly strategic, financial, policy related and corporate management matters, within the overall framework set by it.

(4) provide for discretionary, regulatory functions (such as development control and licensing) to be dealt with through quasi-judicial boards.

(5) provide job profiles for our Cabinet Members. Amongst other things, these look to the Cabinet Members to shape and develop priorities and vision.

(6) identify a strategy for all service areas through the Council's planning process, together with an indication of how they will be delivered.

(7) encourage good working relationships between Members and staff. This is governed through a Member/Employee Relations Protocol which clearly sets out the differences between the respective roles.

(8) provide a comprehensive training package for all Members to make sure that they are properly trained for their roles. This includes special briefings when they first join the Council and a series of learning and training opportunities (internal and external) during their period of office. Personal Development Planning is offered to all Members.

(9) provide Members with access to all relevant information, advice and resources needed to help them carry out their roles effectively. This includes general support which is provided through a team of staff.
dedicated to supporting them, and strategic policy advice / research which is available through departmental policy officers and a corporate policy team. For those Members who represent the Council on external organisations, we provide a link with a relevant contact senior officer for briefing purposes.

(10) pay Members an allowance for their work. This includes special responsibility payments for those Members who undertake key roles. The level of payments is clearly defined in the Members' Allowances Scheme within the Constitution, and is reviewed annually by an Independent Remuneration Panel

(11) give responsibility to the Chief Executive for all aspects of operational management

(12) give responsibility to the Chief Executive and the Corporate Director of Finance and Resources for giving appropriate advice on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control

(13) give responsibility to the Divisional Director of Legal and Democratic Services (Monitoring Officer), to make sure that agreed procedures are followed and that all statutes, regulations and other relevant statements of good practice are complied with

(14) define, in the Constitution, the general roles of our most senior officers. These officers are required to meet certain management competencies. Their pay is reviewed every four years.

3.2.4 Risk Management and Internal Control - We undertake to:

(1) make sure there is a robust system for identifying and evaluating all significant risks through a strategic Risk Management Policy. A strategic risk register has been agreed and a register for operational risk is being developed

(2) make sure we have strong controls in our major financial systems and that audit work is of a high quality. Our external auditors review these annually and we have "managed audit" status reflecting our strengths. Systems for the management of non-financial / uninsurable risk will be developed

(3) have an objective and professional relationship with our external auditors and statutory inspectors. Our external auditors carry out an annual review of our activities and look in depth at selected topics

(4) self assess ourselves annually against a Code of Audit Practice which measures our financial standing, our systems of internal financial control, our standards of financial conduct and the prevention and detection of fraud and corruption, our financial statements, the legality of our financial transactions, and related aspects of performance
management. Our self assessment is then judged and scored by our external auditors.

(5) make an annual report on internal controls and financial risk to the Public Accounts and Audit Select Committee. A ‘Statement of Assurance’ features in our annual report to give further confidence in our controls.

(6) make sure financial and contracts rules are clear to all by including a Financial Regulatory Framework in our Constitution. This includes the following four documents:

(i) **Contracts Rules** - mandatory rules setting out the minimum requirements for letting, managing and awarding contracts.

(ii) **Contracts Guidance Notes** - explaining the principles underpinning the rules.

(iii) **Contracts Code of Practice** - outlining detailed procedures.

(iv) **Financial Rules** - mandatory rules setting out the minimum requirements for financial administration and covering the financial stewardship of all the Council’s assets and resources. The rules cover both capital and revenue expenditure.

(7) make sure that staff are appropriate and competent for the job through a Recruitment and Selection Policy.

(8) make sure that all staff have every opportunity to be well trained to meet the requirements of their job and further their careers through a comprehensive Staff Development Programme, annual staff appraisals, and Personal Development Plans.

### 3.2.5 Standards of Conduct - We undertake to:

(1) require all our Members and statutory co-opted Members to sign up to a Members’ Code of Conduct within two months of their election/appointment. All Members are regularly briefed on related issues so that there is a clear understanding of the high standards of conduct expected from them.

(2) also require all staff to abide by high standards of conduct in an Employees’ Code of Conduct.

(3) adopt a special Planning Code for Members to make sure that Members and Development Control Boards act reasonably and openly in dealing with planning matters; and similarly adopt a Licensing Code.

(4) make certain through the Standards Committee and its key officers, that relevant and regular briefings, information and training is provided for Members and staff specifically about standards and ethical issues to reduce any risk of them inadvertently acting inappropriately.
(5) make sure that all non-elected volunteers who assist with work on Council meetings, groups and related activities act appropriately by asking them to respect certain standards of behaviour which we have set

(6) make sure that Members declare any relevant interests by reminding Members personally at least annually of their obligations and drawing to their attention on every agenda the need to declare any direct / indirect financial or other interests they may have in any matter to be considered at the meeting in question

(7) make sure that rules dealing with Conferences, Visits and Hospitality clearly set out appropriate requirements in these areas and are applied to Members and staff. Periodic checks of any necessary reports, registers and records are carried out

(8) make sure Members are clear about their use of Council resources, facilities and equipment through a special Guide

(9) provide a confidential, safe route for staff and members of the public to report serious malpractice through a Whistle-blowing Policy.

4. Reviews and Monitoring

4.1 The Constitution is generally regularly checked every quarter for any minor operational or administrative changes that might be necessary.

4.2 The Standards Committee reviews the following documents annually:

(1) Employees Code of Conduct
(2) Member/Employee Relations Protocol
(3) Members’ Code of Conduct
(4) Members’ Guide to the Use of Resources, Facilities and Equipment
(5) Rules for Conferences, Hospitality and Visits
(6) Standards of Behaviour for Volunteers undertaking Council activities
(7) Members’ Code of Conduct for Planning Matters
(8) Members’ Conduct of Conduct for Licensing and Regulatory Matters.

4.3 The Cabinet reviews the following documents annually:

(1) Whistle blowing Policy
(2) Fraud and Corruption Policy and Strategy
(3) Fraud Prosecution Policy
(4) Money Laundering Policy
(6) Bribery Act Policy
(7) Risk Management Policy and Strategy

All of the above reviews include appropriate monitoring of compliance.
4.4 Led by the Corporate Director of Finance and Resources, the Financial and Contracts Rules and the overall framework, will be reviewed comprehensively every three years. There will also be annual operational reviews, and reminders to senior officers of the existence and importance of the rules and framework. Any changes necessary will be reported to the Cabinet and put to the Assembly for adoption.

4.5 Led by the Divisional Director of Legal & Democratic Services, this Code of Corporate Governance will be reviewed annually and reported to the Cabinet and subsequently put to the Assembly for revision as necessary.

(Contact Officer: Divisional Director of Legal & Democratic Services: Tel: 020 8227 2114)
PROTOCOL RE COMMUNICATIONS FOR COUNCIL MEMBERS

1. It is the policy of Barking & Dagenham Council to be open, honest and accurate in dealing with the media at all times. Our press and marketing activity supports and promotes the wide range of activities Cabinet Members and Council Officers undertake as they work on behalf of residents to build communities and transform lives.

2. All elected members of the Council, whatever political party, have a duty both to the Council and to residents to ensure that in commenting on the policies and work of the Council, they make every effort to ensure that everything they say, whether verbally or written (for example in leaflets), is factually correct. Although Members are entitled to comment on Council policies, they must not knowingly explain Council policies in factually incorrect terms.

3. Inaccurately explaining Council policies can result in tension in the community and damage the reputation of the Council and its work on behalf of all residents that live in the borough.

4. The Council does not allow Members acting in their role as a councillor (or anyone on their behalf) to independently arrange filming, photo shoots or media interviews. All such requests should in the first instance be referred to the Marketing and Communications Team who will, if deemed appropriate, make arrangements. Filming, video recordings, photography and media interviews are generally not allowed within Council buildings or on Council premises.

5. Failure to follow this Protocol could lead to a Member being in breach of the Members’ Code of Conduct. Breaches of the Code will be referred to the Standards Committee.

Contact Officer: Group Manager, Marketing & Communications: Tel: 020 8227 2346
STANDARDS FOR MEMBERS OF THE PUBLIC (VOLUNTEERS) 
UNDERTAKING COUNCIL ACTIVITIES

This document sets out the standards the Council expects members of the public, to comply with when they are undertaking voluntary activities on behalf of the Council. Activities undertaken in a voluntary capacity include, for example, acting as a member of an Education Appeal Panel.

The standards themselves are not legally enforceable, but it is hoped that volunteers will be willing to comply with them. Some voluntary activities do have legal implications - for example the Data Protection Act and the Human Rights Act control the use of personal information.

1. Courtesy

1.1 Volunteers should:

(a) promote equality and not discriminate against any person;

(b) treat others fairly and with respect regardless of their race, age, religion, gender, sexual orientation or disability;

(c) facilitate and encourage wide discussion where appropriate; and

(d) represent the views of the wider community

2. Use of information

2.1 Volunteers should not:

(a) disclose private or confidential information given to them in the course of their duties;

(b) use information against any person; or

(c) use information to gain any personal advantage.

2.2 Volunteers should:

(a) make sure that family and friends/colleagues do not see private and confidential information; and

(b) return all private and confidential information to the relevant Council officer at the end of a meeting or, if the volunteer is unable to attend a meeting/event, no later than three working days after the meeting.

3. Interests

3.1 Volunteers should make known to the relevant Council officer any interest they have in the matters being discussed during Council activities which could reasonably be regarded as prejudicial. These interests may include:
(i) financial interests (direct or indirect, for example as an existing or former employee of a company), and/or;

(ii) any relationship or friendship that a volunteer may have to any person or organisation that is the subject of discussion at the Council activity.

3.2 An interest could be regarded as ‘prejudicial’ if a reasonable observer would conclude there was a real possibility the volunteer could be predisposed to a particular outcome in the matter under consideration in the light of his/her interest. In cases of doubt the Council’s Monitoring Officer should be consulted for guidance.

3.3 Where there is a conflict of interest, the volunteer must leave the meeting whilst the matter is being discussed.

4. General Behaviour

4.1 At all times, appropriate standards of behaviour should be displayed.

4.2 In particular, volunteers should not:

(a) be rude or cause offence;

(b) use inappropriate language (e.g. swearing, discriminatory comments);

(c) be under the influence of alcohol or other substances when involved with Council activities; or

(d) use their status to promote any organisation.

5. Volunteers engaged in any area of work may be required to undergo a check by the Criminal Records Bureau in relation to past convictions or other check if required by law or good practice. The Council will cover the costs of any CRB checks.

6. Volunteers will be provided with and required to have regard to the Council’s equalities policies and any other policy impacting on their role as appears appropriate to the Divisional Director of Legal and Democratic Services.

7. The Council may terminate a volunteer’s engagement if the standards set out in this agreement are not adhered to.

(Contact Officer: Group Manager, Democratic Services – Tel 020 8227 2135)
Part F

Members' Allowances Scheme
MEMBERS' ALLOWANCES SCHEME

The Council of the London Borough of Barking and Dagenham, in exercise of the powers conferred by the Local Authority (Members’ Allowances) (England) Regulations 2003, hereby makes the following scheme:

1. **Scheme**

   1.1 The scheme is known as the London Borough of Barking and Dagenham Members’ Allowances Scheme 2012/13. This new Scheme shall have effect from 17 May 2012, with the exception of the Mayor's Purse which will take effect from 19 May 2012, for a period of 12 months or until such time as the Scheme is revoked.

   1.2 In this scheme, “Councillor” means a Councillor of the London Borough of Barking and Dagenham.

2. **Basic Allowance**

   2.1 Subject to paragraph 7, a basic allowance shall be paid to each Councillor as specified in the Schedule to this scheme.

3. **Special Responsibility Allowances**

   3.1 Subject to paragraph 7:

      3.1.1 a special responsibility allowance shall be paid to those Councillors who hold the special responsibilities that are specified in the Schedule;

      3.1.2 the amount of each allowance shall be the amount specified against the special responsibility in the Schedule; and

      3.1.3 when a councillor would otherwise be entitled under the scheme to more than one special responsibility allowance, the entitlement shall only be to the highest allowance.

4. **Childcare and Dependant Carers Allowance**

   4.1 Councillors shall be entitled to claim for the care of children and other dependants whilst carrying out approved duties at the rate specified in the Schedule.

      4.1.1 Approved duties consist of:

         - all Council meetings and those outside bodies to which Councillors are appointed by the Council (as recorded through the Assembly); and
         - conferences or Member related training that councillors are required to attend

      4.1.2 It does not include any surgery or related ward councillor duties or School Governor duties.

      4.1.3 Allowances for childcare and dependent care are paid as a contribution to costs rather than a full reimbursement. Allowances paid towards childcare or dependent
care costs incurred by a councillor are subject to Income Tax and National Insurance Contributions even if the costs are unavoidably incurred as a result of carrying out Council duties.

4.1.4 Councillors cannot claim childcare allowances if they already participate in the Salary Sacrifice Scheme (Government voucher scheme relating to childcare costs). Further information regarding the Salary Sacrifice Scheme can be found at:

http://www.hmrc.gov.uk/childcare/

5. Travel and Subsistence Allowances

5.1 Councillors and the Independent Adviser to the Public Accounts and Audit Select Committee and the Independent Member(s) of the Standards Committee shall be entitled to claim travel and subsistence allowances associated with carrying out approved duties in accordance with the Schedule.

6. Renunciation

6.1 A Councillor may, by notice in writing to the Chief Executive, elect to forego any part of his/her entitlement to an allowance under this Scheme.

7. Part-Year Entitlements

7.1 If the scheme is amended during the year or a Councillor holds office part way through the year, entitlements to basic and special responsibility allowances shall be paid on a pro-rata basis.

8. Payments

8.1 Payments shall be made in instalments of one-twelfth of the amounts specified on a monthly basis, with the exception of the Mayor’s Purse which shall be paid quarterly in advance.

9. Pensions

9.1 All Councillors below the age of 75 shall be eligible to join the Local Government Pension Scheme.

10. Withholding Allowances

10.1 Allowances may be withdrawn in whole or in part in the event of a Member being suspended or partially suspended.

10.2 The allowances to which this section refers will be

- Basic
- Special Responsibility
- Childcare and Dependent Carers, and
- Travel and Subsistence
1. **Basic Allowance**

   The Basic Allowance for the year is £10,006

2. **Special Responsibility Allowances**

   The following Special Responsibility Allowances are payable, as appropriate, in addition to the Basic Allowance:

<table>
<thead>
<tr>
<th>Role</th>
<th>Allowance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leader of the Council</td>
<td>£35,022</td>
</tr>
<tr>
<td>Deputy Leader of the Council</td>
<td>£22,513</td>
</tr>
<tr>
<td>Members of the Cabinet</td>
<td>£17,510</td>
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<tr>
<td>Chairs of the:</td>
<td></td>
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<tr>
<td>• Assembly</td>
<td>£3,142</td>
</tr>
<tr>
<td>• Development Control Board</td>
<td></td>
</tr>
<tr>
<td>• Personnel Board</td>
<td></td>
</tr>
<tr>
<td>• Licensing &amp; Regulatory Board</td>
<td></td>
</tr>
<tr>
<td>Lead Members of the following Select Committees:</td>
<td></td>
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<tr>
<td>• Health and Adult Services</td>
<td></td>
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<tr>
<td>• Children's Services</td>
<td></td>
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<tr>
<td>• Safer and Stronger Community</td>
<td></td>
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<tr>
<td>• Living and Working</td>
<td></td>
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<tr>
<td>• Public Accounts and Audit</td>
<td></td>
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<tr>
<td>Chief Whip</td>
<td></td>
</tr>
<tr>
<td>Deputy Chairs of the:</td>
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<tr>
<td>• Assembly</td>
<td>£1,571</td>
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<tr>
<td>• Development Control Board</td>
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<td>• Personnel Board</td>
<td></td>
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<tr>
<td>• Licensing &amp; Regulatory Board</td>
<td></td>
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<tr>
<td>Deputy Lead Members of the following Select Committees:</td>
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<tr>
<td>• Health and Adult Services</td>
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<tr>
<td>• Children's Services</td>
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<tr>
<td>• Safer and Stronger Community</td>
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<td>• Living and Working</td>
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<tr>
<td>• Public Accounts and Audit</td>
<td></td>
</tr>
<tr>
<td>Independent Persons (Standards Committee)</td>
<td>£500</td>
</tr>
<tr>
<td>Independent Adviser to PAASC</td>
<td>£300 per meeting</td>
</tr>
<tr>
<td>Mayor's Purse</td>
<td>£12,000</td>
</tr>
</tbody>
</table>

**Note** - Only one Special Responsibility Allowance will be payable to any Councillor (the highest allowance applies).
3. Childcare and Dependant Carers Allowance

3.1 An allowance set at £6.83 per hour is payable to those Councillors who incur expenditure for the care of dependant relatives or children whilst undertaking approved duties.

4. Travel and Subsistence Expenses

4.1 Reimbursement of travel expenses via public transport will be the actual fare paid. Reimbursement of costs incurred by Councillors using their own motor vehicle, subsistence costs in respect of meals and costs involving an overnight stay will be reimbursed at the appropriate rate as shown on the Councillors’ claim forms for travelling expenses and subsistence costs.

(Contact Officer: Divisional Director of Legal and Democratic Services, Tel. 020 8227 2114)
Part G

Council Employees

and

The Management Structure
COUNCIL EMPLOYEES AND THE MANAGEMENT STRUCTURE

1. Definitions

1.1 The use of the word ‘employees’ means all staff engaged by the Council to carry out its functions. This includes those engaged under short term, agency or similar arrangements.

1.2 The Council may engage such employees as it considers necessary to carry out its functions. It has a workforce of some 8,900 employees, including schools-based staff.

2. Introduction

2.1 The Council’s Chief Executive has overall responsibility for the management of the organisation and its employees. The Chief Executive is supported in this through the Corporate Management Team (CMT), which comprises him/herself and the Corporate Directors of the four departments of the Council. Together, they take corporate responsibility for managing the organisation.

2.2 The Corporate Directors, in addition to having responsibility for the corporate management of the Council, also have responsibilities for various services that the Council either delivers or arranges delivery of. They carry out their service responsibilities through their Divisional Directors.

2.3 The Council seeks to provide seamless services to its community and manages services through the following departments:

- Chief Executive
- Adult and Community Services
- Children’s Services
- Customer Services
- Finance and Resources

2.4 All senior managers – the Chief Executive, Corporate Directors and Divisional Directors – are expected to work towards achieving the six Community Priorities. These are:

- **Safe** – a safer borough where the problems of antisocial behaviour have been tackled and all your people have a positive role to play in the community.

- **Clean** – a clean, green and sustainable borough with far greater awareness of the actions needed to tackle climate change, with less pollution, waste, fly-tipping and graffiti.

- **Fair and respectful** – a stronger and more cohesive borough so that it is a place where all people get along, and of which all residents feel proud.

- **Healthy** – a healthy borough, where health inequalities are reduced with greater knowledge of lifestyle impacts on health.
Prosperous – an ambitious and prosperous borough that supports business, jobs and skills, attracting new business with economic, social and environmental resources harnessed for the good of all.

Inspired and successful young people - a borough of opportunity for all young people so that they can play an active economic role for the good of all.

2.5 In doing so, they:

2.5.1 Take responsibility for working on behalf of the whole Council
2.5.2 Work closely with Members – on corporate or service issues
2.5.3 Work closely with the community (individuals, organisations, businesses etc) on Borough-wide issues and particularly in their service areas
2.5.4 Take responsibility for managing the organisation, as part of the Corporate and/or their respective Department’s Management Team
2.5.5 Lead their services; develop policies and standards of service; ensure arrangements to meet these; account for their services; strive to continuously improve services; manage the work and resources – people, finance, information and assets.

2.6 In carrying out their work, they must ensure that they comply with legislative requirements as well as Council policy, the rules, protocols and procedures set out in the Council’s Constitution, and any other requirements of the Council.

3. Departmental Structures and Management Responsibilities

3.1 What follows is an outline of the management responsibilities both for managing the Council’s organisation and the services provided or arranged for the community. It needs to be read in conjunction with the Council’s Scheme of Delegation (Part C of the Constitution). The Council’s organisation structure can be seen at:


3.2 As the requirements for services change, so the organisation and the management responsibilities will change or move. The arrangements for managing are therefore outlined broadly and seek to show the variety of activities carried out in the organisation, where they are managed and what the responsibilities include. These may change from time to time and the Constitution will be updated when any significant changes occur.

3.3 Corporate Management

3.3.1 The Chief Executive

3.3.1.1 The Chief Executive is appointed as the Council’s Statutory Head of Paid Service and has authority over the Corporate Directors.
3.3.1.2 He/she manages the interface between the Council and those paid employees who are responsible for delivering to the Council’s priorities. This means providing leadership to the Council’s paid employees, thinking and planning for the future, converting the Council’s policies into action, developing processes, people and management skills to ensure that the organisation delivers against stated objectives.

3.3.1.3 To do this, the Chief Executive works closely with Members, his/her Management Team, and partner organisations outside the Council, and manages arrangements through the Corporate Directors.

3.3.2 The Corporate Management Team (CMT) is made up of the:

(a) Chief Executive
(b) Corporate Director of Adult and Community Services
(c) Corporate Director of Children’s Services
(d) Corporate Director of Housing and Environment
(e) Corporate Director of Finance and Resources

It is responsible for:

(a) Ensuring a corporate approach to working to ensure that Council policy is consistently applied
(b) Working with Members to listen to their ideas and aspirations for the community, gain support for proposals and developments, and then support them to achieve agreed outcomes, within an equalities context
(c) Providing leadership and being the agent for change
(d) Providing advice on forward planning and ensuring that policies, plans and programmes are in place in order to achieve outcomes
(e) Maximising the deployment of the Council’s resources – its people, finance, information and assets
(f) Creating a working environment where the Council’s requirements are clearly communicated, where employees are committed to work positively on behalf of the community and strive to continually improve performance.

3.3.3 Divisional Directors

3.3.3.1 The CMT is supported by Divisional Directors in each of the departments who in turn support the corporate strategies and contribute to successfully achieving the Council’s priorities through performance management and the delivery of services.
3.3.3.2 They must ensure that their employees understand the policies and requirements of the Council and successfully implement these. Divisional Directors also contribute to the initiatives considered by the CMT.

3.3.3.3 Each Divisional Director takes responsibility for specified areas in addition to sharing the management responsibility for services across the departments. They also:

(a) work with Members and the community, thinking about the effect of issues on the well-being of the community – with an emphasis on their area of service;

(b) contribute to and support the Council’s priorities; encourage and support ideas and innovation and work to bring these to fruition for the benefit of those receiving services;

(c) in this context support the Council’s aims for economic and social regeneration in the Borough.

4. Management and Services in the Departments

4.1 Chief Executive

4.1.1 The Department leads and supports the Council in the development of efficient and effective services for the community. It is specifically responsible for the legal, democratic and electoral processes, corporate policy and communications and human resources and organisational development.

4.1.2 These areas are managed through the following Divisional Directors, who form the Department’s Management Team:

(a) Divisional Director of Legal and Democratic Services
(b) Divisional Director of Corporate Policy and Public Affairs
(c) Divisional Director of Human Resources and Organisational Development

4.2 Adult and Community Services

4.2.1 Corporate Director

4.2.1.1 The Corporate Director manages the Adult and Community Services Department. To do this, he/she works closely with Members, the CMT other Council departments and partner organisations outside the Council.

4.2.1.2 The Department is responsible for promoting the independence and well being of adults and older people; co-ordinating work on wider community safety issues; and for leisure, library and heritage services.
These areas are managed through the following Divisional Directors who form the Department’s Management Team:

(a) Divisional Director of Adult Commissioning
(b) Divisional Director of Culture and Sport
(c) Divisional Director of Community Safety and Public Protection
(d) Divisional Director of Adult Social Care
(e) Operations Divisional Director of Mental Health (NELFT/LBBD)
(f) Divisional Director of Health and Wellbeing

4.3 Children’s Services

4.3.1 Corporate Director

The Corporate Director manages the Children’s Services Department. To do this, he/she works closely with Members, the CMT, other Council departments and partner organisations outside the Council.

The Department is responsible for the strategic planning and co-ordination of services for children and young people, aged 0-19, in the Borough. It provides support for children and young people, and their families, in five main areas which are based on the national outcomes framework of the Children Act 2004. These are for all children and young people to:

(a) Be Healthy
(b) Stay Safe
(c) Enjoy and Achieve
(d) Make a Positive Contribution
(e) Achieve Economic Wellbeing

These areas are managed through the following Divisional Directors who form the Department’s Management Team:

(a) Divisional Director of Commissioning and Safeguarding
(b) Divisional Director of Education
(c) Divisional Director of Targeted Support
(d) Divisional Director of Children’s Complex Needs

4.4 Housing and Environment

4.4.1 Corporate Director

The Corporate Director manages the Housing and Environment Department. To do this, he/she works closely with Members, the CMT, other Council departments and partner organisations outside the Council.

The Department is responsible for bringing together many of the Council’s main front-line teams to deliver a wider range of flexible and
accessible services that offer real support to the community and positively affect the wellbeing of those living and working in the borough.

4.4.1.3 These areas are managed through the following Divisional Directors who form the Department’s Management Team:

(a) Divisional Director of Housing Strategy
(b) Divisional Director of Housing and Neighbourhoods
(c) Divisional Director of Environment

4.5  Finance and Resources

4.5.1  Corporate Director

4.5.1.1 The Corporate Director manages the Finance and Resources Department. To do this, he/she works closely with Members, the CMT, other Council departments and partner organisations outside the Council.

4.5.1.2 Finance and Resources is responsible for leading the sound administration of the Council’s financial affairs including:

- corporate and strategic finance
- audit and risk
- regeneration and economic development

It leads and supports the Council in the regeneration and economic development of the Borough and is responsible for all the Council’s assets, including the delivery of a wide range of professional services relating to the infrastructure of the borough. The Department is also responsible for ICT and transformation and delivers the Barking and Dagenham Direct Services.

4.5.1.3 These areas are managed through the following Divisional Directors who form the Department’s Management Team:

(a) Divisional Director of Commercial Services
(b) Divisional Director of Regeneration
(c) Divisional Director of Finance
(d) Divisional Director of Assurance and Risk
(e) Divisional Director of Customer Strategy, ICT and Transformation

5.  Statutory Officers

5.1  Certain positions are required by legislation:

5.1.1  The Head of Paid Service has a specific responsibility for:
5.1.1.1 determining and publicising a description of the overall departmental structure of the Council which shows the management structure and the deployment of employees; and

5.1.1.2 reporting to the Assembly on the manner in which the discharge of the Council’s functions is co-ordinated, the number and grade of employees required for the discharge of functions, and the organisation of employees.

5.1.2 The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Financial Officer (Section 151 Officer) if a qualified accountant. In Barking and Dagenham, the Chief Executive is the Head of Paid Service.

5.2.1 The Corporate Director of Children’s Services

5.2.1.1 The Council has appointed a Corporate Director of Children’s Services as required under the Children Act 2004 to carry out the following statutory responsibilities:

(a) functions conferred on or exercisable by the authority in their capacity as a local education authority;

(b) functions conferred on or exercisable by the authority which are social services functions (within the meaning of the Local Authority Social Services Act 1970 (c. 42), so far as those functions relate to children;

(c) the functions conferred on the authority under sections 23C to 24D of the Children Act 1989 (c. 41) (so far as not falling within paragraph (b));

(d) the functions conferred on the authority under sections 10 to 12 and 17 of the Children Act 2004.

5.2.1.2 The Children Act 2004 further provides that the Director of Children’s Services may also have responsibilities relating to such functions conferred on or exercisable by the authority, in addition to those specified above, as the Council consider appropriate. In doing so the authority must have regard to any guidance given to them by the Secretary of State for the purposes of the Director’s responsibility.

5.3.1 The Corporate Director of Adult and Community Services

5.3.1.1 The Local Authority Social Services Act 1970 as amended requires the Council shall appoint an officer, to be known as the Corporate Director of Adult and Community Services, for the purposes of their social services functions, other than those for which the Authority’s Corporate Director of Children’s Services is responsible under section 18 of the Children Act 2004. The Local Government Act 2000 provides that the Director may discharge non-social services functions.
5.4.1 The Monitoring Officer

5.4.1.1 The Council has appointed the Divisional Director of Legal & Democratic Services as the Monitoring Officer under the Local Government and Housing Act 1989, with specific responsibility for:

(a) Ensuring lawfulness and fairness of decision making – After consulting 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 Assembly (or to the Cabinet in relation to a Cabinet function) 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.

(b) Supporting the Standards Committee – The Monitoring Officer contributes to the promotion and maintenance of high standards of conduct providing support to the Standards Committee.

(c) Register of Interests – The Monitoring Officer is responsible for establishing and maintaining the Register of Interests for Members and co-opted members of the Council.

(d) Receiving reports – The Monitoring Officer receives and acts on reports made by Ethical Standards Officers (appointed by Standards for England) and decisions of related case tribunals.

(e) Code of Conduct Complaints – The Monitoring Officer receives on behalf of the Standards Committee complaints about Members’ actions in relation to the Code of Conduct and deals with matters relating thereto.

(f) Conducting investigations – The Monitoring Officer has to arrange for (i) the conduct of investigations into any matters referred by the Standards Committee, a Standards Sub-Committee or Ethical Standards Officers and (ii) reports or recommendations in respect of them to the Standards Committee or a Standards Sub-Committee.

(g) Proper Officer for Access to Information – The Monitoring Officer ensures that Cabinet decisions, together with the reasons for those decisions and relevant reports and background papers, are made publicly available as soon as possible.

(h) Advising whether Cabinet decisions are within the budget and policy framework – The Monitoring Officer advises, if necessary, whether decisions of the Cabinet are in accordance with the budget and policy framework.
(i) Providing advice – The Monitoring Officer provides advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues.

5.4.1.2 The Monitoring Officer cannot be the Chief Financial Officer (Section 151 Officer) or the Head of Paid Service.

5.5.1 Chief Financial Officer

5.5.1.1 The Council has appointed the Corporate Director of Finance and Resources as the Chief Financial Officer under Section 151 of the Local Government Act 1972, 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, the Chief Financial Officer will report to the Assembly, to the Cabinet and the Council’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 Council is about to enter an item of account unlawfully.

(b) The administration of financial affairs.

(c) Contributing to corporate management, in particular through the provision of professional financial advice.

(d) Providing 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 supporting and advising councillors and employees in their respective roles.

(e) Giving financial information to the media, members of the public and the community as and when necessary.

5.6.1 Designated Scrutiny Officer

5.6.1.1 The Council has designated the Democratic Services Manager (Scrutiny & Members) postholder within Democratic Services as the Statutory Scrutiny Officer under Section 31 of the Local Democracy, Economic Development and Construction Act 2009, with specific responsibility for:

(a) Promoting the role of the authority’s overview and scrutiny committee or committees.
(b) Providing support to the authority’s overview and scrutiny committee or committees and the members of those committees.

(c) Providing support and guidance to:

   i. Members of the Authority
   ii. Members of the Cabinet of the Authority, and
   iii. Officers of the Authority

5.6.1.2 The Statutory Scrutiny Officer role cannot be designated to the Monitoring Officer, Chief Finance Officer, or Head of Paid Service. In the event that the Scrutiny Manager post becomes vacant, the Group Manager of Democratic Services will assume the role of designated Statutory Scrutiny Officer for the Authority.

(Contact Officer: Divisional Director of Human Resources and Organisational Development: Tel. 020 8227 3113)
Part H

Review, Revision, Suspension, Interpretation, Publication and Breach
1. Monitoring and Reviewing the Constitution

1.1 The Council’s Monitoring Officer is responsible for monitoring and reviewing the operation of the Constitution to ensure that its aims and principles are given full effect.

1.2 A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution and to make recommendations to the Assembly on ways in which it could be amended in order better to achieve its purpose. In order to do this, the Monitoring Officer may:

1.2.1 observe meetings of different parts of the Member and employee structures;

1.2.2 undertake regular audit trails of sample decisions taken at both Member and officer level;

1.2.3 record and analyse issues raised with him/her by Members, employees, the public and other relevant stakeholders;

1.2.4 compare practices in the authority with those in other comparable authorities, or national examples of best practice.

2. Changes

2.1 Changes to the Constitution will only be approved by the Assembly after consideration of the proposal by the Chief Executive in consultation with the Monitoring Officer, and the Chief Financial Officer (Section 151 Officer) in relation to the financial aspects. The Chief Executive is authorised to make minor administrative changes to the Constitution, again in consultation with the said officers.

2.2 Where the change involves a change from the Leader and Cabinet model to other executive arrangements, the Council will take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

2.3 Subject to an annual review and any minor administrative amendments or changes required by new legislation, the Constitution (Part B Articles – The Political Structure and Meetings) will be reconsidered after three years of the incoming Council to see if any changes are required in the light of experience.

3. Suspension

3.1 Limit to suspension - The Articles of this Constitution may not be suspended except by the Assembly in exceptional circumstances and if lawful to do so.
3.2 **Procedure to suspend**

3.2.1 A motion with or without notice to suspend any provisions of Part B, Article 1 (Member Meetings General) and Article 2 (The Assembly), will only be allowed at the Assembly, if at least one half of the whole number of members of the Council is present (twenty six) and agree to the suspension. Suspension can only be for the duration of the Assembly meeting.

3.2.2 The power to suspend cannot be used where the matter is subject to overriding legal provisions or in relation to:

(a) the method of voting as set out in Article 1 paragraph 9 and Article 2 paragraphs 9 and 10, or

(b) the required meeting quorum

3.2.3 The Chair of the Assembly will consult the Monitoring Officer before any vote is taken to suspend.

4. **Interpretation**

4.1 Any reference to a statute, statutory instrument, regulation or directive, shall be deemed to automatically include a reference to any subsequent amendment, modification or re-enactment in respect of them.

4.2 The ruling of the Chair of the Assembly as to the construction or application of this Constitution or as to any proceedings of the Assembly shall not be challenged at any meeting of the Assembly. Such interpretation will have regard to the purposes of this Constitution and to the law.

5. **Publication**

5.1 The Chief Executive is responsible for:

5.1.1 ensuring that copies of the Constitution are available for inspection at Council offices and the Council's website (www.barking-dagenham.gov.uk). Copies can be obtained by members of the local press and the public for which a fee may apply; and

5.1.2 ensuring that the summary of the Constitution (Part A) is made widely available within the area and that it is updated as necessary.

6. **Breaches of the Constitution**

6.1. A breach of the Constitution by a Member should be reported in writing to the Council's Monitoring Officer, Civic Centre, Dagenham, who will decide how the matter should be dealt with. Where any breach of the Constitution constitutes a breach of the Members’ Code of Conduct, the Monitoring Officer will refer the matter to a Standards Sub-Committee for assessment.
6.2. The Monitoring Officer will acknowledge receipt of the breach within five working days and give an indication of how it is proposed to deal with it.

6.3. In instances of a breach by an employee, the matter will be dealt with through the Council's disciplinary or other relevant employee related procedures.

(Contact Officer: Divisional Director of Legal & Democratic Services) Tel. 020 8227 2114)