



**SOUTHWARK  
CONSTITUTION  
2005-2006**

**Strategic Services  
Legal and Democratic Services**

**Agreed by Council Assembly on May 25 2005**

# Southwark constitution

## Table of contents

	Page No
<b><u>Part 1 – Summary</u></b>	1
<b><u>Part 2 – Articles</u></b>	
Article 1 – The constitution	3
Article 2 – Members of the council	4
Article 3 – Citizens and the council	6
Article 4 – Council assembly	7
Article 5 – Chairing the council assembly	10
Article 6 – Overview and scrutiny committee and sub committees	11
Article 7 – The executive	14
Article 8 – Regulatory and other committees	16
Article 9 – Standards committee	21
Article 10 – Community councils	24
Article 11 – Joint arrangements	28
Article 12 – Officers	30
Article 13 – Decision making	35
Article 14 – Finance, contracts and legal matters	37
Article 15 – Review and revision of the constitution	38
Article 16 – Suspension, interpretation and publication of the constitution	39
<b><u>Part 3 - Responsibility for functions</u></b>	
A: Matters reserved to council assembly	40
B: Executive terms of reference	42
- Executive portfolios	45
C: Matters reserved to the executive for collective decision making	48
D: Matters reserved to individual executive members for decision	50
E: Matters reserved to executive committees	52
F: Matters reserved to the planning committee and community councils exercising planning functions	53
G: Matters reserved to the licensing committee, the head of service and officer panel exercising licensing functions	56

<b>H: Matters reserved to community councils</b>	<b>60</b>
<b>I: Matters reserved to the appointments committee</b>	<b>64</b>
<b>J: Matters reserved to the disciplinary appeals committee</b>	<b>65</b>
<b>K: Matters delegated to officers</b>	<b>68</b>
<b>L: Local Act functions</b>	<b>69</b>
<b>M: Local choice functions</b>	<b>76</b>
<b>N: Appointments to outside bodies</b>	<b>78</b>

**Part 4 – Rules**

<b>Council assembly procedure rules</b>	<b>89</b>
<b>Committees and community councils procedure rules</b>	<b>125</b>
<b>Access to information procedure rules</b>	<b>137</b>
<b>Budget and policy framework procedure rules</b>	<b>151</b>
<b>Executive procedure rules</b>	<b>155</b>
<b>Overview and scrutiny procedure rules</b>	<b>163</b>
<b>Contract standing orders</b>	<b>176</b>
<b>Financial standing orders</b>	<b>189</b>
<b>Officer employment procedure rules</b>	<b>202</b>

**Part 5 – Codes**

<b>Members' code of conduct</b>	<b>206</b>
---------------------------------	------------

**Part 6 – Protocols**

<b>Member and officer protocol</b>	<b>213</b>
<b>Members' allowances scheme</b>	<b>225</b>
<b>Management structure</b>	<b>234</b>
<b>Decision making structure</b>	<b>235</b>

# SUMMARY OF THE SOUTHWARK COUNCIL CONSTITUTION

## **The council's constitution**

The London Borough of Southwark has agreed a new constitution that sets out how the council operates, how decisions are made and the procedures that are followed to ensure that these are efficient, transparent and accountable to local people. The law requires some of these processes, while others are a matter for the council to choose.

The constitution is divided into 16 articles that set out the basic rules governing the council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

## **What's in the constitution?**

Article 1 of the constitution commits the council to clear, transparent and accountable decision making, which is inclusive and provides opportunity for community involvement whilst ensuring effective and efficient use of resources. Article 2 explains the role of members and article 3 explains the rights of residents in relation to the constitution. Articles 4 – 16 explain how the key parts of the constitution operate.

## **How the council operates**

The council is composed of 63 councillors, also known as members of the council, elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The standards committee is responsible for advising and training members on the code of conduct.

All councillors meet together as the council assembly. Meetings of the council are normally open to the public unless matters are discussed which must be kept confidential. Here councillors decide the council's overall policies and set the budget each year. The council assembly appoints a leader of the council and members of the executive.

## **How decisions are made**

The executive is the part of the council which is responsible for most day-to-day decisions. The executive will consist of up to ten members. When major decisions are to be discussed or made, these are published in the executive's forward plan in so far as they can be anticipated. If these major decisions are to be discussed with council officers at a meeting of the executive, this will generally be open for the public to attend except where personal or confidential matters are being discussed. The executive has to make decisions, which are in line with the council's overall policies and budget. If it wishes to make a decision, which is outside the budget or policy framework, this must be referred to the council assembly as a whole to decide.

The council has established eight community councils, which act as a focal point for discussion and consultation on matters that affect the borough. Community councils also have the following key areas delegated to them for decision making: planning; cleaner, greener, safer programme; traffic management; and appointment of local education authority governors to local nursery and primary schools. The planning committee considers strategic applications. The licensing committee and its sub-committees considers licensing issues.

## **Overview and scrutiny**

There is an overview & scrutiny committee and five sub-committees that support the work of the executive and the council as a whole. They allow citizens to have a greater say in council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the executive and the council assembly as a whole on its policies, budget and service delivery. The overview & scrutiny committee also monitors the decisions of the executive. It can 'call-in' a decision that has been made by the executive but not yet implemented. This enables the committee to consider whether the decision is appropriate. It may recommend that the executive reconsider the decision. It may also be consulted by the executive or the council assembly on forthcoming decisions and the development of policy.

## **The council's staff**

The council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the council acts within the law and uses its resources wisely. A code of practice governs the relationships between officers and members of the council.

## **Citizens' rights**

Citizens have a number of rights in their dealings with the council. These are set out in more detail in article 3. Some of these are legal rights, whilst others depend on the council's own processes.

Where members of the public use specific council services, for example as a parent of a school pupil or as a council tenant, they have additional rights. These are not covered in this constitution.

# **Article 1 – The constitution**

## **1.01 Powers of the council**

The council will exercise all its powers and duties in accordance with the law and this constitution.

## **1.02 The constitution**

This constitution, and all its appendices, is the constitution of the council of the London Borough of Southwark.

## **1.03 Purpose of the constitution**

The purpose of the constitution is to:

1. enable the council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. support the active involvement of citizens in the process of local authority decision making;
3. help councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create a powerful and effective means of holding decision makers to public account;
6. ensure that no one will review or scrutinise a decision in which they were directly involved;
7. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. provide a means of improving the delivery of services to the community.

## **1.04 Interpretation and review of the constitution**

Where the constitution permits the council to choose between different courses of action, the council will always choose that option which it thinks is closest to the purposes stated above.

The council will monitor and evaluate the operation of the constitution as set out in article 15.

## Article 2 – Members of the council

### 2.01 Composition and eligibility

- (a) **Composition.** The council will comprise 63 members, otherwise called councillors. Three councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.<sup>1</sup>
- (b) **Eligibility.** Only registered voters of the London Borough of Southwark or those living or working there will be eligible to hold the office of councillor.

### 2.02 Election and terms of councillors

- (a) **Election and terms:** The regular election of councillors will be held on the first Thursday in May every four years beginning in 2002. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.
- (b) **Councillors elected at a by-election:** Councillors elected at a by-election will take office immediately on signing the declaration of acceptance of office. They will hold office for the remainder of the term for which they were elected.

### 2.03 Roles and functions of all councillors

- (a) **Key roles.** All councillors will:
- represent their communities and bring their views into the council's decision making process, i.e. become the advocate of and for their communities;
  - deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - balance different interests identified within the ward or electoral division and represent the ward or electoral division as a whole;
  - maintain the highest standards of conduct and ethics;
  - contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making functions.
- (b) **Rights and duties**
- (i) Councillors will have such rights of access to such documents, information, land and buildings of the council as are necessary for the proper discharge of their functions and in accordance with the law.

---

<sup>1</sup> The London Borough of Southwark (Electoral Changes) Order 1999.

- (ii) Councillors will not make public information which is confidential or exempt without the consent of the council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- (iii) For these purposes, “confidential” and “exempt” information are defined in the access to information rules in part 4 of this constitution.
- (iv) Councillors have the right to submit freedom of information requests.

**2.04 Key tasks of executive members, chairs of overview and scrutiny committee/sub-committees, other committees and community councils**

- (a) Executive members will participate in the executive and implement agreed policies by taking responsibility for any portfolio allocated by the authority, including providing a lead on and proposing new policy, strategy, programming, budget and service standards, and leading performance review, as well as acting as spokespersons within and outside the authority for the service/function.
- (b) Overview & scrutiny committee and sub-committee chairs will lead the scrutiny function, propose to the appropriate committee/sub-committee a programme of work devised in consultation with senior management, achieve a balance of service interests, to achieve broad coverage across all services over time, propose arrangements for the involvement of community or other non-councillor representatives, and own and present the resulting reports (to the council assembly or the executive, including any minority views which might be reported separately).
- (c) Chairs of other committees of the authority will take specific responsibility for the development of that committee’s work plan and represent the service or function within and outside the authority as necessary to enable it to deliver its objectives consistently with corporate standards.
- (d) Chairs of community councils will take specific responsibility for the development of the community council’s work plan, propose arrangements for the involvement of the community, and participate in consultation and decision making in the local area.

**2.05 Conduct**

Councillors will at all times observe the members’ code of conduct and the protocol on member/officer relations set out in part 5 of this constitution.

**2.06 Allowances**

Councillors will be entitled to receive allowances in accordance with the members’ allowances scheme set out in part 6 of this constitution.

## Article 3 – Citizens and the council

### 3.01 Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the access to information rules in part 4 of this constitution:

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of constitution.<sup>2</sup>
- (b) **Information.** Citizens have the right to:
  - (i) attend meetings of the council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) attend meetings of the executive when key decisions are being considered;
  - (iii) find out from the forward plan what key decisions will be taken by the executive and when;
  - (iv) to submit freedom of information requests;
  - (v) see reports and background papers, and any records of decisions made by the council and the executive; and
  - (vi) inspect the council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to participate in the council's question time, contribute to investigations by scrutiny sub-committees and participate at community councils.
- (d) **Customer feedback.** Citizens have the right to complain to:
  - (i) the council itself under its customer feedback scheme<sup>3</sup>;
  - (ii) the Ombudsman after using the council's own customer feedback scheme;
  - (iii) the Standards Board for England about a breach of the members' code of conduct.

### 3.02 Citizens' responsibilities

Citizens must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the council, councillors or officers.

---

<sup>2</sup> Southwark Council held a referendum on 31 January 2001. Regulations provide that a further referendum may not be held for a period of five years following that referendum.

<sup>3</sup> The council's customer feedback policy can be found at all council offices.

# Article 4 – Council assembly

## 4.01 Meanings

(a) **Policy framework.** The policy framework means the following plans and strategies<sup>4</sup>:-

- Corporate plan (including best value performance plan)
- Community strategy
- Crime and disorder reduction strategy
- Plans and strategies which comprise the development plan (UDP)
- Early years & childcare partnership strategic development plan
- Education development plan
- Licensing statement
- Youth justice plan
- Neighbourhood renewal strategy<sup>5</sup>
- School organisation plan<sup>5</sup>
- Policy on community councils<sup>5</sup>
- Capital investment strategy (including prudential borrowing arrangements)
- Housing strategy<sup>6</sup>

*Note: Primary legislative basis provided by section 17 of the Children Act 2004 will require all councils from 1 April 2006 to have a children and young persons plan. This plan will bring together all the plans and strategies currently in the policy framework dealing with children, including the education development plan, school organisation plan and early years and childcare development plan.*

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

(c) **Housing land transfer.** Housing land transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

---

<sup>4</sup> Regulations require that the following plans and strategies must be agreed by council assembly.

<sup>5</sup> This plan or strategy is a matter for local choice. It was agreed by council assembly on the May 29 2002 that approval should be reserved to council assembly.

<sup>6</sup> It was agreed by council assembly on May 25 2005 that this strategy should be reserved to council assembly.

#### 4.02 **Functions of council assembly**

Only the council assembly will exercise the following functions:

- (a) adopting and changing the constitution;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any housing land transfer;
- (c) subject to the urgency procedure contained in the access to information procedure rules in part 4 of this constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (d) appointing the leader and members of the executive;<sup>7</sup>
- (e) agreeing and/or amending the terms of reference for committees and community councils, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the council assembly;
- (g) adopting an allowances scheme under article 2.06;
- (h) changing the name of the area, conferring the title of Honorary Alderman or Freedom of the Borough;
- (i) confirming the appointment of the head of paid service
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills;
- (k) all local choice functions set out in part 3 of this constitution which the council assembly decides should be undertaken by itself rather than the executive;
- (l) disposal of council owned metropolitan open land; and
- (m) all other matters which, by law, must be reserved to council assembly.

#### 4.03 **Council assembly meetings**

There are four types of council assembly meeting:

- (a) Annual (Mayor-making) meetings;

---

<sup>7</sup> \*This provision is subject to article 7.04, which states that in the event that an executive member ceases to be a member of the executive because of reasons set out in 7.04 (a) to (e), the leader has the discretion as to whether or not to appoint a replacement and/or to change portfolios. The date from which such changes become effective is subject to not more than five members objecting, in which case the matter is referred to the next council assembly.

(b) Annual (constitutional) meetings;

(c) Ordinary meetings;

(d) Extraordinary meetings.

Council assembly meetings will be conducted in accordance with the council procedure rules in part 4 of this constitution.

#### **4.04 Responsibility for functions**

The council will maintain the tables in part 3 of this constitution setting out the responsibilities for the council's functions, which are not the responsibility of the executive.

## **Article 5 – Chairing the council assembly**

### **5.01 Title of the person chairing council assembly meetings**

The person elected to chair the meetings of the council assembly shall be referred to as the “Mayor”.

### **5.02 Role and function of the Mayor**

The Mayor will be elected by the council at the annual council assembly meeting. The Mayor may then appoint a Deputy Mayor.

The Mayor will have the following roles and functions:

- (a) to uphold and promote the purposes of the constitution, and to interpret the constitution when necessary;
- (b) to preside over meetings of the council assembly so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- (c) to ensure that the council assembly meeting is a forum for the debate of matters of concern to the local community and the place at which councillors who are not on the executive are able to hold the executive to account;
- (d) to promote public involvement in the council's activities;
- (e) to attend such civic and ceremonial functions as the council and he/she determines appropriate.
- (f) to receive any request from the leader for a council assembly meeting to be convened to reconsider a decision in respect of the budget and policy framework, in accordance with the council's conflict resolution mechanism.

### **5.03 Role of the Deputy Mayor**

The Deputy Mayor may, if for any reason the Mayor is unable to act or the office of Mayor is vacant, discharge all the functions which the Mayor might otherwise discharge, except that the Deputy Mayor shall not take the chair at a meeting of the council assembly unless specifically appointed by the meeting to do so.

## Article 6 – Overview & scrutiny committee and sub-committees

6.01 The council will appoint a co-ordinating overview & scrutiny committee to discharge the functions conferred by section 21 of the Local Government Act 2000. The overview & scrutiny committee will appoint themed sub-committees and determine their themes and specific terms of reference.

### 6.02 **General role**

Within their terms of reference, overview & scrutiny committee and its sub-committees will:

- i) Review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the council's functions;
- ii) Make reports and/or recommendations to council assembly and/or the executive in connection with the discharge of any functions; and
- iii) Consider any matter affecting the area or its inhabitants.

### 6.03 **Specific functions**

**Policy development and review.** Overview & scrutiny committee and its sub-committees may:

- i) Assist council assembly and the executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- ii) Conduct research, community and other consultation in the analysis of policy issues and possible options;
- iii) Consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- iv) Question members of the executive and chief officers about their views on issues and proposals affecting the area; and
- v) Liase with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
- vi) Decide whether to consult with community council's as part of the consideration of the budget and policy framework.

**Scrutiny.** Overview & scrutiny committee and its sub-committees may:

- i) Review and scrutinise the decisions made by and performance of the executive and council officers both in relation to individual decisions and over time;
- ii) Review and scrutinise the performance of the council in relation to its policy objectives, performance targets and/or particular service areas;
- iii) Question members of the executive and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- iv) Make recommendations to the executive and/or council assembly arising from the outcome of the scrutiny process;

- v) Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the scrutiny committee/sub-committee and local people about their activities and performance; and
- vi) Question and gather evidence from any person (with their consent).

#### 6.04 **Annual report**

Overview & scrutiny committee will report annually to council assembly on the workings of the overall scrutiny function, and may make recommendations for future work programmes and amended working methods if appropriate.

#### 6.05 **Terms of reference of the co-ordinating overview & scrutiny committee**

The terms of reference of the co-ordinating overview & scrutiny committee will be:

- (a) To approve an annual overview and scrutiny work programme, including the programme of the sub-committees, to ensure that there is efficient use of the sub-committees' time, that the potential for duplication of effort is minimised and to manage scrutiny of the council's budget and policy framework;
- (b) Where matters fall within the remit of more than one sub-committee, to determine which of them will assume responsibility for any particular issue, and to resolve any issues of dispute between sub-committees;
- (c) To receive requests from the executive, community councils and/or council assembly for reports from sub-committees and to allocate them if appropriate to one or more sub-committees;
- (d) To put in place and maintain a system to ensure that referrals from scrutiny to the executive, either by way of report or for reconsideration, are managed efficiently;
- (e) To determine the issue for debate or the matters to be raised in the scrutiny slot at each ordinary council assembly meeting;
- (f) To periodically review overview and scrutiny procedures to ensure that the function is operating effectively;
- (g) To report annually to council assembly on the previous year's scrutiny activity;
- (h) To monitor the budget for additional scrutiny research, and to determine funding requests from sub-committees in respect of particular reviews;
- (i) To comment on scrutiny reports that propose policy change or that have resource implications (as opposed to reports that comment on performance);
- (j) To exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the executive; and
- (k) To appoint six themed sub-committees.
- (l) Arrange for relevant functions in respect of health scrutiny to be exercised by an overview and scrutiny committee of another local authority where the council considers that another local authority would be better placed to undertake those relevant functions, and that local authority agrees to exercise those functions; and
- (m) May appoint a joint overview and scrutiny committee with two or more local authorities and arrange for the relevant functions of those authorities to be exercised by the joint committee.

#### 6.06 **Proceedings of overview & scrutiny committee and sub-committees**

The overview & scrutiny committee and its sub-committees will conduct their proceedings in accordance with the scrutiny procedure rules set out in part 4 of this constitution.

## **Article 7 – The executive**

### **7.01 Role**

The executive will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this constitution. The executive will specifically have responsibility for the following plans and strategies which are listed as "local choice functions":

- Food law enforcement plan.
- Plans and strategies which comprise the housing investment programme.
- Quality protects management action plan.
- Adult learning development plan.
- Local agenda 21 strategy.
- Waste strategy.

### **7.02 Form and composition**

The executive will consist of the leader together with no less than two and no more than nine councillors appointed to the executive by the council assembly.

### **7.03 Leader**

The leader will be a councillor elected to the position of leader by the council. The leader will hold office until:

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a councillor under part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she is no longer a councillor; or
- (d) the end of the municipal year in which he/she is elected to the position of leader save that the council assembly may remove the leader from office at an earlier date; or
- (e) he/she is removed from office by resolution of the council assembly.

### **7.04 Other executive members**

Other executive members shall hold office until:

- (a) they resign from office; or
- (b) 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
- (c) they are no longer councillors; or
- (d) the end of the municipal year in which they are elected to the position of executive member save that the council may remove them from office, either individually or collectively, at an earlier date;

- or  
(e) they are removed from office by resolution of the council.

If an executive member ceases to be a member of the executive because of reasons (a) to (e) above, the leader has the discretion as to whether or not to appoint a replacement. During the course of the year the leader also has the discretion to change executive portfolios.

The leader shall communicate any such changes to the borough solicitor who shall circulate a formal notification to all members. The changes shall take effect after five working days unless an objection signed by at least five members is lodged, in which case the matter shall be referred to the next council assembly.

#### **7.05 Proceedings of the executive**

Proceedings of the executive shall take place in accordance with the executive procedure rules set out in part 4 of this constitution.

#### **7.06 Responsibility for functions**

The leader will maintain a list in part 3 of this constitution setting out which members of the executive, committees of the executive, community councils, officers or joint arrangements are responsible for the exercise of particular executive functions.

## Article 8 – Regulatory and other committees

### 8.01 Regulatory and other committees

The council will appoint the following committees to undertake non-executive functions. Council assembly will delegate powers to these committees to discharge their relevant functions.

Name of committee	Role and functions
Planning committee	<p>1. To determine the following categories of planning applications (including listed building consent, conservation area consent and advertising consent), where the development proposed involves the creation of 50 or more housing units or more than 3,500 m<sup>2</sup> of commercial floor space or a mixed use development with more than 3,500 m<sup>2</sup> of floor space, including applications for change of use, or the application is clearly linked to another application which is to be considered by the planning committee: –</p> <ul style="list-style-type: none"> <li>(1) Those which are significantly contrary to the provisions of the unitary development plan or other plans approved by the council for the purpose of development control, and which are recommended for approval;</li> <li>(2) Those which are controversial or raise a major issue of a planning nature except where they are straightforward refusals;</li> <li>(3) Those requested by a ward member to be determined by elected members, subject to the request being agreed by the chair of the committee;</li> <li>(4) All applications for the council's own developments except for the approval of reserved matters and minor developments to which no objections have been made;</li> <li>(5) Those involving legal agreements, other than those in accordance with policy requirements, e.g. affordable housing, highway improvements, environmental work and other works required as part of a development proposal.</li> </ul>

Name of committee	Role and functions
Planning committee (continued)	<p>(6) To set the principles for section 106 agreements on those applications before the committee.</p> <ol style="list-style-type: none"> <li>2. To consider the expenditure of funds over £100,000 secured through legal agreements under section 106 of the Town and Country Planning Act 1990, or any previous legislation.</li> <li>3. The designation of conservation areas including the adoption of conservation area character appraisals and detailed design guidance, and authorisations under article 4 of the Town and Country Planning Permitted Development Order 1995.</li> <li>4. The consideration of and adoption for development control purposes of planning briefs to guide the development of particular sites.</li> <li>5. To consider and determine all planning applications of strategic importance in the borough, including: - <ul style="list-style-type: none"> <li>• applications which require referral to the Mayor of London;</li> <li>• applications which are required to be notified to the Secretary of State as departures from the UDP;</li> <li>• applications where the submission of an environmental impact assessment is required by regulation or following a screening application;</li> <li>• applications for the development of metropolitan open land</li> <li>• applications for the development of contaminated land.</li> <li>• specific applications not covered by the above but determined as strategic by the strategic director of regeneration.</li> </ul> </li> </ol>

<b>Name of committee</b>	<b>Role and functions</b>
Planning committee (continued)	<ol style="list-style-type: none"> <li>6. To consider and determine all planning applications where the development will have a material impact on the area of one or more neighbouring community councils. The strategic director of regeneration to determine, in consultation with the chairs of the relevant community councils, when such boundary proximity is a material factor.</li> <li>7. To consider any application reserved to community councils in the event that the relevant community council meeting was inquorate or the personal interests or decided views of a large number of members would be likely to render the meeting inquorate.</li> <li>8. To comment on the successive drafts of the UDP and make recommendations to the executive, as appropriate.</li> <li>9. To comment on draft supplementary planning guidance and make recommendations to the executive, as appropriate.</li> </ol>

<b>Name of committee</b>	<b>Role and functions</b>
Licensing committee	<ol style="list-style-type: none"> <li>1. To approve the council's policies in respect of all licensing and registration matters except the licensing statement.</li> <li>2. To consider the future process by which the decisions with respect to licensing applications are to be taken.</li> <li>3. To establish policies and procedures for considering and determining additional licensing functions conferred on the authority by statute.</li> <li>4. And to consider and determine the following applications: - <ul style="list-style-type: none"> <li>• the grant, renewal, variation or transfer of any general safety certificate in respect of sports stadium or regulated stands;</li> <li>• street trading and markets;</li> <li>• film classification;</li> <li>• and any other licensing responsibilities of the authority created by statute (and delegated to the committee).</li> </ul> </li> </ol>

Name of committee	Role and functions
Licensing committee (continued)	<ol style="list-style-type: none"> <li>5. Where appropriate to hear and consider the case for the applicant either by way of written or oral representation and consider objections and representations to the application from authorised persons and interested parties or their designated representatives.</li> <li>6. To consider and determine the revocation of licences and registrations reserved to the licensing committee.</li> <li>7. To consider the designation of new sites for street trading.</li> <li>8. To establish sub-committees under the provisions of the Licensing Act 2003 empowered to discharge any and all of the authority's licensing functions.</li> </ol>

Name of committee	Role and functions
Appointments committee	<ol style="list-style-type: none"> <li>1. To make recommendations to council assembly as to the appointment of the head of paid service.</li> <li>2. To appoint the borough solicitor.</li> <li>3. To appoint the director of finance.</li> <li>4. To appoint to the posts designated in article 12(b) as chief officers.</li> </ol>

Name of committee	Role and functions
Disciplinary appeals committee	<ol style="list-style-type: none"> <li>1. To review dismissal decisions of capability/disciplinary panels on the application of the dismissed employee. The review shall consist of a consideration of: <ul style="list-style-type: none"> <li>• the letter setting out the charges</li> <li>• the minutes of the dismissal hearing</li> <li>• the letter setting out the decision of the panel</li> <li>• the contents of the appeal submission</li> <li>• the contents of the management response</li> <li>• Many oral representation advanced by or on behalf of the appellant or management</li> <li>• the evidence of any witnesses called by the sub-committee.</li> </ul> </li> </ol>

Name of committee	Role and functions
Disciplinary appeals committee (continued)	<p>In performing these duties, the sub-committee shall, so as far as it appears to be appropriate, seek to avoid formality in its proceedings and shall not be bound by any enactment or rule of law relating to the admissibility of evidence in proceedings before a court of law. The sub-committee shall make such enquiries of persons appearing before it and witnesses as it considers appropriate and shall otherwise conduct the hearing in such a manner it considers most appropriate for the clarification of the issues before it and in the interest of natural justice.</p> <p>To review the operational procedures of the hearing of appeals and report to the executive if any changes are considered necessary.</p> <p>2. To constitute the disciplinary appeals panel (safeguarding children and vulnerable adults).</p> <p>Note: The committee shall not consider appeals unless three members of the sub-committee are present (three members forming the quorum).</p>

The matters reserved to the regulatory and other committees for decision are set out in the responsibility for functions in part 3 of this constitution.

## **Article 9 - Standards committee**

### **9.01 Standards committee**

The council will establish a standards committee.

### **9.02 Composition**

The committee will consist of:

At least four councillors, and up to six councillors, including at least one member of each political group as defined by the Local Government and Housing Act 1989 Regulation 8 Local Government (Committees and Political Groups) Regulations 1990;

Up to four independent members, appointed in accordance with the Relevant Authorities (Standards Committee) Regulations 2001; and

Reserve members for the councillor members of standards committee, each political group to have one fewer reserve than they have seats on the committee, subject to a minimum of one.

The political balance rules in section 15 of the Local Government and Housing Act 1989 do not apply to the standards committee.

Independent members must make up at least 25% of the committee's total membership.

Independent members may vote.

With four independent members, the terms of office of each member will be for three years with one member retiring each year and members serving a maximum of two terms.

- (a) The chair of the standards committee will be elected from among the independent members at the first meeting of the committee in each municipal year.
- (b) No more than one member of the executive may be a member of the committee, and no executive member may chair the committee.
- (c) The leader may not be a member of the standards committee.
- (d) The quorum for the meeting is three members, including at least one independent member.

### 9.03 **Role and function**

The standards committee will have the following roles and functions:

- (a) Promoting and maintaining high standards of conduct by councillors, co-opted members and church and parent governor representatives;
- (b) Advising the council on the adoption or revision of the members' code of conduct;
- (c) Monitoring the operation of the members' code of conduct and developing, reviewing and revising any associated protocols;
- (d) Assisting the councillors, co-opted members and church and parent governor representatives to observe the members' code of conduct;
- (e) Advising, training or arranging to train councillors, co-opted members and church and parent governor representatives on matters relating to the members' code of conduct;
- (f) In accordance with regulations<sup>8</sup>, granting dispensations to councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the members' code of conduct;
- (g) Ensuring that a written record is kept of the existence, duration and nature of any dispensation, and that the record is kept with the register of members' interests;
- (h) Dealing with any reports from a Standards Board case tribunal or interim case tribunal, and any report from the monitoring officer on any matter which is referred by an ethical standards officer to the monitoring officer;
- (i) Considering advice and reports from the Standards Board;
- (j) Oversight and review of, and recommending amendments to the constitution;
- (k) Receiving reports from the monitoring officer on unlawful expenditure and probity issues;
- (l) Receiving reports from the monitoring officer on the quality and recording of decision making;
- (m) Monitoring the officer employment procedure rules;
- (n) Overview of the whistle blowing policy;
- (o) To constitute the voluntary bodies appointments panel to make recommendations on appointments to Southwark charities, to maintain a list

---

<sup>8</sup> The regulations currently in force are The Relevant Authorities (Standards Committee) (Dispensation) Regulations 2002 /339.ff

of prospective school governors for appointment and to make local education authority appointments to secondary school governing bodies.<sup>9</sup>

- (p) Appointments to outside bodies (where such appointments are not a function of the executive);<sup>10</sup>
- (q) Make recommendations to council assembly on the members' allowances scheme; and
- (r) To make recommendations to council assembly for the award of the Honorary Freedom of the Borough and Honorary Aldermen and to grant civic awards.
- (s) To offer guidance on the content and working of the member officer protocol.

---

<sup>9</sup> The Charity Commissioners' advice is that appointments to charities should not be made on a political basis. When appointed, charity trustees must act solely in the best interests of the charity and must act independently of the council. Appointment of local education authority governorships to primary school governing bodies will be made by the relevant community council from the list of prospective school governors maintained by the voluntary bodies appointments panel.

<sup>10</sup> Statutory guidance (paragraph 5.44 provides) that a local authority's executive arrangements should provide that the executive will make appointments to outside bodies in connection with functions which are the responsibility of the executive (e.g. housing, education, social services, regeneration, etc.) and all other appointments should be made by the full council, a committee or officer of the local authority.

## Article 10 – Community councils

### 10.01 Community councils<sup>11</sup>

The council may appoint community councils (or "area committees") as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.

### 10.02 Composition and function

#### (a) Composition of community councils

The council will appoint community councils as set out in the table below. Community councils do not need to be politically balanced. In addition community councils can only include members of the local authority who are members for the electoral wards wholly or partly contained within the area for which the committee has functions.

Name of community council	Members from electoral wards serving on community councils
Borough and Bankside	Cathedrals and Chaucer wards.
Bermondsey	Grange, Riverside and South Bermondsey wards
Rotherhithe	Livesey (north of the Old Kent Road), Rotherhithe and Surrey Docks wards.
Walworth	East Walworth, Faraday and Newington wards.
Peckham	Livesey (south of the Old Kent Road) and Peckham wards).
Camberwell	Brunswick Park, Camberwell Green and South Camberwell wards.
Nunhead and Peckham Rye	Nunhead, Peckham Rye and The Lane wards.
Dulwich	College, East Dulwich and Village wards.

**Note on voting rights of Livesey ward members:** In respect of Livesey ward members they shall serve as:

- voting members on Peckham community council;
- voting members on Rotherhithe community council in relation to planning functions only; and,
- non-voting members on Rotherhithe community council for all other matters.

---

<sup>11</sup> The council has decided to appoint eight community councils (defined as "area committees" in legislation) with executive and non-executive decision making powers.

## **(b) Role and functions of community councils**

### **Role and functions**

#### **Introduction**

1. The purpose of community councils is to promote the involvement of local people in the democratic process and to bring decision making closer to local people.
2. Community councils will be able to take decisions about local matters. At present the council has delegated in part the following key areas: planning, environmental improvement, community safety, traffic management and appointment of local education authority governors to local nursery and primary schools.
3. Community councils will act as a formal consultation mechanism on council wide policies and strategies.
4. Community councils will be a focal point for discussion and consultation on matters that affect the area.

#### **Planning functions (non-executive):**

5. To determine those planning applications reserved to community councils.
6. To provide comments on the following proposals to the planning committee:
  - expenditure of funds over £100,000 secured through legal agreements under section 106 of the Town and Country Planning Act 1990.
  - the designation of conservation areas.
  - adoption of planning briefs to guide the development of particular sites within the area of the community council.
  - all major and strategic schemes prior to consideration by the planning committee, subject to the consultation deadlines.

#### **Environmental management (executive)**

7. To consider regular reports on environmental management issues, including street cleaning, refuse collection, abandoned vehicles and leisure centres.
8. To participate in contract reviews and be able to suggest service improvements and identify local priority issues.

## Role and functions

9. To recommend local and major contract variations, to the strategic director of environment and leisure and the executive respectively for consideration.

10. To appoint ward members to serve on warden schemes steering groups.

### **Environmental improvement programme (executive)**

#### **Cleaner, greener, safer programme**

11. To approve the allocation of capital funds to local cleaner, greener, safer (CGS) schemes.

12. To recommend bids for the capital funding of schemes of a strategic nature, as part of an open bidding process, to the executive.

13. To oversee and take responsibility for the development and implementation of the local schemes.

14. If successful in the bidding to the executive for strategic projects, to oversee and take responsibility for the development and implementation of the schemes.

### **Traffic management functions (executive)**

15. To make non-strategic local traffic decisions, for example to modify a local traffic scheme, to determine objections to traffic matters and to hear and determine traffic petitions and deputations.

16. To be consulted on:

- strategic traffic management schemes
- borough spending plans (BSP)
- decisions of strategic nature, such as whether to create parking zones or home zones.

### **Education functions (executive)**

17. To appoint to local education authority governorships on the governing bodies of nursery and primary schools within the area of the community council, from the list of suitable persons maintained by the governor development service in the education department.

## **(c) Delegations**

The council assembly and the executive will include details of the delegations to community councils in part 3 of this constitution, including the functions delegated showing which are the responsibility of the executive and which are not, the composition and membership of the committees, budgets and any limitations on delegation.

### 10.03 **Conflicts of interest – Membership of community councils and overview & scrutiny committees/sub-committees**

#### (a) **Conflict of interest**

If an overview and scrutiny committee/sub-committee is scrutinising specific decisions or proposals in relation to the business of the community council of which the councillor concerned is a member, then the councillor may not speak or vote at the overview & scrutiny committee/sub-committee meeting unless a dispensation to do so is given by the standards committee. The code of conduct allows a member to attend a meeting for the purpose of answering questions or otherwise giving evidence.

#### (b) **General policy reviews**

Where the overview & scrutiny committee/sub-committee is reviewing policy generally the member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

### 10.04 **Community councils – Access to information**

Community councils will comply with the access to information rules in part 4 of this constitution.

Agendas and notices for community councils meetings, which deal with both functions of the executive and functions that are not the responsibility of the executive, will state clearly whether an item relates to an executive or non-executive function.

### 10.05 **Executive members on community councils**

A member of the executive may serve on a community council if otherwise eligible to do so as a councillor.

## Article 11– Joint arrangements

The Local Government Act 2000 and regulations enable local authorities to make use of joint arrangements with other authorities and delegate to other local authorities.<sup>12</sup>

### 11.01 Arrangements to promote well being

The council, or the executive, in order to promote the economic, social or environmental well being of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

### 11.02 Joint arrangements

- (c) The council may establish joint arrangements with one or more local authorities 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 a joint committee with these other local authorities.
- (c) The executive may establish joint arrangements with one or more local authorities to exercise functions, which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) The executive may appoint only executive members to a joint committee under paragraph (b) above, and those members need not reflect the political composition of the local authority as a whole.
- (c) Details of any joint arrangements including any delegations to joint committees will be found in the council's scheme of delegations in part 3 of this constitution.

### 11.03 Access to information

- (c) The access to information rules in part 4 of this constitution apply to joint arrangements.
- (c) If all the members of a joint committee are members of the executive in each of the participating authorities then its access to information regime is the same as that applied to the executive.

---

<sup>12</sup> A detailed schedule of arrangements with other authorities will be partly dependent on decisions taken by other councils.

- (c) If the joint committee contains members who are not on the executive of any participating authority then the access to information rules in part VA of the Local Government Act 1972 will apply.

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

- (a) The council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.
- (b) The executive may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the council meeting.

#### 11.05 **Contracting out**

The council, for functions which are not executive functions, and the executive, for executive functions, may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994<sup>13</sup>, or under contracting arrangements where the contractor acts as the council's agent under usual contracting principles, provided there is no delegation of the council's discretionary decision.

---

<sup>13</sup> Government guidance suggests that councils may wish to make clear those functions to which this section currently or potentially applies.

## Article 12 – Officers

### 12.01 Management structure

- (a) **General.** The council may engage such staff (referred to as officers), as it considers necessary to carry out its functions.
- (b) **Chief officers.** The council will engage persons for the following posts who, with the exception of the borough solicitor, will be designated chief officers:

Post	Functions and areas of responsibility
Chief executive	Overall corporate management and operational responsibility and statutory chief education officer
Strategic director housing	Housing functions
Strategic director social services	Social and welfare services
Strategic director regeneration	Regeneration and development control
Strategic director environment and leisure	Environment, transportation, highways, public protection, leisure and culture services
Borough solicitor	Chief legal officer, head of administration and monitoring officer
Director of finance	Finance, resources and benefits and strategic responsibility for debt management.

- (c) **Head of paid service, monitoring officer and director of finance.** The council assembly will designate the following posts as shown:

Post	Designation
Chief Executive	Head of paid service
Borough solicitor	Monitoring officer
Director of finance	Chief finance officer

Such posts will have the functions described in article 12.02–12.04 below.

- (d) **Structure.** The head of paid service will determine and publicise a description of the overall departmental structure of the council showing the management structure and deployment of officers. This is set out at part 7 of this constitution.

### 12.02 Functions of the head of paid service

- (a) **Undertaking duties of head of paid service.** The head of paid service shall undertake all duties designated under section 4 of the Local Government & Housing Act, 1989. These are personal functions and must be undertaken by the head of paid service personally. Where the head of paid service is also the chief executive he/she may delegate other functions that are not included in section 4.

- (b) **Discharge of functions by the council.** The head of paid service will report to council assembly on the manner in which the discharge of the council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (c) **Restrictions on functions.** The head of paid service may not be the monitoring officer but may hold the post of finance director if a qualified accountant.

#### 12.03 Functions of the monitoring officer

- (a) **Maintaining the constitution.** The monitoring officer will maintain an up-to-date version of the constitution and will ensure that it is widely available for consultation by members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the head of paid service and finance director, the monitoring officer will report to the council assembly (or to the executive in relation to an executive function) if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the standards committee.** The monitoring officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the standards committee.
- (d) **Receiving reports.** The monitoring officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.
- (e) **Conducting investigations.** The monitoring officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the standards committee.
- (f) **Proper officer for access to information.** The monitoring officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (g) **Advising whether executive decisions are within the budget and policy framework.** The monitoring officer will advise whether decisions of the executive are in accordance with the budget and policy framework.
- (h) **Providing advice.** The monitoring officer will provide advice on the scope of powers and authority to take decisions, maladministration, impropriety, probity and budget and policy framework issues to all councillors and to officers. The monitoring officer shall also provide advice to officers and members in relation to personal and prejudicial interests.
- (i) **Appointment of a deputy.** The monitoring officer shall appoint a deputy to act in his/her absence and when the monitoring officer is unable to act as defined

in section 5 of the Local Government & Housing Act, 1989.

- (i) **Restrictions on posts.** The monitoring officer cannot be the finance director or the head of paid service.
- (k) **Proper officer for freedom of information.** The monitoring officer will act as the “qualified person” for the purposes of freedom of information requests and application of the public interest tests.

#### 12.04 **Functions of the director of finance**

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the head of paid service and the monitoring officer, the director of finance will report to the council assembly or to the executive in relation to an executive function and the council’s external auditor if he or 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) **Administration of financial affairs.** The director of finance will have responsibility for the administration of the financial affairs of the council.
- (c) **Contributing to corporate management.** The director of finance will contribute to the corporate management of the council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The director of finance will provide advice on the scope of powers and authority to take decisions, mal-administration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- (e) **Give financial information.** The director of finance will provide financial information to the media, members of the public and the community.
- (f) **Constitute a pensions advisory panel.** The director of finance will constitute a pensions advisory panel and take into account the panel’s advice when performing the following functions:
  - a) establishing and reviewing the strategic investments objectives
  - b) reviewing the definition of the investment return target most likely to satisfy this investment objective.
  - c) considering what constraints, if any, should apply to the invested assets and monitor compliance.
  - d) establishing and reviewing the strategic asset allocation (benchmark) that is likely to meet the investment return target.
  - e) considering and reviewing the appropriateness of the fund structure i.e. the delegation of powers to managers, set boundaries for the manager’s discretion, consider what manager return targets are likely to achieve the investment return target.
  - f) monitoring the performance of the investment managers at least once every three months, and from time to time consider the desirability of continuing or terminating the appointment of investment managers. In

monitoring performance of investment managers, the panel should consider:

- The investments made by the managers.
  - Their input to the process and the value of their advice.
  - Investment returns and risk against established targets.
  - Manager compliance with the fund's requirements.
  - Discussion of results with managers.
- g) considering policy matters in relation to the pension scheme and the council's early retirement policy
- h) considering applications, from other bodies, for membership of the council's pension scheme
- i) monitoring early retirements
- j) monitoring costs incurred in administering the pension scheme, including
- management and other direct costs
  - transaction (dealing) costs.

**(g) Constitution of the pensions advisory panel**

(i) The pensions advisory panel will be constituted as follows:

- Three members (one from each political group) who have received the appropriate training; one of those members will chair the panel;
- Three officers (the director of finance, an officer with specialist knowledge on the pensions scheme and the head of human resource or their equivalents);
- Two independent advisers (non-voting); and
- A representative appointed by the constituent trade unions representing beneficiaries (non-voting).

(ii) Decisions should aim to be reached by consensus. Where agreement cannot be reached then, a majority vote will apply. Voting rights are restricted to members and officers, with the chair having the casting vote if required.

(iii) Decisions of the panel will be treated as advice to the director of finance.

(iv) To be quorate at least three voting members of the panel must be present, plus at least one independent adviser. At least one of the voting members must be an officer.

**12.05 Duty to provide sufficient resources to the monitoring officer and director of finance**

The council will provide the monitoring officer and director of finance with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

**12.06 Conduct**

Officers will comply with the officers' code of conduct, when issued<sup>14</sup> and the protocol on officer/member relations set out in part 5 of this constitution.

#### 12.07 **Employment**

The recruitment, selection and dismissal of officers will comply with the officer employment rules set out in part 4 of this constitution.

---

<sup>14</sup> The officer code of conduct will be issued by the Secretary of State. Southwark currently has an internal code of conduct, which does not form part of this constitution. Once the national code has been issued it will be deemed to form part of the terms or conditions of employment of qualifying employees. The definition of a "qualifying employee" will be specified in regulations to be issued under section 82 of the Local Government Act 2000.

## Article 13 – Decision making

### 13.01 Responsibility for decision making

The council will issue and keep up to date a record of what part of the council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in part 3 of this constitution.

### 13.02 Principles of decision making

All decisions of the council will be made in accordance with the following principles<sup>15</sup>:

- (a) the link between strategy and implementation must be maintained;
- (b) decision making generally, whether by individual officers, individual executive members or the executive collectively, should have reference to the policy framework;
- (c) respect for human rights, law and probity;
- (d) due consultation and the taking of professional advice from officers;
- (e) proportionality (i.e. the action must be proportionate to the desired outcome);
- (f) a presumption in favour of openness; and
- (g) clarity of aims and desired outcomes.

### 13.03 Types of decision

- (a) decisions reserved to council assembly.

decisions relating to the functions listed in article 4.02 will be made by the council assembly and not delegated.

- (b) Key decisions.

- (i) A "key decision" means an executive decision which, is likely -

- (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
- (b) to be significant in terms of its effects on communities living or working in an area comprising one<sup>16</sup> or more wards or electoral divisions in the area of the local authority.

A detailed definition of key decisions is contained in the appendix to the access to information procedure rules in part 4 of this constitution.

---

<sup>15</sup>(a) – (b) local proposals; (c) – (g) – para 7.3 statutory guidance; (c) – law and probity added to modular constitution principle.

<sup>16</sup>The statutory minimum is significant impact in two or more wards

- (ii) A decision taker may only make a key decision in accordance with the requirements of the executive procedure rules and access to information rules set out in part 4 of this constitution.

**13.04 Decision making by the council assembly**

Subject to article 13.08, the council assembly meeting will follow the council procedure rules set out in part 4 of this constitution when considering any matter.

**13.05 Decision making by the executive**

Subject to article 13.08, the executive will follow the executive procedure rules set out in part 4 of this constitution when considering any matter.

**13.06 Decision making by overview and scrutiny committees and sub-committees**

Overview and scrutiny committees/sub-committees will follow the overview and scrutiny procedure rules set out in part 4 of this constitution when considering any matter.

**13.07 Decision making by other committees and sub-committees established by the council**

Subject to article 13.08, other council committees and sub-committees will follow those parts of the committee and community council procedure rules set out in part 4 of this constitution as apply to them.

**13.08 Decision making by council bodies acting as tribunals**

The council, a councillor or an officer 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.

**13.09 Decision making by community councils**

Subject to article 13.08, community councils will follow the committee and community council procedure rules set out in part 4 of this constitution as apply to them.

# **Article 14 – Finance, contracts and legal matters**

## **14.01 Financial management**

The management of the council's financial affairs will be conducted in accordance with the financial rules set out in part 4 of this constitution.

## **14.02 Contracts**

Every contract made by the council will comply with the contracts standing orders and commissioning code of practice set out in part 4 of this constitution.

## **14.03 Legal proceedings**

The borough solicitor is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the council or in any case where he/she considers that such action is necessary to protect the council's interests.

## **14.04 Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the council, it will be signed by the borough solicitor or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the council has given requisite authority to some other person.

Any contract with a value exceeding £144,000 entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing and must be either:

- (a) signed by at least two officers of the authority or
- (b) made under the common seal of the council attested by at least one officer.

## **14.05 Common seal of the council**

The common seal of the council will be kept in a safe place in the custody of the borough solicitor. A decision of the council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The common seal will be affixed to those documents which in the opinion of the borough solicitor should be sealed. The affixing of the common seal will be attested by the borough solicitor or some other person authorised by him/her.

## Article 15 - Review and revision of the constitution

### 15.01 Duty to monitor and review the constitution

The standards committee will monitor and review the operation of the constitution to ensure that the aims and principles of the constitution are given full effect. This process will be informed by reports from the monitoring officer, as well as feedback from members, the public and other stakeholders.

### 15.02 Protocol for monitoring and review of constitution by monitoring officer

A key role for the monitoring officer is to be aware of the strengths and weaknesses of the constitution adopted by the council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in article 1. In undertaking this task the monitoring officer may:

- (a) observe meetings of different parts of the member and officer structure;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
- (d) compare practices in this authority with those in other comparable authorities, or national examples of best practice.

### 15.03 Changes to the constitution

- (a) **Approval.** Subject to (c) and (d) below, changes to the constitution will only be approved by the council assembly after consideration of the proposal by standards committee.
- (b) **Change from a leader and cabinet form of executive to alternative arrangements, or vice versa.** The council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.
- (c) **Changes to financial procedure rules.** Changes to the financial procedure rules may be made by the finance director in consultation with the head of paid service and the borough solicitor.
- (d) **Changes to contract standing orders.** Changes to the contract standing orders may be made by the borough solicitor and after consultation with the finance director.

# Article 16 – Suspension, interpretation and publication of the constitution

## 16.01 Suspension of the constitution

- (a) **Limit to suspension.** The articles of this constitution may not be suspended. The procedure rules listed in rule 8 of the council assembly procedure rules may be suspended by the council assembly in accordance with this article and rule 8, to the extent permitted within those rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the constitution set out in article 1.

## 16.02 Interpretation

The ruling of the Mayor as to the construction or application of this constitution or as to any proceedings of the council assembly shall not be challenged at any meeting of the council assembly. Such interpretation will have regard to the purposes of this constitution contained in article 1.

## 16.03 Publication

- (a) The monitoring officer will give a printed copy of this constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the council.
- (b) The monitoring officer will ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The monitoring officer will ensure that the summary of the constitution is made widely available within the area and is updated as necessary.

## PART 3A: MATTERS RESERVED TO COUNCIL ASSEMBLY

---

The following matters are reserved to council assembly for decision:

1. Electing the leader and the executive.<sup>17</sup>
2. Adopting the local authority's code of conduct.
3. Electing the Mayor.
4. Agreeing the budget and determining the level of local taxation.
5. Agreeing the policy framework comprising the following plans and strategies:
  - Corporate plan (including best value performance plan)
  - Community strategy
  - Crime and disorder reduction strategy
  - Plans and strategies which comprise the development plan (UDP)
  - Early years & childcare partnership strategic development plan
  - Education development plan
  - Licensing statement
  - Youth justice plan
  - Neighbourhood renewal strategy
  - School organisation plan
  - Policy on community councils
  - Capital investment strategy (including prudential borrowing arrangements)
  - Housing strategy.

*Note: Primary legislative basis provided by section 17 of the Children Act 2004 will require all councils from 1 April 2006 to have a children and young persons plan. This plan will bring together all the plans and strategies currently in the policy framework dealing with children, including the education development plan, school organisation plan and early years and childcare development plan.*

6. Agreeing the constitution and any subsequent changes to it.
7. Agreeing and amending terms of reference for committees and community councils.
8. Deciding the composition of committees and community councils.
9. Deciding the composition of sub-committees.<sup>18</sup>

---

<sup>17</sup> This provision is subject to article 7.04, which states that in the event that an executive member ceases to be a member of the executive because of reasons set out in 7.04 (a) to (e), the leader has the discretion as to whether or not to appoint a replacement and/or to change portfolios. During the course of the year the leader also has the discretion to change executive portfolios. The date from which such changes become effective is subject to not more than five members objecting, in which case the matter is referred to the next council assembly.

10. Taking decisions in respect of functions which are the responsibility of the executive which are not in accordance with the policy framework or budget agreed by the council assembly.
11. Taking decisions in respect of functions which are not the responsibility of the executive and which have not been delegated by council assembly to committees, community councils, sub-committees or officers.
11. Making or confirming the appointment of the chief executive.
12. Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills.
13. Agreeing any application to the Secretary of State in respect of any housing land transfer.
14. Disposal of council owned metropolitan open land.
15. Determining the scheme and amounts of members' allowances.
16. The council assembly shall establish the following:
  - Appointments committee
  - Disciplinary appeals committee
  - Licensing committee
  - Overview & scrutiny committee
  - Planning committee
  - Standards committee
  - Community councils.

**The council assembly will also**

17. Receive reports from the executive.
18. Question the executive.
19. Debate matters of local importance and consider members' motions.
20. Receive reports from the overview & scrutiny committee.
21. Make arrangements for the appointment of representatives to outside bodies.

---

<sup>18</sup> Standards committee may not have sub-committees. Sub-committees of overview & scrutiny committee are appointed by the parent committee.

## **PART 3B: EXECUTIVE TERMS OF REFERENCE**

---

### **Responsibilities**

The executive shall have responsibility for the following:

### **Introduction**

1. To lead the community planning process and the search for best value, with input and advice from overview and scrutiny committees/sub-committees, area forums and any other bodies or persons as appropriate.
2. To draft the budget and policy framework for approval by council assembly.
3. To take in year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policy framework as agreed by council.
4. To oversee the authority's services.
5. To ensure consultation on the development of the council's policy framework, other key strategic documents and key decisions.
6. To be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

### **Policy**

1. To have responsibility for drafting the community strategy and recommending it to council assembly.
2. To formulate the council's overall policy objectives and priorities, recommending them to council assembly for approval where appropriate.
3. To determine the council's strategy and programme in relation to the policy and budget framework set by the council.
4. To determine the authority's strategy and programme in relation to the social, environmental and economic needs of the area.
5. To exercise the council's functions in relation to community engagement and the local strategic partnership, including the formulation of council strategies for communication, consultation, capacity building and active citizenship, and their co-ordination and implementation with particular reference to the provisions of relevant legislation.
6. To promote human rights, equality of opportunity and the interests and particular needs of all those who experience discrimination or disadvantage by virtue of their race, gender, disability, sexuality, or age.
7. To monitor the implementation and co-ordination of the statutory functions and

obligations of the council with respect to equality of opportunity and non-discrimination, including its function as an employer.

8. To oversee and promote initiatives on best value across the council.
9. To set the strategic direction for the council's democratic renewal initiatives.
10. To consider and promote strategic and council-wide initiatives to improve the quality, efficiency and effectiveness of the council's services to the public.

### **General**

1. To have responsibility for the strategic management of the council's resources - financial, land, property and staffing – and to take decisions on such matters in the context of the budget and policy framework agreed by council.
2. To have responsibility for the council's revenue and capital budgets, including the housing revenue account, ensuring effective financial control and the achievement of value for money, within the provisions of financial standing orders.
3. To have responsibility for all staffing and human resource matters including the number and type of staff, equalities issues and health and safety, subject to the authority's personnel policies and procedures except for staff appointments and dismissals.
4. To oversee and take responsibility for effective joint work with partner agencies.
5. To have overall responsibility for acquisitions and disposal of any interest in land, buildings or the real and leasehold property of the council and to have responsibility for land and property used for operational purposes.
6. To have responsibility for the council's role as corporate parent.
7. To have responsibility for all equalities matters concerning both employment policy and practices and service delivery and the active promotion of the council's equalities policies.
8. To affiliate to and appoint representatives to outside bodies where such appointments are a function of the executive.
9. To delegate to appropriate committees of the executive and to chief officers and to receive regular information reports from them with particular reference to value for money; service implementation and development; client/customer service and performance; and the performance and achievement of equalities objectives.
10. To agree the reduction or cessation of any service.
11. To agree the authority's response to consultation papers.
12. To consult with scrutiny and take into account the final reports of scrutiny inquiries.
13. To be responsible for all executive matters even if not expressly set out in this part of the constitution.
14. To consider whether the council should give evidence before a royal commission,

government committee or similar body.

### **Plans and strategies to be approved by the executive**

Area-based regeneration plans  
Asset management plan  
Asset management plan (education)  
Behaviour support plan  
Departmental performance plans  
European strategy  
Food law enforcement plan  
Green travel plan  
Health and social care strategy  
Plans and strategies which comprise the housing investment programme  
Local agenda 21 strategy  
LMS scheme/formula  
Post-inspection action plan  
Quality protects management action plan  
Regeneration strategy  
Renewal areas strategies  
Resource accounting business plan  
Road safety plan  
Special education needs action plan  
Teenage pregnancy strategy  
Waste strategy  
Youth strategy

### **Local choice functions and local act functions**

See table of local act functions at part 3L.

### **The executive makes decisions in the following circumstances:**

1. Matters reserved to the executive as set out in 3C;
2. Matters reserved to individual executive members as set out in 3D, except where, in any particular case, the leader, deputy leader and/or the chief executive directs that the decision should be reserved to the executive; or the individual member refers the decision to the executive.

## **EXECUTIVE PORTFOLIOS**

### **Leader of the council**

---

#### **Scope of this portfolio**

To provide leadership of the council including principal policy direction of the council within its statutory functions, overseeing the development of the financial strategies and representing the council in the community and in negotiations with the regional and national organisations. In the absence of an executive member the leader will have responsibility for all relevant matters within the remit of the executive.

The leader will have particular responsibility for [Forward@Southwark](#), the corporate plan, anti-poverty strategy, community councils and other ad-hoc projects. The leader will also have responsibility for the delivery of the Safer Southwark Partnership (SSP)'s strategic objective of a 'safer Southwark' and the management of Southwark warden schemes and other community safety initiatives.

### **Deputy leader**

---

#### **Scope of this portfolio**

To deputise in the leader's absence and to take a holistic approach to the work of the executive, ensuring that the portfolio themes are joined up. The deputy leader will be responsible for children's services (children's social care, early years and youth) and the council's response to the Children's Green Paper.

The portfolio will also include management of the Elephant & Castle regeneration project and any other special projects as deemed necessary.

### **Regeneration & economic development**

---

#### **Scope of this portfolio**

To facilitate the sustainable regeneration of Southwark's communities, promote investment, improve access to jobs in Southwark, and improve housing standards in Southwark.

The portfolio includes regeneration, economic development, planning and building control, social inclusion, neighbourhood renewal and community development. It will also include private housing renewal, housing regeneration (including SEI and major investment schemes i.e. Friary, Four Squares, East Dulwich and Aylesbury estates), affordable housing and the housing investment strategy (including stock options).

The portfolio holder will be required to work closely with the executive member for housing management and the executive member for health & adult care to ensure a co-ordinated approach to housing issues.

### **Housing management**

---

#### **Scope of this portfolio**

To ensure quality housing management in the borough.

The portfolio will include housing management, housing allocations, the housing investment programme and leasehold management.

The portfolio holder will be required to work closely with the executive member for regeneration & economic development and the executive member for health & adult care to ensure a co-ordinated approach to housing issues.

## **Health & adult care**

---

### **Scope of this portfolio**

To improve the health of the borough and to safeguard the needs of vulnerable adults.

The portfolio includes: health promotion; personal social services; services to older people; services to people with disabilities; services to those with HIV/aids and/or those with drug and alcohol problems; services to those with mental health needs; 'supporting people', homelessness and sheltered housing.

The postholder will work closely with the deputy leader (who is responsible for children's services) and the executive member for housing management in terms of the housing needs of vulnerable adults.

## **Environment & transport**

---

### **Scope of this portfolio**

To work towards a cleaner and greener borough and to develop existing transport, and alternative transport, in Southwark.

The portfolio includes: waste management; street scene and highway infrastructure; environmental health and trading standards; parking enforcement; licensing; parks and open spaces; traffic management and parking; and recycling.

## **Education**

---

### **Scope of this portfolio**

To manage and improve the standard of education in the borough.

The portfolio includes: schools; post-16 education; and adult learning. It will include management of the Cambridge Education Associates (CEA) contract.

## **Equalities, culture & sport**

---

### **Scope of this portfolio**

To promote and develop sport and culture in the borough.

The portfolio will include: leisure services & facilities; sports development; equalities; arts & heritage; culture; twinning; tourism; libraries.

The portfolio holder will work closely with the executive member for community safety, regeneration & economic development on equalities issues.

## **Resources**

---

### **Scope of this portfolio**

To ensure sound business planning and financial probity within the corporate framework, to manage the council's property assets and disposals and to manage and monitor voluntary sector agreements.

The portfolio will include managing property assets and disposals; financial management, including the housing revenue account (HRA); management of the council's assets, including all property; personnel; procurement; the voluntary sector.

## **Communication & performance improvement**

---

### **Scope of this portfolio**

To improve customer focus and the council's communication with local residents.

The portfolio will include: the council's modernisation agenda, promoting the council's services to local people; accessibility of local services; monitoring and achieving continuous improvement in the quality of the services delivered; e-government and information technology.

## **PART 3C: MATTERS RESERVED TO THE EXECUTIVE FOR COLLECTIVE DECISION MAKING**

---

1. All relevant matters reserved to the executive by council assembly for decision.
2. Decisions on matters reserved to the executive in accordance with the provisions of contract standing orders in part 4 of the constitution.
3. Approval for recommendation to council assembly of those proposals and plans contained in the council's budget and policy framework.
4. Decisions regarding the strategic management of the council including decisions on major reorganisations and major reallocations of functions between departments or chief officers.
5. Approval to the creation of posts at grade 17<sup>19</sup> and above.
6. Approval to amend terms and conditions of service and employment contracts for individual groups of staff where these will vary from existing council wide procedures.
7. Decisions regarding the strategic aspects of the regulation and control of the council's finances.
8. Approval of policy and procedures governing the council's relationship with the voluntary sector.
9. Approval of grants, under the community support programme, to voluntary organisations.
10. Approving write-offs of debt of a value of over £50,000.
11. Amendments to the council's equal opportunities policy.
12. Agreement to the disposal of leasehold and freehold interests in land and property where the market value is more than £250,000, excluding Right to Buy and Leasehold Reform Act cases and the disposal of council owned metropolitan open land.<sup>20</sup>
13. All disposals at less than best consideration where the market value is more than £250,000 or where ministerial consent is required, unless the disposal is required by statute.
14. Acquisition of land and property, outside any scheme already agreed by members, where the market value is more than £100,000.
15. The acquisition of land and property which involves the use of compulsory purchase orders.

---

<sup>19</sup> At April 2005, grade 17 equated to £66,003 - £83,145 per annum.

<sup>20</sup> The disposal of council owned metropolitan open land is reserved to council assembly.

## **Social services issues**

16. Appointment of rota visitors to establishments and representatives on the adoption panel and secure accommodation review panel.
17. Approval of long term or permanent closures and the cessation of services excluding changes in service delivery in individual cases.
18. In respect of registered homes, consideration of: proposals to cancel registration, proposals to refuse to register, proposals to vary any condition, and proposals to impose an additional condition of registration in accordance with section 13 of the Registered Homes Act 1984.
19. In respect of registered children's homes, consideration of: proposals to cancel registration, proposals to refuse to register, proposals to vary any condition, and proposals to impose an additional condition of registration in accordance with schedule 6 of the Children Act 1989.
20. Consideration of appeals against refusal to register and imposing conditions of registration (except where the appeal relates to police checks) in accordance with section 77 of the Children Act 1989.

## **Education issues**

21. Subject to the education services contract and the direction of the Secretary of State under section 497A of the Education Act 1996; and with respect to the Education Acts: -
  - approval of schools admissions policies
  - decisions to go out to consultation prior to the publication of school re-organisation proposals

## **NOTES**

- (a) All matters not reserved as above or to individuals or to executive committees (see 3D & 3E) are delegated to the appropriate chief officer and heads of service. All delegated matters can always be decided by the parent body. See also Part 3: Matters delegated to officers.

## **PART 3D: MATTERS RESERVED TO INDIVIDUAL EXECUTIVE MEMBERS FOR DECISION**

---

### **Preamble**

There are occasions when matters affect more than one portfolio; on such occasions the decision will be referred to a meeting of the full executive.

In discharging any functions that have been delegated, an executive member must act lawfully. This means that the executive member must act within the scope of the authority that is delegated to him or her in accordance with any limits within the delegation, this constitution, council policies, procedure rules and the members code of conduct.

### **Budget**

1. Proposing revenue and capital budget allocations to the executive, in relation to their areas of responsibility.
2. Agreement of significant programmes in relation to these objectives.
3. Agreement of fees and charges, in relation to their areas of responsibility, other than any set by council assembly as part of the budget process.
4. Approving the submission of bids for additional resources from government and other agencies, in relation to their areas of responsibility, where member level agreement is required by the external agency.
5. Matters reserved to individuals above specific financial thresholds:
  - Approving write-offs of debt for their portfolio area of a value of £5,000 – £50,000.
  - Approving grants to voluntary organisations over £2,500, apart from those under the community support programme.

### **Service planning and delivery**

6. Agreement of statutory and other strategies, in relation to their areas of responsibility, except where they relate to crosscutting issues.
7. Agreement to significant policy issues, in relation to their areas of responsibility.
8. Agreement of performance standards and key policy objectives, in relation to their areas of responsibility.
9. Agreement to policy and performance priorities for the short and medium term, in relation to their areas of responsibility and taking into account the needs of the council as a whole.
10. Agreement of service plans, in relation to their areas of responsibility.
11. To consider best value review reports and:
  - Agree the action plan, including recommendations for no action, where there are no significant policy implications
  - Make recommendations to the executive, including recommendations for no action,

where there are significant policy implications.

12. To consider any inspection report by an external agency and:

- Agree the action plan, including recommendations for no action, where there are no significant policy implications
- Make recommendations to the executive, including recommendations for no action, where there are significant policy implications.

### **Tenders and contracts**

13. Decisions on matters reserved to individual executive members in accordance with the provisions of contract standing orders in part 4 of the constitution.

### **Partnerships and consultation**

14. To approve responses to consultation documents from government, Greater London Authority, Local Government Authority, Association of London Government and other bodies relating to significant changes affecting their portfolio area, which would not require changes to the budget and policy framework.

15. Agreeing broad consultation arrangements, in relation to their areas of responsibility.

16. To promote effective partnerships, between the council and other agencies and bodies affecting the community, in relation to their areas of responsibility.

17. To deal with petitions in their portfolio area in accordance with council procedure.

## **PART 3E: MATTERS RESERVED TO EXECUTIVE COMMITTEES**

---

The leader will maintain a written record of any delegations to executive committees here.

**NOTE:**

- (a) All matters not reserved to the executive, executive committees or to individual members are delegated to the appropriate chief officer and heads of service. All delegated matters can always be decided by the parent body. See also Part 3: Matters delegated to officers.

## **PART 3F: MATTERS RESERVED TO THE PLANNING COMMITTEE AND COMMUNITY COUNCILS EXERCISING PLANNING FUNCTIONS**

---

### **Planning committee to consider:**

1. Consideration of the following categories of planning applications (including listed building consent, conservation area consent and advertising consent), where the development proposed involves the creation of 50 or more housing units or more than 3,500 m<sup>2</sup> of commercial floor space or a mixed use development with more than 3,500 m<sup>2</sup> of floor space, including applications for change of use, or the application is clearly linked to another application which is to be considered by the planning committee: –
  - (1) Those which are significantly contrary to the provisions of the unitary development plan (UDP) or other plans approved by the council for the purpose of development control, and which are recommended for approval;
  - (2) Those which are controversial or raise a major issue of a planning nature except where they are straightforward refusals;
  - (3) Those requested by a ward member to be determined by elected members committee, subject to the request being agreed by the chair of the committee;
  - (4) All applications for the council's own developments except for the approval of reserved matters and minor developments to which no objections have been made;
  - (5) Those involving legal agreements, other than those in accordance with policy requirements, e.g. affordable housing, highway improvements, environmental work and other works required as part of a development proposal.
2. To consider the expenditure of funds over £100,000 secured through legal agreements under section 106 of the Town and Country Planning Act 1990, or any previous legislation.
3. The designation of conservation areas including the adoption of conservation area character appraisals and detailed design guidance, and authorisations under article 4 of the Town and Country Planning Permitted Development Order 1995.
4. The consideration of and adoption for development control purposes of planning briefs to guide the development of particular sites.
5. To consider and determine all planning applications of strategic importance in the borough, including: -
  - Applications which require referral to the Mayor of London
  - Applications which are required to be notified to the Secretary of State as departures from the UDP
  - Applications where the submission of an environmental impact assessment is required by regulation or following a screening application

- Applications for the development of metropolitan open land
  - Applications for the development of contaminated land.
  - Specific applications not covered by the above but determined as strategic by the strategic director of regeneration.
6. To consider and determine all planning applications where the development will have a material impact on the area of one or more neighbouring community councils. The strategic director of regeneration to determine, in consultation with the chairs of the relevant community councils, when such boundary proximity is a material factor.
  7. To consider any application reserved to community councils in the event that the relevant community council meeting was inquorate or the personal interests or decided views of a large number of members would be likely to render the meeting inquorate.
  8. To comment on the successive drafts of the unitary development plan and make recommendations to the executive, as appropriate.
  9. To comment on draft supplementary planning guidance and make recommendations to the executive, as appropriate.
  10. To report to the executive on matters relating to the implementation of planning policy.

**Community councils to consider:**

1. Consideration of the following categories of planning applications (including listed building consent, conservation area consent and advertising consent), where the development proposed involves the creation of fewer than 50 housing units or less than 3,500 m<sup>2</sup> of commercial floor space or a mixed use development with less than 3,500 m<sup>2</sup> of floor space, including applications for change of use, except where the application is clearly linked to another application which is to be considered by the planning committee: –
  - (1) Those which are significantly contrary to the provisions of the UDP or other plans approved by the council for the purpose of development control, and which are recommended for approval;
  - (2) Those which are controversial or raise a major issue of a planning nature except where they are straightforward refusals;
  - (3) Those requested by a ward member to be determined by elected members, subject to the request being agreed by the chair of the community council;
  - (4) All applications for the council's own developments except for the approval of:
    - Reserved matters and minor developments to which no objections have been made; or,
    - Developments that are proposed by community councils.
  - (5) Those involving legal agreements, other than those in accordance with policy

requirements, e.g. affordable housing, highway improvements, environmental work and other works required as part of a development proposal.

2. To comment on the proposed expenditure of funds over £100,000 secured through legal agreements under section 106 of the Town and Country Planning Act 1990, or any previous legislation where the site to which the agreement relates and the site(s) where expenditure will be incurred are in the same community council area.
3. To comment on proposals for the designation of conservation areas including the adoption of conservation area character appraisals and detailed design guidance, and authorisations under article 4 of the Town and Country Planning Permitted Development Order 1995 affecting the area of the community council.
4. To comment on proposals to adopt planning briefs for development control purposes to guide the development of particular sites within the area of the community council.
5. To be consulted on all major and strategic schemes prior to consideration by the planning committee, subject to the consultation deadlines.

## **NOTES**

- (a) All matters not reserved as above are delegated to the appropriate chief officer, head of service or business unit manager, except that authority to initiate prosecutions is delegated to:
  - Strategic director of regeneration
  - Head of planning
  - Business support services co-ordinator
  - Development and building control manager
- (b) Each chief officer and/or head of service in making decisions under the above scheme is required to do so within the internal scheme of management for their own department. This will include appropriate monitoring arrangements, and dissemination of information both internally and externally to the council.

## **PART 3G: MATTERS RESERVED TO THE LICENSING COMMITTEE, THE HEAD OF SERVICE AND OFFICER PANEL EXERCISING LICENSING FUNCTIONS**

### **Licensing committee to**

1. Approve the council's policies in respect of all licensing and registration matters, except the licensing statement<sup>21</sup>.
2. To establish policies and procedures for considering and determining additional licensing functions conferred on the authority by statute.

### **Licensing committee and its sub-committees to exercise licensing functions to consider:**

3. Any application for the grant, renewal, variation or transfer of any general safety certificate in respect of sports stadium or regulated stands;
4. Any application for a personal licence which is the subject of a police objection.
5. Any application for a personal licence by a person with unspent criminal convictions.
6. Any application for a premises licence or a club premises certificate which is the subject of a relevant representation
7. Any application for a provisional statement which is the subject of a relevant representation
8. Any application to vary a premises licence or club premises certificate which is the subject of a relevant representation
9. Any application to vary a designated premises supervisor which is the subject of a police objection.
10. Any application for a transfer of a premises licence which is the subject of a police objection.
11. Any applications for interim authorities which are the subject of a police objection.
12. Any application to review a premises licence or club premises certificate.
13. Any decision to object when the local authority is a consultee and not the relevant authority considering the application.
14. Any determination of a police objection to a temporary event notice.
15. Any application for the grant of new amusement arcade/prize bingo permits.

---

<sup>21</sup> The approval of the licensing statement is a matter reserved to council assembly.

16. Any application for the grant, renewal, variation or transfer of any sex establishment license.
17. New designations for sites for street trading.
18. Revocation of street trading licenses.
19. To consider and determine the following applications in accordance with the London Government Act 1963 and associated legislation:<sup>22</sup>
  1. any opposed application for the grant, renewal, transfer or variation of annual public entertainment's or night café licence where there is evidence which gives rise to consideration of whether the applicant is a fit and proper person;
  2. any opposed application for the new annual grant of a public entertainment's licence in respect of any premises capable of accommodating 150 or more persons;
  3. any opposed application for either the new annual grant of a public entertainment's licence or application for the variation of an existing licence which seeks hours of operation beyond the latest hour permitted for the sale of alcohol under a justices special hours certificate (i.e. 2 am weekdays and midnight on Sunday);
  4. the revocation of any licence following the successful prosecution of the holder for breach of licence terms, conditions and restrictions;
  5. the non-renewal of any licence following concerns raised by officers regarding the manner of operation of the premises under its licence;
  6. any application for consent to provide striptease or hypnotism or like entertainment;
  7. applications made in respect of occasional licenses over 28 days in any 12 month period.

#### **Matters delegated to the head of service**

1. Any application for a personal licence which is without police objection.
2. Any application for a premises licence or a club premises certificate if no relevant representation has been made.
3. Any application for a provisional statement if no relevant representation has been made.
4. Any application to vary a premises licence or club premises certificate if no relevant representation has been made.

---

<sup>22</sup> The licensing committee or community councils previously considered these applications. The functions have now been returned to the licensing committee with effect from February 7 2004.

5. Any application for a transfer of a premises licence which is without police objection.
6. Any applications for interim authorities which are without police objection.
7. Any decision on whether a complaint is irrelevant frivolous or vexatious.

**Matters delegated to the head of service and considered by the licensing officer panel<sup>23</sup>**

The panel to make recommendations to the head of service on the following matters:

1. Any opposed application for the grant, renewal, transfer or variation of annual public entertainments or night café licenses which:
  - (i) relates to a venue capable of accommodating fewer than 150 persons; or
  - (ii) relates to an application made for operating hours within the terminal hours under a Justices special hours certificate; or
  - (iii) where consideration of whether the applicant is a fit and proper person is not an issue;
2. Any opposed application for the grant of any occasional licence;
3. Any application for waiver of any part of the council's technical regulations or for any waiver of the council's rules of management;
4. Any application for renewal of provisional licences where specified public safety and / or acoustic sound insulation works have not been undertaken in the previous licence term;
5. All films submitted for local classification under the Cinemas Act 1985.
6. Any opposed application for the grant, renewal or transfer of a special treatments license.

**NOTES**

- (a) All matters not reserved as above are delegated to the appropriate chief officer, head of service or business unit manager, except that authority to initiate prosecutions is delegated to:

Licensing

- Strategic director of environment and leisure
- Head of street scene and public protection
- Head of waste management

---

<sup>23</sup> Some of the functions currently considered by the committee or delegated to the head of service and licensing officer panel relating to pre-Licensing Act 2003 legislation will cease to be exercised by the committee when the Licensing Act 2003 becomes effective in November 2005. Other functions such as film classifications and special treatments will remain.

- Environmental health and trading standards manager

#### Street trading

- Strategic director of environment and leisure
- Head of street scene and public protection
- Head of waste management
- Client and enforcement manager, waste management division
- Environmental health and trading standards manager

All matters reserved to the licensing officer panel can always be decided by the licensing committee or its sub-committees.

- (b) Each chief officer and/or head of service in making decisions under the above scheme is required to do so within the internal scheme of management for their own department. This will include appropriate monitoring arrangements, and dissemination of information both internally and externally to the council.

## PART 3H: MATTERS RESERVED TO COMMUNITY COUNCILS

---

### Planning functions (non-executive):<sup>24</sup>

#### Decision making

1. Consideration of the following categories of planning applications (including listed building consent, conservation area consent and advertising consent), where the development proposed involves the creation of fewer than 50 housing units or less than 3,500 m<sup>2</sup> of commercial floor space or a mixed use development with less than 3,500 m<sup>2</sup> of floor space, including applications for change of use, except where the application is clearly linked to another application which is to be considered by the planning committee: –
  - (1) Those which are significantly contrary to the provisions of the unitary development plan (UDP) or other plans approved by the council for the purpose of development control, and which are recommended for approval;
  - (2) Those which are controversial or raise a major issue of a planning nature except where they are straightforward refusals;<sup>25</sup>
  - (3) Those requested by a ward member to be determined by elected members, subject to the request being agreed by the chair of the community council;
  - (4) All applications for the council's own developments except for the approval of:
    - Reserved matters and minor developments to which no objections have been made; or,
    - Developments that are proposed by community councils.
  - (5) Those involving legal agreements, other than those in accordance with policy requirements, e.g. affordable housing, highway improvements, environmental work and other works required as part of a development proposal.

#### Consultative/non decision making

2. To comment on the proposed expenditure of funds over £100,000 secured through legal agreements under section 106 of the Town and Country Planning Act 1990, or any previous legislation where the site to which the agreement relates and the site(s) where expenditure will be incurred are in the same community council area.
3. To comment on proposals for the designation of conservation areas including the adoption of conservation area character appraisals and detailed design guidance, and

---

<sup>24</sup> The powers of the community council in respect of planning functions are formally delegated to it by the planning committee. For the purposes of decision making it is constituted as a sub-committee of the main committee. The planning committee will consider and determine all planning applications on or near community council boundaries, which will have a material impact on the area of one or more neighbouring community councils. The strategic director of regeneration will determine when boundary proximity is a material factor.

<sup>25</sup> To be determined by the strategic director of regeneration

authorisations under article 4 of the Town and Country Planning Permitted Development Order 1995 affecting the area of the community council.

4. To comment on proposals to adopt planning briefs for development control purposes to guide the development of particular sites within the area of the community council.
5. To be consulted on all major and strategic schemes prior to consideration by the planning committee, subject to the consultation deadlines.

### **Environmental management (executive)**

#### Decision making

6. Recommendations to the strategic director of environment and leisure, on local contract variations.<sup>26</sup>
7. Recommendations to the executive on issues concerning major changes to contracts.
8. Appointment of ward members to serve on warden schemes steering groups

### **Cleaner, Greener, Safer programme (executive)**

#### Decision making

9. Approval of the allocation of funds to cleaner, greener, safer schemes of a local nature, using the resources identified by the executive, for example:
  - Designing out dumping and fly-tipping
  - Local playground improvements
  - Local parks
  - Improvement to local sports facilities
  - Improvement to local community centres and youth facilities
  - Eyesores and facelifts
  - Improving ward-level communication routes and pathways
  - Bins, street furniture etc.

#### Consultative/non decision making

10. Recommendation of bids to the executive for funding for schemes of a strategic nature as part of an open bidding process.

---

<sup>26</sup> Decisions regarding contract variation shall remain the responsibility of the strategic director of environment & leisure.

## **Traffic management functions (executive) )<sup>27</sup>**

### Decision making

12. Determination of the following local non-strategic matters:
  - The introduction of single traffic signs
  - The introduction of short lengths of waiting and loading restrictions
  - The introduction of road markings
  - The introduction of disabled parking bays
  - The setting of consultation boundaries, for consultation on traffic schemes
13. Determination of objections to traffic management orders that do not relate to strategic or borough wide issues.
14. To hear and determine traffic petitions and deputations that are of a non strategic nature.

### Consultation/non decision making

15. Following a strategic decision to introduce a parking or traffic safety scheme, community councils to be consulted on the detail of the schemes such as:
  - The method of consultation and how it is undertaken
  - The type of traffic features to be introduced
  - Where street furniture is positioned
16. To be consulted on the borough spending plans (BSP), the council's annual bid to Transport for London for transport funding covering such things as local safety schemes and 20mph zones, before it is submitted to Transport for London.
17. To be consulted on decisions of strategic nature, such as whether to create parking zones or home zones.

## **Education functions (executive)**

### Decision making

18. Appointment of local education authority school governorships to the governing bodies of nursery and primary schools within the area of the community council, from among the list of suitable persons maintained by the governor development service in the education department.

---

<sup>27</sup> In respect of traffic matters that have a potential impact on more than one community council, the strategic director of environment and leisure shall determine if boundary proximity is a material issue.

## NOTES

- (a) All matters not reserved as above are delegated to the appropriate chief officer and head of service. All delegated matters can always be decided by the parent body. See also Part 3: Matters delegated to officers.
- (b) All planning matters not reserved as above are delegated to the appropriate chief officer, head of service or business unit manager, except that authority to initiate prosecutions is delegated to:
- Strategic director of regeneration
  - Head of planning
  - Business support services co-ordinator
  - Development and building control manager
- (c) Each chief officer and/or head of service in making decisions under the above scheme is required to do so within the internal scheme of management for their own department. This will include appropriate monitoring arrangements, and dissemination of information both internally and externally to the council.

## **PART 3I: MATTERS RESERVED TO THE APPOINTMENTS COMMITTEE**

---

1. To make recommendations to council assembly as to the appointment of the head of paid service
2. To appoint the borough solicitor.
3. To appoint the director of finance.
4. To appoint to the posts designated in article 12.01(b) as chief officers.

## **PART 3J: MATTERS RESERVED TO THE DISCIPLINARY APPEALS COMMITTEE**

---

1. To review dismissal decisions of capability/disciplinary panels on the application of the dismissed employee. The review shall consist of a consideration of:

- The letter setting out the charges
- The minutes of the dismissal hearing
- The letter setting out the decision of the panel
- The contents of the appeal submission
- The contents of the management response
- Many oral representation advanced by or on behalf of the appellant or management
- The evidence of any witnesses called by the committee.

In performing these duties, the committee shall, so as far as it appears to be appropriate, seek to avoid formality in its proceedings and shall not be bound by any enactment or rule of law relating to the admissibility of evidence in proceedings before a court of law. The committee shall make such enquiries of persons appearing before it and witnesses as it considers appropriate and shall otherwise conduct the hearing in such a manner it considers most appropriate for the clarification of the issues before it and in the interest of natural justice.

2. To review the operational procedures of the hearing of appeals and report to the executive if any changes are considered necessary.
3. To constitute the disciplinary appeals panel (safeguarding children and vulnerable adults).

Note: The committee shall not consider appeals unless three members of the committee are present (three members forming the quorum).

### **DISCIPLINARY APPEALS PANEL (SAFEGUARDING CHILDREN & VULNERABLE ADULTS) - TERMS OF REFERENCE**

#### **1. Functions of the disciplinary appeals panel (safeguarding children & vulnerable adults)**

1.1 To review dismissal decisions of disciplinary/capability panels on the application of the dismissed employee. The appeals panel is the final internal stage of appeal.

The review shall consist of consideration of:

- The letter setting out the charges.
- The minutes of the dismissal hearing.
- The letter setting out the decision of the disciplinary panel.
- The contents of the appeals submission.
- The contents of the management response.
- Any oral representation advanced by or on behalf of the appellant or management.

- The evidence of any witness called by the appeals panel.
- 1.2 Disciplinary or capability action will have been brought on the basis of abuse, neglect, incapability, or professional conduct, where such actions relate to either:
- Child(ren) or
  - Vulnerable adult(s)

These actions may have occurred during working hours, or outside employment and led to disciplinary/capability action against the employee in his/her contractual duty of care to children or vulnerable adults. Where safeguarding will need to be clear in the charge and decision letters.

## 2. Membership

- 2.1 The disciplinary appeals panel (safeguarding children & vulnerable adults) will constitute:
- A chair who is independent of the council service
  - Experienced and trained members of the disciplinary appeals committee.
  - A senior manager who has an understanding of the corporate parental responsibility and is independent of the department
  - A human resources specialist who has expertise in employment law, to act as an adviser only.

Decisions should aim to be reached by consensus. Where necessary, voting rights are restricted to the members, senior officer & the independent chair, who will hold the casting vote.

- 2.2 The disciplinary appeals panel (safeguarding children & vulnerable adults) will not proceed unless the following are present:
- An independent chair.
  - Three members minimum.
  - A senior manager.
  - A human resources specialist who has expertise in employment law.
- 2.3 The independent chair should be a recognised expert in the field of childcare or the care of vulnerable adults, with substantial management experience, including people management. Recommendations will be considered by reputable outside bodies, such as the SSI and ACAS. The director of social services will select and recommend the appointment of the independent chair(s) to the disciplinary appeals committee who will confirm appointment. Payment will be on a sessional basis.
- 2.4 There are eight member places:
- Liberal Democrat group nominations (four), plus three reserves.
  - Labour group nominations (four), plus three reserves.

These would be drawn from membership of the disciplinary appeals committee. In addition they will receive specific training, organised by the council, on the care

of children and vulnerable adults, the council's roles and responsibilities as a corporate parent, and related employment issues.

2.5 A pool of senior officers (chief officer or specific heads of service) will be selected to act as expert advisors on childcare or adult care issues. The director of social services will select the advisors based on:

- Current knowledge of care issues relating to children or vulnerable adults.
- An understanding of care practice from the client's perspective.
- Independence from the area of review.

The director of social services will act as the advisor where the appeal falls outside the department.

2.6 The human resources specialist would normally be a senior member of the council's personnel team, but may be a legal officer with specialist knowledge of human resources where appropriate.

## **PART 3K: MATTERS DELEGATED TO OFFICERS**

---

1. All matters not reserved to the council assembly, to the executive, or to a committee for decision, are delegated to the appropriate chief officer and/or head of service. The powers of the finance director include the requirement under the Pension Regulations to review investments made by the investment manager at least once every three months, and to administer all other functions relating to local government pensions in accordance with the relevant legislation and regulations.
2. Each chief officer and/or head of service in making decisions under the above scheme is required to do so within the internal scheme of management for their own department. This will include appropriate monitoring arrangement, and dissemination of information both internally and externally to the council.
3. It is the responsibility of and duty of chief officers to ensure that where appropriate matters of a controversial nature, or involving significant changes in policy, are consulted upon with the relevant executive member and recorded or reported to the executive, council assembly and committee as appropriate.
4. In respect of grants of £2,500 and under, the decisions are delegated for officer decision following consultation by the chief officer/head of service, with the appropriate executive member. All such grants are to be circulated to members in advance and reported to the executive.
5. The borough solicitor will maintain a list of "proper officers".

## PART 3L: LOCAL ACT FUNCTIONS

This section allocates responsibility for functions and powers which the council gets from Local Acts.

	<b>Function</b>	<b>Responsibility</b>
1	Any function under a Local Act other than a function specified or referred to in regulation 2 or schedule 1.	
	<b>London Local Authorities Act 2000</b>	
	Service of penalty charge notice on basis of information provided by camera etc. (section 4)	Non-executive
	Service of penalty charge notice where parking attendant prevented from issuing a notice (section 5)	Non-executive
	Cleansing relevant land of refuse and litter (section 19)	Non-executive
	Licensing - see references to different licensing functions referred to below.	Non-executive
	Licensing of buskers (part V)	Non-executive
	<b>London Local Authorities Act 1996</b>	
	Penalty charge notices in respect of bus lane infringements (section 4)	Non-executive
	Fire safety and entertainment licensing <ul style="list-style-type: none"> <li>- Approval of policies in respect of entertainment licenses</li> <li>- Register of all licensed premises for public entertainment</li> <li>- Grant of unopposed transfers and variations of entertainment and night cafe</li> <li>- Licenses</li> <li>- Grant of unopposed renewals for entertainment and night cafe licenses</li> <li>- Hearing and determining applications in respect of entertainment licenses</li> </ul>	Non-executive
	<b>London Local Authorities Act 1995</b>	
	Making of special temporary prohibitions within a special parking area (section 9)	Non-executive
	Notice requiring removal of unauthorised advertisement hoardings etc. (section 11)	Non-executive
	Notice requiring removal of signs on buildings (section 12)	Non-executive

Function	Responsibility
Appointment of deputies to the fire authority (section 44)	Non-executive
Near beer- - Approval of policies - Authority to license near beer premises	Non-executive
<b>London Local Authorities Act 1994</b>	
Consent to distribution of free literature (section 4)	Non-executive
Night cafe licensing - Approval of policies in respect of night cafe licenses - Hearing and determination of applications for night cafe licences - Delegation of authority to director to license premises or persons in respect of night cafes.	Non-executive
Street trading - Regulation of street trading and associated issues - Renewal of licenses	Non-executive
Making of regulations relating to dangerous structure fees (section 8)	Non-executive
<b>London Local Authorities Act 1991</b>	
Removal of distribution containers on the highway (section 22)	Non-executive
Licensing of special treatment premises (part II) - Approval of policies in respect of special treatment licenses - Hearing of and determination of applications made to the council in respect of special treatment licenses - Licensing of premises or persons in respect of special treatment establishments - To grant unopposed renewals, transfers and variations for special treatment licenses	Non-executive
<b>London Local Authorities (No.2) Act 1990</b>	
Crime prevention measures (section 5) - Crime prevention policies	Non-executive
Restoration of gas and water and electricity	Non-executive
<b>London Local Authorities Act 1990</b>	
Removal of shopping or luggage trolleys found in the open air (section 43)	Non-executive

Function	Responsibility
Night cafe licensing: - Approval of policies in respect of night cafe licenses - Hearing and determining of applications for night café licenses - Licensing of premises or persons in respect of night cafes	Non-executive
Street trading: - Regulation of street trading and market trading together with the provision, maintenance and management of storage accommodation - Policies etc (see above) - Renewal of licenses etc	Non-executive
<b>Greater London Council (General Powers Act 1986)</b>	
Consent for demolition of works under street (section 5)	Non-executive
Consent for construction which causes obstruction to access to vaults and cellars (section 6)	Non-executive
Consent for in-filling of vaults and cellars (section 7)	Non-executive
Powers relating to certain retaining walls (section 8)	Non-executive
<b>Greater London Council (General Powers) Act 1984</b>	
Registration of sleeping accommodation (part IV)	Non-executive
Provisions relating to the sale of goods by competitive bidding (part VI) these provisions include the registration of premises or stalls.	Non-executive
Power to make charge in respect of approval of plans etc. relating to drains (section 36)	Non-executive
Removal of occupants of buildings in vicinity of dangerous structures etc. (section 38)	Non-executive
<b>Greater London Council (General Powers) Act 1982</b>	
Determination of charges for London Building Acts, consents etc. (section 3)	Non-executive
<b>Greater London Council (General Powers) Act 1981</b>	
Provisions relating to control by borough council of overcrowding in certain hostels - this includes the ability of the council to serve notices (part IV)	Non-executive
<b>Greater London Council (General Powers) Act 1979</b>	
Control of Browntail moth (section 8)	Non-executive
Licensing of entertainment booking offices (section 5)	Non-executive
<b>Greater London Council (General Powers) Act 1976</b>	

	<b>Function</b>	<b>Responsibility</b>
	Power to extinguish rights of interment in cemeteries (section 9)  <b>Greater London Council (General Powers) Act 1975</b>	Non-executive
	Power to establish foreign loans reserve fund	Non-executive
	<b>Greater London Council (General Powers) Act 1974</b>	
	Prohibition of person entering upon grass verges (section 14[2])	Non-executive
	Authorisation of parking on verges (section 15[4])	Non-executive
	<b>Greater London Council (General Powers) Act 1973</b>	
	Removal of vehicles for street cleansing (section 21)	Non-executive
	Closure of unsanitary food premises and stalls - the council may seek an order from the court for the closure of premises (section 30)	Non-executive
	<b>Greater London Council (General Powers) Act 1972</b>	
	Contributions in respect of railings (section 18)	Non-executive
	Restoration of gas and electricity services (section 19)	Non-executive
	<b>Greater London Council (General Powers) Act 1970</b>	
	Licenses to erect scaffolding (section 15)	Non-executive
	<b>Greater London Council (General Powers) Act 1969</b>	
	Walkways - There are various provisions in this Act, including the provision and declaration of walkways under section 11 (part III)	Non-executive
	<b>Greater London Council (General Powers) Act 1966</b>	
	Licensing of public exhibitions etc. (section 21)	Non-executive
<b>London County Council (General Powers) Act 1963</b>		
Boundary walls (section 6)	Non-executive	
Acquisition of easements etc. (section 8)	Non-executive	

Function	Responsibility
Underpinning of houses near a street improvement (section 9)	Non-executive
Approval of trade refuse disposal facilities (section 11)	Non-executive
Provision of shops etc. in subways (section 14)	Non-executive
Power to provide illumination, floodlighting etc (section 17)	Non-executive
<b>London County Council (General Powers) Act 1962</b>	
Service of notices for prevention of flooding etc (section 17)	Non-executive
<b>London County Council (General Powers) Act 1960</b>	
Restriction of vehicular access to and from street improvements (council may make application to minister) (section 13)	Non-executive
<b>London County Council (General Powers) Act 1959</b>	
Acquisition of land for the purpose of providing facilities for storage etc. of horticultural produce (section 12)	Non-executive
Provision of accommodation and charges (section 13)	Non-executive
Power to lease and enter into agreements (section 14)	Non-executive
<b>London County Council (General Powers) Act 1957</b>	
Provision of advances for erection etc. of buildings (section 78)	Non-executive
Removal of bottles from streets (section 81)	Non-executive
<b>London County Council (General Powers) Act 1956</b>	
Bye-laws as to artificial lighting of common staircases (section 63)	Non-executive
<b>London County Council (General Powers) Act 1955</b>	
Powers of borough councils to maintain burial grounds (section 36)	Non-executive
Return of library books etc (section 37)	Non-executive
Recovery by borough councils of expenses of fencing certain lands (section 39)	Non-executive

Function	Responsibility
<b>London County Council (General Powers) Act 1954</b>	
Defacement of streets with slogans etc (powers of removal) (section 20)	Non-executive
<b>London County Council (General Powers) Act 1953</b>	
Powers to sanitary authority to cleanse aged and feeble persons in their homes (section 43)	Non-executive
<b>London County Council (General Powers) Act 1951</b>	
Expenses of councils in connection with ceremonies etc. (section 32)	Non-executive
Improvement of roadside amenities etc. by borough councils (section 3)	Non-executive
Power to provide storage etc. for accommodation for costermongers etc. (section 35)	Non-executive
<b>London County Council (General Powers) Act 1949</b>	
Supply of heat (part II)	Non-executive
<b>London County Council (General Powers) Act 1947</b>	
Maintenance of forecourts to which public have access - council has power to serve improvement notices (section 43)	Non-executive
Fencing of dangerous lands in or near streets (section 44)	Non-executive
Recovery of expenses and costs (section 44)	Non-executive
<b>London County Council (General Powers) Act 1947</b>	
Power to provide concert halls etc. (section 4)	Non-executive
Power to provide entertainment (section 5)	Non-executive
Contributions to cultural bodies (section 59)	Non-executive
Acquisition of buildings or places of historic interest (section 61)	Non-executive
<b>London County Council (General Powers) Act 1933</b>	

Function	Responsibility
Control of petroleum - filling stations (section 69)	Non-executive
<b>London County Council (General Powers) Act 1930</b>	
Gratuities to non-pensionable employees (section 61)	Non-executive
Power to provide residences for officers or servants (section 11[1])	Non-executive
<b>London County Council (General Powers) Act 1925</b>	
Enclosure of un-enclosed land adjoining streets (section 33)	Non-executive
Power to council to erect or construct hydrants and ballast or orderly bins and pits (section 18)	Non-executive
<b>London County Council (General Powers) Act 1921</b>	
Compensation to persons in council's service on abolition of office (section 31)	Non-executive
<b>London County Council (General Powers) Act 1912</b>	
Petroleum oil depots (part II)	Non-executive
Power to contribute to provident fund (section 28)	Non-executive

## PART 3M: LOCAL CHOICE FUNCTIONS

This section allocates functions which are a matter of local choice.

Local choice functions		Responsibility
1	The determination of an appeal against any decision made by or on behalf of the authority.	Non-executive
2	The making of arrangements pursuant to subsection (1) of section 67 of, and schedule 18 to, the 1998 Act (appeals against exclusion of pupils).	Executive
3	The making of arrangements pursuant to section 94(1) and (4) of, and schedule 24 to, the 1998 Act (admission appeals).	Executive
4	The making of arrangements pursuant to section 95(2) of, and schedule 25 to, the 1998 Act (children to whom section 87 applies: appeals by governing bodies).	Executive
5	The conducting of best value reviews in accordance with the provisions of any order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999.	Executive
6	Any function relating to contaminated land	Non-executive To be dealt with in accordance with other environmental regulation matters except where it features in plans and strategies.
7	The discharge of any function relating to the control of pollution or the management of air quality	Executive
8	The service of an abatement notice in respect of a statutory nuisance.	Non-executive
9	The passing of a resolution that schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	Non-executive
10	The inspection of the authority's area to detect any statutory nuisance.	Non-executive

<b>Local choice functions</b>		<b>Responsibility</b>
11	The investigation of any complaint as to the existence of a statutory nuisance.	Non-executive
12	The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	Non-executive
13	The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Non-executive
14	The making of agreements for the execution of highways works.	Non-executive
15	The appointment of any individual - (a) to any office other than an office in which he is employed by the authority; (b) to any body other than - (i) the authority; (ii) a joint committee of two or more authorities; or (c) to any committee or sub-committee of such a body, and the revocation of any such appointment.	Executive to make appointments to outside bodies in connection with functions which are the responsibility of the executive; all other appointments to be made by the council assembly, a committee or officer.

## PART 3N: APPOINTMENTS TO OUTSIDE BODIES

Responsibility for appointments and revocation of appointments to outside bodies is a local choice function under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, regulation 3(1), schedule 2, and paragraph 19. Members may therefore decide that any of the following appointments should be made by council assembly, but statutory guidance is that the executive should make appointments to outside bodies in connection with functions which are the responsibility of the executive, and all other appointments should be made by the council assembly, a committee or officer.

Name	Purpose	Member status	How often it meets	Time of meeting	No. of places to be filled	Notes	Who appoints
<b>LGA General Assembly</b>	To consider strategic policy of national significance to local government	Council representative	Twice a year		4	The Local Government Association (LGA) advises that votes can be allocated amongst the representatives as the local authority sees fit. LGA encourages local authorities with three or four representatives on the general assembly to allocate one of the positions to minority group leaders.	<b>Council assembly</b>

<b>Name</b>	<b>Purpose</b>	<b>Member status</b>	<b>How often it meets</b>	<b>Time of meeting</b>	<b>No. of places to be filled</b>	<b>Notes</b>	<b>Who appoints</b>
<b>Age Concern London</b>	To promote the welfare of the aged in any manner which may be deemed by law to be charitable within Greater London.	Trustee	Annually (Sep, Oct or Nov)	Daytime	1		<b>Standards committee (Charities panel)</b>
<b>Browning Estate Management Board</b>	To oversee the management / running of Browning Estate with its own independent budget.	Board member	Once a Month	6.00pm	4	One officer nomination (director of housing or his nominee)	<b>Executive</b>
<b>Canada Water Consultative Forum</b>	The forum is responsible for advising on the overall direction of development proposals and ensuring public awareness and involvement in the development proposals.	Council representative	Every six to eight weeks	7.00pm	4	Requirement of the forum's constitution	<b>Executive</b>

<b>Name</b>	<b>Purpose</b>	<b>Member status</b>	<b>How often it meets</b>	<b>Time of meeting</b>	<b>No. of places to be filled</b>	<b>Notes</b>	<b>Who appoints</b>
<b>Centre for Language in Primary Education</b>	Professional development and family learning centre. Provides a range of education support, advisory and direct delivery services to schools and families throughout Southwark.	Board member	Six times a year (once every half term)	4.00pm	1		<b>Executive</b>
<b>Crystal Palace Community Development Trust</b>	Trust set up to oversee the development of the Crystal Palace area.	Board member	Once a month	Evening	1		<b>Executive</b>
<b>Greater London Energy Efficiency Network (GLEEN)</b>	Promotion of the benefits of energy efficiency through London in partnership with local authorities and other agencies.	Board member	Quarterly	Daytime	1		<b>Executive (Environment function)</b>

<b>Name</b>	<b>Purpose</b>	<b>Member status</b>	<b>How often it meets</b>	<b>Time of meeting</b>	<b>No. of places to be filled</b>	<b>Notes</b>	<b>Who appoints</b>
<b>Greater London Enterprise Limited</b>	To assist, promote, encourage and secure the physical and economic development and regeneration of the whole or any part of Greater London.		Quarterly	5.00pm	1	Does not have to be a councillor	<b>Executive (Regeneration function)</b>
<b>Lambeth &amp; Southwark Housing Association Limited</b>	To provide affordable rented housing for local people on low incomes.	Council representative	Bi monthly	6.00pm	1		<b>Executive (Housing function)</b>
<b>London Accident Prevention Council (LAPC)</b>	To reduce the number of road accident casualties within Greater London and provide a means of communication relating to road accident prevention between London local authorities, central government and other organisations.	Trustee	Quarterly	2.00pm	2	Does not have to be a councillor	<b>Executive (Community safety function)</b>

<b>Name</b>	<b>Purpose</b>	<b>Member status</b>	<b>How often it meets</b>	<b>Time of meeting</b>	<b>No. of places to be filled</b>	<b>Notes</b>	<b>Who appoints</b>
<b>London Arts</b>	To build a national force for the arts which will deliver more funding and increased profile to artists and arts organisations, benefiting audiences everywhere.	London Arts council member	Five times a year.	3.00pm	2	Likely total time commitment is up to 12 days a year.  Appointments will be for one to four year period. The terms of office will be decided by the Arts Council via the ALG.  Borough nominations will not automatically be successful as there are more boroughs than places.	<b>Executive (Leisure function)</b>
<b>London &amp; Quadrant Housing Trust – South West Thames Regional Committee</b>	To ensure that the London & Quadrant group's policies set by the governing board are interpreted in such a way as to maximise responsiveness of the trust to local circumstances.	Trustee	Four times a year	6.30pm	1 and 1 deputy	Does not have to be a councillor	<b>Executive (Housing function)</b>

Name	Purpose	Member status	How often it meets	Time of meeting	No. of places to be filled	Notes	Who appoints
<b>North Southwark Environment Trust</b>	<p>The preservation and conservation of the environment for the benefit of the public, including the promotion of energy efficiency and efficient methods of disposing of waste.</p> <p>The provision of facilities for education, recreation or other leisure time occupation, in the interests of improving the conditions of life of the inhabitants covered by the area of benefit.</p>	Trustee	Twice a year	Daytime	1	<p>Does not have to be a councillor</p> <p>The area of benefit covered by the trust is 'north of the roads known as Camberwell New Road, Camberwell Church Street, Peckham Road, Peckham High Street and Queens Road.</p>	<b>Executive (Environment function )</b>

<b>Name</b>	<b>Purpose</b>	<b>Member status</b>	<b>How often it meets</b>	<b>Time of meeting</b>	<b>No. of places to be filled</b>	<b>Notes</b>	<b>Who appoints</b>
<b>Silwood Estate SRB Partnership Board</b>	To co-ordinate and lead the implementation of the programme approved by Lewisham council.  To devise effective forward strategies for the future of the Silwood area.	Board member	Bi monthly	Evening	1		<b>Executive (Housing / regeneration function)</b>
<b>Southwark Cathedral Education Centre</b>		Trustee	Bi Annual	Daytime	1		<b>Executive</b>
<b>Southwark College Governing Body</b>		Council representative			1		<b>Executive</b>

<b>Name</b>	<b>Purpose</b>	<b>Member status</b>	<b>How often it meets</b>	<b>Time of meeting</b>	<b>No. of places to be filled</b>	<b>Notes</b>	<b>Who appoints</b>
<b>Southwark Community Leisure Ltd. (Fusion) Management Board</b>	Responsible for the management of the strategic development of health, fitness and leisure services within the borough in partnership with Southwark Council.	Board member	Quarterly	4.00pm	3	One from each political group. Does not have to be a councillor	<b>Executive (Leisure)</b>
<b>Southwark Race &amp; Equalities Council</b>	Works towards the elimination of racial discrimination and the promotion of equality of opportunity between persons of different racial groups.	Non-voting executive committee member	Every six weeks	6.45pm	3 and 3 deputies		<b>Executive</b>
<b>Southwark Groundwork Trust</b>	The promotion of environmental issues within Southwark including allocation of funding for a number of environmental projects.	Director	Four times a year	Evening	3		<b>Executive (Environment function)</b>

<b>Name</b>	<b>Purpose</b>	<b>Member status</b>	<b>How often it meets</b>	<b>Time of meeting</b>	<b>No. of places to be filled</b>	<b>Notes</b>	<b>Who appoints</b>
<b>Southwark &amp; Lambeth Archaeological Excavation committee (SLAEC)</b>	The SLAEC is an advisory body established to promote archaeological work in Southwark and to advance the knowledge of the history of Southwark and Lambeth by archaeological investigation.	Council representative	Four times a year	Evening	1 and 1 deputy		<b>Executive</b>
<b>Chartered Institute of Library and Information Professionals (CILIP) – formerly known as the Library Association</b>	Professional body for librarian and information professionals. Promotes librarianship as a profession and offers training and development courses.	Board member	Four times a year	Daytime	1		<b>Executive (Libraries)</b>

<b>Name</b>	<b>Purpose</b>	<b>Member status</b>	<b>How often it meets</b>	<b>Time of meeting</b>	<b>No. of places to be filled</b>	<b>Notes</b>	<b>Who appoints</b>
<b>LGA Urban Commission</b>	Forum for members who have an interest in urban affairs. It deals with matters covering commitments to regeneration, urban governance and neighbourhood hearings and urban issues in Europe.	Council representative	Two times a year	10.00am	2	The council is entitled to five votes and may allocate them amongst councillor representatives as it sees fit. 1 representative may be an officer, however only councillor representatives may vote.	<b>Executive</b>
<b>Lee Valley Regional Park Authority</b>	To help meet the ever growing and various leisure needs of the people of Hertfordshire, Essex and Greater London, whilst conserving nature and improving the environment in the area covered by the Lee Valley Regional Park authority.	Member of the Lee Valley Regional Park authority.	Eight times a year	2:00pm	1	Term of office is until 30 June 2005.  It will be for the ALG to decide which non-riparian council representative will be appointed.	<b>Executive (Leisure function)</b>

<b>Name</b>	<b>Purpose</b>	<b>Member status</b>	<b>How often it meets</b>	<b>Time of meeting</b>	<b>No. of places to be filled</b>	<b>Notes</b>	<b>Who appoints</b>
<b>Waterloo Project Board</b>	To achieve the comprehensive regeneration of the area between Blackfriars Rd, Lambeth Rd and St George's Circus.	Council representative	Quarterly	8.30am	2	One to be lead member for regeneration and the other to be a local ward councillor	<b>Executive</b>
<b>Waterloo Community Regeneration Trust</b>	To ensure maximum community engagement and benefit from regeneration initiatives being implemented in the area.	Council representative			1	To be a local ward councillor	
<b>Appointments to other charities</b>	The council has been given the power (by trusts, wills, and Charity Commission schemes) to appoint trustees for a number of local charities.	Trustees	Variable	Variable	Variable	The Charity Commissioners advise that appointments to charities should not be made on a political basis. When appointed, charity trustees do not represent the council, and must act solely in the best interests of the charity and must act independently of the council	<b>Standards committee (Appointments panel)</b>



## **COUNCIL ASSEMBLY PROCEDURE RULES**

### **CONTENTS**

#### **1. GENERAL PROCEDURES APPLYING TO COUNCIL ASSEMBLY MEETINGS**

- 1.1 No smoking / eating at meetings
- 1.2 Notice and summons of meetings
- 1.3 Chair of meeting
- 1.4 Quorum
- 1.5 Powers of the chair
- 1.6 Variation in order of business
- 1.7 Prevention of disorderly conduct
- 1.8 Broadcasting and recording
- 1.9 Continuing membership in council election year
- 1.10 Voting rights at annual meeting
- 1.11 Declaration of interests
- 1.12 Previous decisions and motions
- 1.13 Guillotine
- 1.14 Motions without notice
- 1.15 Notice of questions and amendments on officer reports
- 1.16 Rules of debate
- 1.17 Voting
- 1.18 Recorded votes
- 1.19 Formal records to be maintained

#### **2. ANNUAL (MAYOR-MAKING) MEETING OF THE COUNCIL ASSEMBLY AND ANNUAL (CONSTITUTIONAL) MEETING**

- 2.1 Annual (Mayor-making) meeting
- 2.2 Annual (constitutional) meeting
- 2.3 Annual (Mayor-making) meeting – business
- 2.4 Annual (constitutional) meeting – business
- 2.5 Leader and executive
- 2.6 Appointment of reserve/substitute members of committees and sub-committees

### **3. ORDINARY MEETINGS OF THE COUNCIL ASSEMBLY**

- 3.1 Dates and frequency of meetings**
- 3.2 Order of business at ordinary council meetings**
- 3.3 Agenda and minutes**
- 3.4 Record of attendance**
- 3.5 Exclusion of public**
- 3.6 Public question time**
- 3.7 Deputations to council assembly**
- 3.8 Petitions to council assembly**
- 3.9 Questions by members**
- 3.10 Submission of members motions on notice**
- 3.11 Notice for motions and amendments on reports from the executive and committees**
- 3.12 Urgent questions by group leaders**
- 3.13 Recording of receipt of motions, amendments and questions**

### **4. EXTRAORDINARY MEETING**

- 4.1 Calling of extraordinary meeting**
- 4.2 Authority for chief executive to summon council assembly**
- 4.3 Business**

### **5. GRANTING OF THE FREEDOM OF THE BOROUGH**

### **6. EXCLUSION OF THE PUBLIC**

### **7. MEMBERS' CONDUCT**

### **8. SUSPENSIONS AND AMENDMENT OF COUNCIL ASSEMBLY PROCEDURE RULES**

### **9. INTERIM DECISION MAKING ARRANGEMENTS FOR THE PERIOD BETWEEN A MUNICIPAL ELECTION AND CONSTITUTIONAL COUNCIL**

#### **APPENDICES:**

- 1. Protocol governing the discussion in council assembly on investigations and rulings of the Standards Board and associated bodies.**
- 2. Protocol on receipt of members' questions, motions and amendments.**

#### **Information to members of the public:**

Members of the public may attend any meeting of the council assembly subject to the business being considered at the meeting not being exempt under the provisions set out in the access to information rules.

**\* Denotes where a council assembly procedure rule may not be suspended**

## **1. GENERAL PROCEDURES APPLYING TO COUNCIL ASSEMBLY MEETINGS**

### **1.1 NO SMOKING/ EATING AT MEETINGS**

1. \* No smoking shall be permitted at any council assembly meeting.
2. The consumption of food shall not be permitted within the council chamber.

### **1.2 NOTICE AND SUMMONS OF MEETINGS**

1. \* The chief executive will give notice to the public of the time and place of any meeting in accordance with the access to information rules. At least seven clear working days before a meeting, the chief executive will send a summons signed by him or her by post to 16 members of the council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

#### **Time and place**

2. Unless the council, or the Mayor in consultation with the chief executive, shall otherwise decide, all meetings of the council shall commence at 7.00pm
3. Unless the council, or the Mayor in consultation with the chief executive, shall otherwise decide, all meetings of the council assembly shall be held at the Town Hall, Peckham Road, SE5.

#### **Meetings convened at short notice**

4. Meetings of the council assembly may only be convened at less than seven clear working days' notice where by reason of special circumstances, which shall be specified in the summons, the meeting is required to be called at that time as a matter of urgency.

### **1.3 \* CHAIR OF MEETING**

The person presiding at the meeting may exercise any power or duty of the Mayor.

### **1.4 \* QUORUM**

1. No business shall be considered unless 16 councillors (or 25% of the membership) are present in the chamber or meeting room. If the chair considers the meeting to be inquorate, the meeting shall stand deferred for 15 minutes. If after 15 minutes' deferment there is still no quorum then the consideration of any business not transacted shall be held over to the next ordinary meeting of the council, unless the chair fixes an alternative date.

### **Quorum at start of meeting**

2. The meeting of the council assembly shall commence as soon as there is a quorum, following the time at which the meeting has been appointed to be held.

### **Quorum if one-third of members are disqualified**

3. Where more than one-third of members of the council become disqualified at the same time, then, until the number of members in office is increased to not less than two-thirds of the whole number of members in office of the council, the quorum of the council assembly shall be determined by reference to the number of members of the council remaining qualified instead of by reference to the whole number of members of the council. The quorum shall then be one-quarter of the members of the council who remain qualified.

### **1.5 \* POWERS OF THE CHAIR**

The chair shall decide, having taken the advice of the borough solicitor, all matters of order, competence, relevancy, interpretation of council procedure rules relating to the conduct of the meeting and the appropriateness of council questions.

### **1.6 VARIATION IN ORDER OF BUSINESS**

Business falling under paragraphs 2.3(ii), 3.2(i and iii) shall not be displaced but, subject thereto, the order of business may be varied by -

- (a) the Mayor at her or his discretion; or
- (b) a resolution passed on a motion which shall be put without debate.

However, should no decision be made as to the election of the Mayor at the annual meeting, this shall be the first item of business to be considered at the constitutional meeting or any other subsequent meetings.

### **1.7 \* PREVENTION OF DISORDERLY CONDUCT**

1. A councillor may be directed to discontinue speaking if the chair considers the councillor is being repetitive, irrelevant, uses unbecoming language, or is in some other way breaching the order of the meeting.

If a member persistently disregards the ruling of the chair by behaving improperly or offensively or deliberately obstructs business, the chair, having warned the councillor shall move that the councillor called by name, leaves the meeting. The motion, if seconded, shall be put immediately to the vote without further debate and if carried the councillor shall leave immediately.

2. In the case of a member of the public disrupting the meeting or if there is a general disturbance, the chair may order the removal of a person or that

the public areas be cleared. Re-admission shall be at the discretion of the chair.

3. In the event of a general disturbance making orderly business impossible, the chair may adjourn the meeting for as long as he/she thinks necessary for order to be restored.

### **1.8 BROADCASTING AND RECORDING**

Electronic recording, photographing or filming of the proceedings of a council meeting by any member of the public, media or councillor shall only take place with the prior agreement of the chair.

### **1.9 \* CONTINUING MEMBERSHIP IN COUNCIL ELECTION YEAR**

1. In a year when the term of office of the Mayor spans full council elections, the Mayor shall continue in office and remain as a member of the council notwithstanding that she/he does not seek or achieve re-election as a councillor.
2. In a year when the term of office of the Deputy Mayor spans full council elections, the Deputy Mayor shall continue in office but will not remain as a member of the council unless she/he achieves re-election as a councillor.
3. The term of office of the Mayor and Deputy Mayor in an election year shall continue until the annual meeting of the council assembly.

### **1.10 \* VOTING RIGHTS AT ANNUAL MEETING**

1. If, apart from paragraph 1.9 above, the person presiding at the annual meeting would have ceased to be a member of the council s/he shall not be entitled to vote in the election except in accordance with paragraph 2 below.

#### **Casting vote**

2. In the case of an equality of votes, the person presiding at the meeting shall give a casting vote in addition to any other vote s/he may have.

### **1.11 \* DECLARATION OF INTERESTS**

Councillors shall abide by the members' code of conduct. It is the responsibility of every councillor to declare an interest by the time the relevant item of business is reached.

### **1.12 PREVIOUS DECISIONS AND MOTIONS**

#### **Motion to rescind a previous decision**

1. A motion or amendment to rescind a decision made at a meeting of council within the previous six months cannot be moved unless the notice of motion, delivered in accordance with rule 3.10(1), is signed by at least 16 members.

### **Motion similar to one previously rejected**

2. A motion or amendment in similar terms to one that has been rejected at a meeting of council in the previous six months cannot be moved unless the notice of motion or amendment, delivered in accordance with rule 3.10(1), is signed by at least 16 members.

### **Notice**

3. Notice of a motion to rescind or reject a previous motion shall be submitted four clear working days in advance of the meeting to the borough solicitor.

## **1.13 GUILLOTINE**

### **Concluding the meeting**

1. The guillotine shall take effect three hours after the conclusion of introductory business. The time taken by announcements, declarations of interest, receipt of apologies, approval of previous sets of minutes, receipt of petitions and any adjournments, shall be excluded for the purposes of calculating when the guillotine shall take effect.
2. A bell will be rung once the guillotine is reached and the member speaking must immediately sit down.
3. The following outstanding business shall be considered:
  - Any business required by statute
  - Approval of minutes of council assembly
  - Each individual report with a recommendation, be it from the executive, committee or officer
  - Any other business accepted by the Mayor as late and urgent business.

### **Process for dealing with any outstanding business**

#### ***(Fifteen Minute Debate rule)***

4. Each item of business shall be afforded up to a maximum of 15 minutes. If the matter is not concluded within that time the Mayor shall, if appropriate, call upon the mover of the substantive motion to exercise their right of reply and a vote shall be taken. In circumstances where the council is legally obliged to make a decision, but the motion or recommendation voted upon is lost, the Mayor will take motions from the floor, each allocated up to a maximum of 15 minutes, until a decision is reached.

### **Motions not dealt with**

5. Each group will be entitled to have at least one motion debated at each council assembly meeting. At the fall of the guillotine, the chief whips shall ascertain which outstanding motions remain opposed. Any unopposed motion shall be approved without debate. A maximum of an hour will then be allowed for opposed motions not yet considered to be debated, in

order of chief whip's prioritisation to council assembly. The debates will be subject to a maximum of ten minutes; with the mover of the motion being allowed a maximum of three minutes and other speakers being allowed a maximum of two minutes. The Mayor shall ensure that one speaker opposed to the motion is called.

5. All other motions not considered shall be put to the vote without debate.

#### **1.14 MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

- (a) to appoint a chair of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a committee or member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) amendment of a motion, by its mover, with the consent of the meeting (amendments must not negate the existing motion, nor introduce a new motion);
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular council assembly procedure rule;
- (n) to exclude the public and press in accordance with the access to information rules;
- (o) to exclude a member from the meeting under rule 1.7(1);
- (p) to give the consent of the council where its consent is required by this constitution;
- (q) motions extending the time limit of speeches;
- (r) motions under council assembly procedure rule 8(1) – suspension of council procedure rules without notice;

- (s) motions under council assembly procedure rule 3.7(9)(ix);
- (t) motions under council assembly procedure rule 3.7(9)(i) to receive a deputation;
- (u) motions and amendments on matters that have been addressed by a deputation received at council assembly and concerning which there is no report for recommendation on the agenda; and
- (v) motions and amendments on matters upon which the council is legally obliged to make a decision, but for which a motion of which notice had been given has been lost.

## **1.15 NOTICE OF QUESTIONS AND AMENDMENTS ON OFFICER REPORTS**

### **Notice of member's questions**

1. Notice of every member's question (but not supplemental questions) shall be given in writing, signed by the member, and delivered at least one day before the day of the meeting at the office of the borough solicitor by whom it shall be dated, numbered in the order in which it was received and entered in a book kept for that purpose which shall be open to inspection by every member of the council. The borough solicitor shall circulate copies of all such questions together with written answers by the start of the meeting.

### **Amendments to reports submitted by officers**

2. In the case of reports submitted direct to council assembly by officers, the recommendations shall be deemed to have been moved by the person presiding (with no seconder required) and will therefore be subject only to amendment, provided that notice has been given in accordance with the provisions of rule 3.11(2).

## **1.16 RULES OF DEBATE**

1. \* A councillor may indicate their desire to speak by raising their hand, but shall only speak when called by name by the chair. When speaking the councillor shall stand, unless unable to do so. All other councillors shall remain seated in their allotted place when another councillor is speaking, unless wishing to make a point of order or point of personal explanation. If more than one councillor stands, the chair will ask one to speak and the others must sit down.
2. \* When the chair stands during a debate, any councillor speaking at the time must stop and sit down. The meeting must be silent.
3. \* Councillors shall address the chair when speaking, and:
  - (a) refer to each other as Mayor, Deputy Mayor, leader, executive member, chair or councillor, as the case may be;
  - (b) refrain from using unbecoming language;

- (c) refrain from comments of a personal nature about another councillor;
  - (d) not attribute improper motives to another councillor;
  - (e) refrain from comments that relate to an investigation (whether complete or not) by, or ruling of, the Standards Board for England, the standards committee or the Adjudication panel, in so far as those comments relate to the behaviour or conduct of an individual member or members.
4. No debate shall be allowed except in relation to a motion or amendment under consideration. Only one motion or amendment may be considered at a time. A motion or amendment once moved and seconded, may be withdrawn only by the mover and seconder, with the consent of the meeting. No further debate shall take place on a motion or amendment once it has been withdrawn.
5. Every motion or amendment must be moved and seconded. A councillor may not move more than one amendment or motion on the same subject.

**No speeches until motion is seconded**

6. No speeches may be made until the mover has moved a proposal and explained the purpose of it and the motion has been seconded.

**Right to require motion in writing**

7. Unless notice of the motion has already been given, the Mayor may require it to be written down and handed to him/her before it is discussed.

**Secunder's speech**

8. When seconding a motion or amendment, the seconder may reserve their speech until later in the debate.

**Content and length of speeches**

9. Speeches must be directed to the matter under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Mayor. A seconder's speech may not exceed three minutes without the consent of the Mayor.

**When a member may speak again**

10. A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:
- (a) to speak once on an amendment moved by another member;
  - (b) to move a further amendment if the motion has been amended since he/she last spoke;
  - (c) to speak on the main issue, if his/her first speech was on an amendment moved by another member, (whether or not the

amendment on which he/she spoke was carried);

- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

#### **Amendments to motions**

11. An amendment to a motion must be delivered in accordance with rules 3.10(1) or 3.11(2), be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words.

As long as the effect of (ii) to (iv) is not to negate the motion or to delete all of the original motion or all words after the initial “that” in the original motion.

12. Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been completely dealt with.
13. If an amendment is not carried, other amendments to the original motion may be moved.
14. If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
15. 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.

#### **Alteration of motion**

16. A member may alter a motion of which he/she has given notice, with the consent of the meeting. The meeting’s consent will be signified without discussion.
17. A member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting’s consent will be signified without discussion.
18. Only alterations, which could be made as an amendment, may be made.

### **Withdrawal of motion**

19. A member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

### **Right of reply**

20. The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
21. If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it. If an amendment is carried, the mover of the amendment shall hold the right to reply to any subsequent amendments and, if no further amendments are carried, at the conclusion of the debate on the substantive motion.
22. The mover of the amendment has no right of reply to the debate on his or her amendment.

### **Motions which may be moved during debate**

23. When a motion is under debate, no other motion may be moved except the following procedural motions:
  - (i) to withdraw a motion;
  - (ii) to amend a motion;
  - (iii) to proceed to the next business;
  - (iv) that the question be now put;
  - (v) to adjourn a debate;
  - (vi) to adjourn a meeting;
  - (vii) to exclude the public and press in accordance with the access to information rules; and
  - (viii) to not hear further a member named under rule 1.7(1) or to exclude them from the meeting under rule 1.7(1).

### **Closure motions**

24. The following closure motions may be moved during discussion of another motion ("the original motion"). They shall be moved, seconded and put without discussion. A second closure motion in relation to the same question shall not be moved within 30 minutes of the rejection of a previous motion.
25. If the motion is moved and seconded, then the person presiding shall

proceed as follows:

(a) "That the meeting proceed to the next business"

- (i) Moving the motion – Any member who has not already spoken on the question may, provided no other member is speaking, move (without speaking to the motion) that the meeting do now proceed to the next business and, if the motion is seconded, it shall be put to the vote without discussion.
- (ii) Effect on question under consideration – If the motion is carried, the question which was under consideration shall be dropped and deemed not approved.

(b) "That the question be now put"

- (i) Any member who has not already spoken upon the question before the meeting may, provided no other member is speaking, move (without speaking to the motion) that the question be now put. The motion, if seconded, shall be put to the vote without discussion.
- (ii) Right to reply – If the motion is carried, no further speeches shall be permitted except in pursuance of a right to reply.
- (iii) Vote – The vote shall then be taken immediately.

(c) "That the debate be now adjourned"

- (i) Motion to adjourn – Any member who has not already spoken upon the question before the meeting may, provided no other member is speaking, move that the debate is adjourned. That motion if seconded, shall be put to the vote without discussion.
- (ii) The adjourned debate – If a motion to adjourn the debate is carried, the discussion shall be resumed as adjourned business at the next ordinary meeting or such other day and hour as shall have been specified in the motion, and the meeting shall proceed to the next business on the agenda. Unless the adjourned business is taken at the next ordinary meeting, the only business, which shall be transacted at an adjourned meeting, shall be the uncompleted business set out in the summons for the meeting which was adjourned. On resumption of an adjourned debate, the member who moved its adjournment shall be entitled to speak first.
- (iii) Procedure in dealing with an adjournment motion – The

mover of a motion under paragraph (i) above may speak for not more than five minutes but the seconder shall not be permitted to speak beyond formally seconding the motion. Upon such a motion for adjournment being made, the mover (or presenter) of the matter then under debate may (without prejudice to her or his ultimate right of reply if the adjournment motion is lost) speak on the adjournment for not more than five minutes after which the adjournment motion shall be put to the vote without further debate or reply by the mover.

(d) "That the meeting do now adjourn"

- (i) Motion to adjourn – Any member who has not already spoken upon the question before the meeting may, provided no other member is speaking, move that the meeting do now adjourn. The chair shall not be required to take a time and place adjournment until and after consultation with the political group whips, if she/he so deems necessary.
- (ii) Uncompleted business – If a motion to adjourn the meeting having been seconded is carried, the council assembly, shall stand adjourned to the next ordinary meeting or to such other day and hour as shall have been specified in the motion. Unless the adjourned business is taken at the next ordinary meeting, the only business which shall be transacted at an adjourned meeting shall be the uncompleted business set out in the summons for the meeting which was adjourned.
- (iii) Uncontentious business – Before putting to the meeting a motion for adjournment of the meeting, it shall be open to the Mayor/chair to ask whether it will first deal with uncontentious business.
- (iv) Procedure in dealing with an adjournment motion – The mover of a motion under paragraph (i) above may speak for not more than five minutes but the seconder shall not be permitted to speak beyond formally seconding the motion. Upon such a motion for adjournment being made, the mover (or presenter) of the matter then under debate may (without prejudice to her or his ultimate right of reply if the adjournment motion is lost) speak on the adjournment for not more than five minutes, after which the adjournment motion shall forthwith be put to the vote without further debate or reply by the mover.

**Point of order**

26. \* A member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach

of the council assembly procedure rules or the law. The member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Mayor on the matter will be final.

### **Personal explanation**

27. \* A member may request to make a personal explanation at any time. A personal explanation may only enable the member to refute or correct a statement attributed to him/her or any action he/she has taken.

The following procedure will apply –

- (a) The member wishing to intervene to make a personal explanation must signify to the person presiding by standing up and stating “personal explanation”.
- (b) The person presiding will ask the member speaking at that time whether they are willing to allow the member wishing to intervene to make a personal explanation.
- (c) The member speaking may either:
  - (i) agree to receive the personal explanation immediately; or,
  - (ii) delay the receipt of the personal explanation until later in her/his speech; or
  - (iii) not agree to receive it.
- (d) If the request to receive the personal explanation is not agreed by the member currently speaking, the member requesting to make a personal explanation may not call for a further opportunity during the same speech, but will however be entitled to a point of personal explanation at the end of the speech if so desired.
- (e) If and when a personal explanation is heard, it must not be excessively long.

## **1.17 VOTING**

### **Majority**

1. \* Unless this constitution provides otherwise or is required by statute, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put to the vote.

### **Mayor/chair’s casting vote**

2. \* If there are equal numbers of votes for and against, the Mayor/chair will have a second or casting vote. There will be no restriction on how the Mayor/chair chooses to exercise a casting vote.

### **Show of hands**

3. Unless a recorded vote is demanded under rule 1.17(4), the chair will

take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

**Recorded vote**

4. If 45% or more members present at the meeting request a division, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes in accordance with council procedure rule 1.18(4).

**Right to require individual vote to be recorded**

*This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993/17.6.*

5. \* Where any member requests it immediately after the vote is taken, their vote will be recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

**Voting on appointments**

6. \* If there are more than two people nominated for any position to be filled, the names will be put to the vote in alphabetical order and the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

**1.18 RECORDED VOTES**

**Requesting a recorded vote at council assembly meetings and number required**

1. Any member may request a recorded vote on a motion or amendment being voted upon by standing in her or his place and so requesting before the casting of votes has started.
2. The specified number of members to request a recorded vote is 45% of those members present who are entitled to vote on the item.
3. If a request receives sufficient support in accordance with (2) above, a division shall be taken in accordance with the following procedure.

**Procedure for recording the voting at council assembly meetings**

4. The Mayor shall cause the division bell to be rung for one minute, after which the doors of the council chamber shall be closed and no members will be admitted until after the voting is completed. The Mayor shall put the question again. The borough solicitor shall call the names of all members in alphabetical order and each member present shall declare herself or himself 'for or against' the motion or amendment or that she/he abstains.
5. The votes, abstentions and absences from the council chamber shall be recorded in writing and entered in the minutes.

6. The Mayor shall declare the result of the recorded vote, stating the numbers 'for and against' the motion or amendment and the number of members who abstained.
7. Once a recorded vote has been called, no adjournment may be moved until the vote has been taken.

**Motions where recorded votes are not permitted**

8. A recorded vote may not be held in voting on the following motions:-
  - (a) election of the Mayor (council assembly procedure rule 2.3(ii));
  - (b) the appointment of chairs and vice chairs (council assembly procedure rule 2.4(vi));
  - (c) to vary the order of business (council assembly procedure rule 1.6);
  - (d) motions relating to the accuracy of the minutes (council assembly procedure rule 3.3(4));
  - (e) receipt of information reports of committees;
  - (f) that all recommendations then outstanding be approved (council assembly procedure rule 1.13(3));
  - (g) to proceed to the next business (council assembly procedure rule 1.16(25a));
  - (h) that the question be now put (council assembly procedure rule 1.16(25b));
  - (i) that the debate be adjourned (council assembly procedure rule 1.16(25c));
  - (j) that the meeting be adjourned (council assembly procedure rule 1.16(25d));
  - (k) seeking the consent of the council where it is required under council assembly procedure rules.

**1.19 FORMAL RECORDS TO BE MAINTAINED**

All meetings of the council assembly are to be clerked by a representative of the borough solicitor, with minutes to be produced including details of members attending each meeting and details of decisions taken. Copies of all agendas and minutes are to be maintained by the borough solicitor.

**2. ANNUAL (MAYOR-MAKING) MEETING OF THE COUNCIL ASSEMBLY AND ANNUAL (CONSTITUTIONAL) MEETING**

**2.1 \* ANNUAL (MAYOR-MAKING) MEETING**

1. The council shall in every year hold an annual meeting.

2. In a year of ordinary elections of councillors to the council, the annual meeting shall be held on the eighth day after the day of retirement of councillors or such other day as the council may fix within the twenty-one days immediately following the day of retirement. This will normally be the third or fourth Wednesday in the month of May.
3. The annual meeting shall in all other years be held on the third Wednesday in the month of May, except when re-arranged (so long as it is held in March, April or May).

## **2.2 \* ANNUAL (CONSTITUTIONAL) MEETING**

1. The council shall in every year hold a constitutional meeting.
2. The constitutional meeting shall be held no more than ten days after the annual meeting.

## **2.3 ANNUAL (MAYOR-MAKING) MEETING - BUSINESS**

The annual (Mayor-making) meeting will:

- (i) elect a person to preside if the outgoing Mayor is not present;
- (ii) elect a new Mayor (the Mayor thereafter, may appoint a Deputy Mayor) and;
- (iii) receive any announcements from the outgoing Mayor and/or head of the paid service.

## **2.4 ANNUAL (CONSTITUTIONAL) MEETING - BUSINESS**

1. The annual (constitutional) meeting will:
  - (i) Elect a person to preside if the Mayor is not present and the Deputy Mayor is not chosen to preside;
  - (ii) approve as a correct record and sign the minutes of the last meeting of the council assembly in the previous municipal year and the preceding annual meeting;
  - (iii) receive any Mayor's announcements, including apologies for absence;
  - (iv) elect the leader for the ensuing year;
  - (v) agree the determination and allocation of executive functions to members of the executive;
  - (vi) appoint (at least one) overview and scrutiny committee, a standards committee and such other committees, the number and allocation of places on each committee, their terms of reference and the appointment of chairs and vice-chairs for the coming year as the council considers appropriate to deal with matters which are

neither reserved to the council nor are executive functions (as set out in part 3, table 1 of this constitution);

- (vii) agree the 'matters reserved for member decision' and 'scheme of delegation' or such part of it as the constitution determines it is for the council to agree (as set out in part 3 of this constitution);
- (viii) receive a report from the borough solicitor as to the appointment of the leader of the majority group, the leader of the opposition, leaders of other party groups (if any) and the chief and deputy whip of each party group;
- (ix) consider a report from the borough solicitor on constitutional matters for the municipal year including:
  - The draft calendar of meetings for the coming year;
  - The appointment of representatives to outside bodies and Joint committees; and
  - Review of the constitution.
- (x) consider the members allowances scheme for the forthcoming municipal year;
- (xi) other business specified in the agenda (if any); and
- (xii) Any matters of urgency not specified in the summons.

### **Establishment and selection of councillors on committees and outside bodies**

2. The annual (constitutional) meeting will:
  - (i) decide which committees to establish for the municipal year;
  - (ii) decide the size and terms of reference for those committees;
  - (iii) decide the allocation of seats and reserve/substitute members to political groups in accordance with the political balance rules;
  - (iv) receive nominations of councillors to serve on each committee and outside body; and
  - (v) appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the council or is exercisable only by the executive.
3. The borough solicitor shall prepare and provide lists of appointments to be made by the council to the secretary of each political group represented on the council prior to the annual general meeting of each political group, taking account of the statutory rules of proportionality, where these apply. The secretary of each political group shall submit a list of the members of the group together with nominations for all appointments, as listed, to the borough solicitor not less than eight clear working days prior to the day of

the annual council meeting.

4. At the termination of business, annual meetings of committees shall occur for the purposes of establishing sub-committees and making appointments to any outside bodies within the delegations to each committee.

## **2.5 LEADER AND EXECUTIVE**

1. The leader shall be appointed at the annual meeting of the council or, at an ordinary or extraordinary council meeting as necessary.
2. In addition to the leader, between one and nine other councillors shall be appointed at the annual meeting of the council or at an ordinary or extraordinary council meeting as necessary, to serve as members of the executive.
3. The leader shall have power to vary the allocation of portfolios within the executive on an interim basis. The leader shall also have power to designate an executive member as lead executive member in respect of any policy matter that is cross-cutting. In the event that an executive member ceases to be a member of the executive, the leader shall have the discretion as to whether or not to appoint a replacement.
4. Other political groups represented on the council may nominate a councillor to act as their leader. The leader of the second largest political group represented on the council shall be known as the leader of the opposition and shall act as the spokesperson for the opposition on all matters of general policy and business.

## **2.6 APPOINTMENT OF RESERVE/SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES**

### **Allocation**

1. As well as allocating seats on non-executive committees and sub-committees, the council will allocate seats in the same manner for reserve/substitute members.

### **Number**

2. For each committee or sub-committee, council assembly will appoint one fewer reserve seats(s) than a political group holds ordinary seats, subject to a minimum of one.

### **Powers and duties**

3. Substitute members will have all the powers and duties of any ordinary member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

### **Substitution**

4. At the commencement of each meeting each political group shall announce whether any of the named voting members are to be substituted by a

reserve or deputy. This substitution shall remain in effect for the whole of the meeting.

## **2.7 PROPER OFFICER SHALL MAKE OR TERMINATE APPOINTMENTS IF NECESSARY**

1. Whenever an appointment of a voting member of a committee or sub-committee falls to be made in accordance with the wishes of a political group to whom the seat has been allocated, and whenever such an appointment falls to be terminated in accordance with such wishes, then the proper officer shall make or terminate the appointment accordingly and inform the appropriate committee or sub-committee at its next available meeting. The proper officer shall maintain a full list of committee and sub-committee memberships. In the event of the termination of an appointment, in accordance with the wishes of a political group, the proper officer is to inform the individual concerned, in writing, within three days of notice being received.

### **Notification of appointments, resignations and termination of appointments**

2. All appointments to and resignations from the membership of committees and sub committees must be submitted in writing to the borough solicitor. A minimum of five clear working days must elapse from the date of receipt of such notices before any appointments become effective.

## **3. ORDINARY MEETINGS OF THE COUNCIL ASSEMBLY**

### **3.1 DATES AND FREQUENCY OF MEETINGS**

Nine meetings of the council, including the Mayor-making, constitutional and council tax meetings, shall be scheduled to be held at the Town Hall, Peckham Road, London, on such dates as agreed by the annual constitutional meeting and occasionally as set out in rule 4.

### **3.2 ORDER OF BUSINESS AT ORDINARY COUNCIL MEETINGS**

The business at an ordinary meeting shall be as follows, taken in the sequence indicated unless otherwise directed by the chair or agreed following a motion carried:

- (i) elect a person to preside if the Mayor is not present and the Deputy Mayor is not chosen to preside;
- (ii) receive any announcements from the Mayor, members of the executive or the chief executive, including matters which the Mayor has decided to add to the agenda as urgent;
- (iii) receive any declarations of interest from members;
- (iv) approve the minutes of the last meeting;

- (v) receive questions from, and provide answers to, the public in relation to matters, which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
- (vi) deputations;
- (vii) urgent questions by group leaders;
- (viii) questions from councillors to the leader, other executive members and chairs of committees/ community councils;
- (ix) deal with any business from the last council meeting;
- (x) receive executive proposals in relation to the council's budget and policy framework and any other reports for decision (if any);
- (xi) receiving the report of the overview and scrutiny committee/sub-committee (if any);
- (xii) receive reports from committees/officers of the council;
- (xiii) receive reports about and receive questions and answers on the business of joint arrangements and external organisation, including reports from members appointed to outside bodies;
- (xiv) consider motions;
- (xv) open business which the chair has accepted as urgent;
- (xvi) any confidential business where the public are excluded from the meeting; and,
- (xvii) adjournment debates.

### **3.3 AGENDA AND MINUTES**

1. The borough solicitor shall ensure that an agenda and summons for the meeting is despatched to councillors and available to the public and press seven clear working days in advance of the meeting.
2. The borough solicitor shall ensure that a record is made of the decisions taken at every meeting of the council. The minutes shall also include a record of the councillors in attendance, those absent and any apologies received.
3. The declaration of any personal interest shall be recorded in the minutes of the meeting, including whether the councillor remained present or withdrew from the meeting for the duration of the discussion.

#### **Signing the minutes**

4. \* The Mayor/chair will sign the minutes of the proceedings at the next suitable meeting. The Mayor/chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

### **No requirement to sign minutes of previous meeting at extraordinary meeting**

*This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993.*

5. \* Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an extraordinary meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

### **Form of minutes**

6. Minutes will contain all motions and amendments in the exact form and order the chair put them.

### **3.4 \* RECORD OF ATTENDANCE**

All members present during the whole or part of a meeting must sign their names on the attendance sheets and their time of departure if before the meeting ends, before the conclusion of every meeting to assist with the record of attendance.

### **3.5 EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the access to information rules in part 4 of the constitution or rule 1.7(2) (disturbance by public).

### **3.6 PUBLIC QUESTION TIME**

1. The time during which public questions shall be taken shall not exceed 30 minutes. It shall not be in order to move for an extension of this time limit. When the time limit has expired, any remaining written replies shall be taken as read. Public question time shall not be taken at the annual (Mayor-making), annual (constitutional) meeting and the ordinary council meeting when the council tax is set.
2. A resident or business ratepayer of the borough may ask one written question (limited to 50 words) on any matter in relation to which the council have powers. The question must be received nine clear working days in advance of the council assembly meeting by the borough solicitor.<sup>28</sup>
3. Each question must provide the name and address of the questioner and name the executive member/committee chair to whom the question should be put.
4. Questions shall be dealt with in the order in which they are received. A copy of each question shall be given to the Mayor and the appropriate executive member/committee chair. The content of any answers shall be

---

<sup>28</sup> A protocol providing guidance on the means by which questions can be submitted is set out in appendix 2 to these procedure rules.

within the discretion of the appropriate executive member/committee chair.

### **Scope of questions**

5. The Mayor in consultation with the borough solicitor may reject a question if it:
  - is not about a matter for which the local authority has a responsibility or which affects the borough;
  - is defamatory, frivolous or offensive;
  - is substantially the same as a question which has been put at a meeting of the council in the past six months;
  - requires the disclosure of confidential or exempt information;
  - concerns a planning or licensing application;
  - raises a grievance for which there are other established processes for resolution;
  - relates to an investigation (whether completed or no) by, or ruling of, the Standards Board for England, the standards committee or the Adjudication panel, in so far as those comments relate to the behaviour or conduct of an individual member or members.

### **Record of questions**

6. The borough solicitor will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put. Rejected questions will include reasons for rejection.
7. Copies of all the questions to be dealt with at the meeting, together with draft written answers, shall be circulated (in a suitable format) at the meeting and copies shall be available for members of the public and the press.

### **Asking the question at the meeting**

8. The Mayor will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Mayor to put the question on their behalf. The Mayor may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

### **Supplemental question**

9. A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a

supplementary question on any of the grounds in rule 3.6(5) above.

#### **Written answers**

10. Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.

#### **Reference of question to the executive or a committee**

11. Unless the Mayor decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to the executive or the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

### **3.7 DEPUTATIONS TO COUNCIL ASSEMBLY**

1. Requests for deputations from groups of people who have alternative means of expressing their views through recognised channels e.g. employees of the authority, trade unions representing staff employed by the authority etc. should not be entertained under this rule. Deputations can only be made by a person or people resident or working in the borough.
2. The deputation shall not concern approval or otherwise of a current planning or licensing application but may address any other issue within the direct responsibility of the council, or where the council could be reasonably expected to lobby on behalf of residents.

#### **Formalities to be observed in applying to be heard**

3. An application for a deputation to be heard shall be submitted by a representative of the deputation in writing to the borough solicitor no later than nine clear working days before the day of the council assembly meeting. The date and time of receipt of such requests will be recorded in a book kept for that purpose. Any written representations associated with a deputation should ideally be submitted at the same time as the request for a deputation and certainly no later than three clear working days before the day of the council assembly meeting.

#### **Written deputations**

4. Subject to complying with 3.7(1) – 3.7(3), details of written deputations will be included on the agenda papers for the meeting of the council assembly.
5. If the matter is not dealt with by council assembly, the matter shall be referred without debate to the relevant executive member who shall, after consideration, respond with an open reply to the sender.

#### **Maximum number of deputations to be heard**

6. Subject to (7) below, the maximum number of deputations in respect of an individual item shall not exceed two and not more than three deputations shall be considered at any one meeting of the council assembly. In the

event that more than two requests for a deputation are received in respect of an individual item, those deputations to be reported will be determined on the basis of the order of the date and time received.

7. If there are more than three items upon which deputations have been requested the deputations will be allocated on the basis of one deputation per item and in the order of the date and time received, until the maximum number of three is reached.

#### **Arrangements for attendance**

8. The borough solicitor shall arrange for the attendance of any deputation. In doing so s/he shall inform the applicants that the council assembly has discretion as to whether or not to receive the deputation.

#### **Procedures at council assembly meetings**

9. (i) Motion in respect of the receipt of a deputation

The borough solicitor shall report the request for the deputation to the council assembly. Thereupon, any member may move, without prior notice being given: -

- (a) that the deputation be received at this meeting or a future meeting; or
- (b) that the deputation not be received; or
- (c) that the deputation be referred to the most appropriate committee/sub committee.

If and when seconded, any such motion shall be put to the vote without debate and, if carried, the relevant course of action will be taken.

- (ii) Composition of deputation

The deputation shall consist of not more than six persons, including its spokesperson.

- (iii) Speech on behalf of deputation

Only one member of the deputation shall be allowed to address the council assembly, her or his speech being limited to five minutes.

- (iv) Questions to the deputation and time limit

Members of the council may ask questions of the deputation, which shall be answered by their spokesperson or any member of the deputation nominated by her or him for up to five minutes at the conclusion of the spokesperson's address.

- (v) No debate during deputation

Members shall not debate any issues arising out of the deputation, or

the item to which it relates, with any members of the deputation.

(vi) Deputation to withdraw from the floor

As soon as questions under sub paragraph (iv) above have been concluded, the deputation shall withdraw from the floor of the council chamber to the public gallery where they may remain (subject to any resolution excluding attendance of the public).

(vii) Debate, motion and amendments

If more than one deputation is to be heard in respect of one subject there shall be no debate until each deputation has been presented. At the conclusion of the deputation(s) the subject of the deputation shall then be open to debate by the council assembly. If the subject does not relate to a report on the agenda, members may move motions and amendments without prior notice.

(viii) Debate on deputations concerning reports on the agenda

Having received the deputation(s) on a matter subject to a report on the agenda, the Mayor will seek consent of the meeting for that item to be brought forward for immediate consideration. A vote on this matter is to be taken without debate. In the event of this motion being carried the report may then be considered in accordance with council assembly procedure rule 1.6(b). If the motion is lost, the subject matter will not be debated until the relevant item is reached in the order of business.

(ix) Subject of deputation not on agenda

If the subject of the deputation does not relate to a report on the agenda, members may move motions and amendments without prior notice. Debate on such motions and amendments shall be limited to 15 minutes. The mover of any such motion or amendment shall speak for a maximum of three minutes and the seconder and other speakers shall be allowed a maximum of two minutes.

(x) Formal communication of council assembly's decision

The borough solicitor shall, in writing, formally communicate the decision of the council assembly to the person who submitted the request for the deputation to be received.

**Deputations concerning licensing or development control applications**

10. Deputations or representations received concerning licensing or planning applications will not be considered by council assembly. Any such representations received should be forwarded to the appropriate proper officer(s) for consideration as part of the formal consultation on such applications.

**3.8\* PETITIONS**

1. Members of the council will be entitled to present petitions to the Mayor at

each council assembly meeting except the annual Mayor Making and constitutional meetings.

2. Members in receipt of petitions must inform the borough solicitor of their intention to lodge a petition at least one clear working day before the end of the meeting.
3. Petitions must relate to matters in which the council has powers or duties or which affect Southwark. Petitions shall not concern approval or otherwise of a current planning or licensing application.
4. The Mayor will call on members to present petitions in the order in which they were notified to the borough solicitor.
5. Petitions will be received without debate and recorded in the minutes. The borough solicitor will arrange for a summary of any petition which addresses an issue within the direct responsibility of the council to be referred to the relevant executive member or chief officer.

### **3.9 QUESTIONS BY MEMBERS**

1. A member of the council may ask:
  - The Mayor;
  - A member of the executive;
  - The chair of any committee or sub-committee or community council;a question on any matter in relation to which the council has powers or duties to or which affects Southwark.
2. Members are limited to one question at each meeting. Composite questions – where a member wishes to raise a number of points in relation to the same subject matter, s/he may do so in a multi-part question provided that three such parts shall be deemed to be one question.
3. No question shall be asked on a matter concerning a planning or licensing application.

#### **Time period for question time**

4. Councillors' questions shall be taken at all ordinary council assembly meetings but not at the Mayor-making, annual constitutional, extraordinary or council tax setting meetings. The time during which councillor's questions may be taken shall be a minimum of 30 minutes and shall be extended by the time set aside for public question time that has not been fully utilized – subject to a maximum of 15 minutes. members' question time, therefore, shall not exceed 45 minutes. At the commencement of members' questions time, the Mayor shall state how much time was not used for public question time and the total amount of time available for members' questions.

5. Questions to any individual executive member or chair shall not exceed 15 minutes. It shall not be in order to move an extension of these time limits. Questions shall be taken in the following order: the leader, followed by other executive members (the order to be rotated by the borough solicitor at every meeting) and chairs of committees / sub committees/community councils. At the expiry of members question time, all questions not reached shall be deemed as noted.

#### **Deadline for submission of questions**

6. Questions must be received by the borough solicitor no later than midnight, nine clear working days prior to the day of the council meeting.<sup>29</sup> Questions to the leader and deputy leader will either be listed in the order received or, if notified, listed by whip prioritisation and rotation by the political groups/independent members (see council assembly procedure rule 3.9(10) and (11)). All other questions will be listed in the order of receipt. Questions shall be addressed to the relevant executive member or committee chair who shall be responsible for the content of the answer. executive members and committee chairs shall have discretion to refer a question to another executive member if this is appropriate.

#### **Circulation of written answers**

7. Copies of all written questions and their draft answers, which may be subject to oral amendment, shall be circulated to all councillors one hour prior to the commencement of the meeting. Copies shall also be made available to the press and public present at the commencement of the meeting.

#### **Scope**

8. No question shall be asked on a matter relating to an investigation (whether completed or not) by, or ruling of, the Standards Board for England, the standards committee or the Adjudication panel, in so far as the question relates to the behaviour or conduct of an individual member or members.

#### **Supplementary question**

9. A member asking a question may ask one supplementary question without notice to the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

#### **Prioritisation and rotation by the political groups / independent members**

10. Questions to the leader and deputy leader will either be listed in the order received or listed in the order of whip prioritisation and rotation by the political groups. Four working days before the meeting, each chief whip may list questions from members of their respective groups in an order of priority to be taken at the meeting. All remaining questions will be taken in the order of receipt.

---

<sup>29</sup> A protocol providing guidance on the means by which questions can be submitted is set out in appendix 2 to these procedure rules.

11. Questions to the leader and deputy leader will be rotated so that one is taken from each political group's list of priorities (and any independent councillors) for so long as there are questions remaining. For the first meeting following municipal elections or from the commencement of these arrangements, the Mayor will invite a representative of each political group (and any independent councillors) to draw lots to determine the order at the first meeting. At subsequent meetings, the order will be rotated.

Note: Questions will be rotated on a ratio of 1:1:1 for Liberal Democrats, Labour and Conservatives.

#### **Written answers to questions naming an individual member**

12. In the event that a member of the council is named in a response to another member's question, the borough solicitor shall make the written response available to the individual member concerned prior to the day of the council assembly meeting. The individual member shall make any representations to the borough solicitor.

### **3.10 SUBMISSION OF MEMBERS' MOTIONS ON NOTICE**

#### **Notice**

1. Except for motions that can be moved without notice under rule 1.14, notice of every motion must be delivered to the borough solicitor not later than thirteen clear working days before the date of the meeting.<sup>30</sup> All motions must be accompanied by a named mover and seconder by this deadline. These will be entered in a book open to public inspection. A member shall only move one such motion and second one such motion to a meeting. Any subsequent changes can only be agreed with the consent of the meeting.

Notice of every member's amendment to a motion shall be delivered at least one clear working day before the day of the meeting at which the motion is to be moved, at the office of the borough solicitor. Each member is limited to proposing one and seconding one amendment per item of business. All amendments must be accompanied by a named mover and seconder by this deadline. Amendments shall be placed on the agenda in order of receipt. Any subsequent changes can only be agreed with the consent of the meeting.

#### **Motion set out in agenda**

2. Motions for which notice has been given will be listed on the agenda unless the member giving notice states that they propose to move it to a later meeting or withdraw it.

#### **Motions to be debated at council assembly**

3. Unless the member, when submitting the motion, requests that the motion is debated at the council assembly, the motion will stand referred to the

---

<sup>30</sup> A protocol providing guidance on the means by which motions can be submitted is set out in appendix 2 to these procedure rules.

executive or to a committee or sub committee, as appropriate. Having considered the motion, the executive, committee or sub-committee, shall report on the outcome of their deliberations to the next meeting of the council assembly.

### **Scope**

4. Motions must be about matters for which the council has a responsibility or which affect Southwark. Motions or amendments to motions, shall not relate to an investigation (whether completed or not) by, or ruling for, the Standards Board for England, the standards committee or the Adjudication panel, in so far as the motion, or amendment, relates to the behaviour or conduct of an individual member or members.

### **Prioritisation and rotation by the political groups / independent members**

5. Motions will be listed in the order of whip prioritisation and rotation by the political groups. Four working days before the meeting, each chief whip may list motions from members of their respective groups in an order of priority to be taken at the meeting. All remaining motions will be taken in the order of receipt.
6. Motions will be rotated so that one is taken from each political group's list of priorities (and any independent councillors) for so long as there are motions remaining. For the first meeting following municipal elections or from the commencement of these arrangements, the Mayor will invite a representative of each group (and any independent councillors) to draw lots to determine the order of groups at the first meeting. At subsequent meetings, the order will be rotated.

Note: Motions will be rotated on a ratio of 1:1:1 for Liberal Democrats, Labour and Conservatives.

### **3.11 NOTICE FOR MOTIONS AND AMENDMENTS ON REPORTS FROM THE EXECUTIVE AND COMMITTEES**

#### **To be moved separately**

1. Each recommendation in the report from the executive member or committee shall be deemed as the motion and shall be moved separately by the member in whose name the report is submitted (or in her or his absence, by some other member who was present at the meeting). No seconder is required.

#### **Notice required for amendments**

2. Notice of every member's amendment for a report from the executive, committee or officer shall be given in writing, signed by the member, and delivered at least one clear working day before the day of the meeting at which the motion is to be moved, at the office of the borough solicitor. Each member is limited to proposing one and seconding one amendment per item of business. Amendments shall be placed on the agenda in order of receipt.

### **Notice required for questions on reports**

3. Notice of all questions on reports shall be given in writing, signed by the member and delivered at least one clear day before the day of the meeting at which the motion is to be moved, at the office of the borough solicitor (i.e. by midnight of the Monday in the week of an ordinary Wednesday council assembly meeting). Each member is limited to one question per item of business.

### **Circulation of questions and amendments**

4. The borough solicitor shall arrange for copies of all questions and amendments received in accordance with paragraphs (2) and (3) above, to be circulated to members on the evening before the day of the meeting at which they are to be considered.

### **3.12 URGENT QUESTIONS BY GROUP LEADERS**

1. The leader of each group, or in his or her absence the deputy leader, may ask:
  - (i) The Mayor
  - (ii) A member of the executive
  - (iii) The chair of any committee, sub-committee or community council

an urgent question on any matter in relation to which the council has powers or duties which affect Southwark.

2. An urgent question is one that deals with a matter that has arisen since the deadline for members questions has elapsed and which cannot wait until the next council assembly.
3. Members are limited to one urgent question at each meeting.
4. No question shall be asked on a matter relating to an investigation (whether completed or not) by, or ruling of, the Standards Board for England, the standards committee or the Adjudication panel, in so far as the question relates to the behaviour or conduct of an individual member or members.
5. No question shall be asked on a matter concerning a planning or licensing application.
6. Urgent questions shall be taken at all ordinary council assembly meetings but not at the Mayor-making, annual constitutional, extraordinary or council tax setting meetings.

### **Deadline for submission of questions**

7. Urgent questions must be received by the borough solicitor no later than 10.00am on the morning of an ordinary council assembly meeting.<sup>31</sup>

Questions shall be addressed to the relevant executive member or committee chair who shall be responsible for the content of the answer. Executive members and committee chairs shall have discretion to refer a question to another executive member, if this is appropriate.

---

<sup>31</sup> A protocol providing guidance on the means by which urgent questions can be submitted is set out in appendix 2 to these procedure rules.

### **Circulation of written answers**

8. Copies of all questions and their written answers, which may be subject to oral amendment, shall be circulated to all councillors at the beginning of the meeting. Copies shall also be made available to the press and public present at the meeting.

### **Supplementary question**

9. A member asking a question may ask one supplementary question without notice to the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

## **3.13 RECORDING OF RECEIPT OF MOTIONS, AMENDMENTS AND QUESTIONS**

All motions, amendments and questions received under council assembly procedure rules 1.15, 3.8, 3.9, 3.10, 3.11 and 3.12 shall be dated, numbered in the order in which they are received and entered in a book kept for that purpose by the borough solicitor which shall be open to inspection by every member of the council.

## **4. EXTRAORDINARY MEETINGS**

### **4.1 Calling of extraordinary meetings**

Those listed below may request the borough solicitor to call council meetings in addition to ordinary meetings:

- (i) the council by resolution;
- (ii) the Mayor;
- (iii) the chief executive; and
- (iv) any five members of the council if they have presented a signed requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven clear working days of the presentation of the requisition.

### **4.2\* Authority for chief executive to summon council assembly**

The chief executive, as a matter of urgency, may call an extraordinary meeting of the council assembly at any time.

### **4.3 Business**

Extraordinary meetings of the council will consider only the specific business identified by the chief executive as the reason for the calling of the extraordinary meeting.

## **5. GRANTING OF THE FREEDOM OF THE BOROUGH**

The council at an ordinary or extraordinary meeting may resolve, on the

recommendation of the standards committee, to hold an extraordinary meeting for the purposes of honouring or granting the Freedom of the Borough, to any person, organisation or body that meet the criteria approved by the council and who have rendered eminent service to Southwark.

## **6. EXCLUSION OF THE PUBLIC**

Members of the public and press may only be excluded either in accordance with the access to information rules in part 4 of this constitution or rule 1.7(b) (disturbance by public).

## **7. MEMBERS CONDUCT**

### **Standing to speak**

1. When a member speaks at council assembly they must stand, if able to do so, and address the meeting through the chair. If more than one member stands, the chair will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.

### **Chair standing**

2. When the chair stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.

### **Members' statements**

3. No member shall mislead the council assembly on a matter of fact. If a misleading statement is made, the member shall inform council assembly at the earliest opportunity and offer a correct statement.
4. A member who knowingly makes a misleading statement to council assembly may be regarded as bringing the council and its proceedings into disrepute. If this is the case then a breach of the members' code of conduct is likely to occur.

## **8. SUSPENSION AND AMENDMENT OF COUNCIL ASSEMBLY PROCEDURE RULES**

### **Suspension**

1. Council assembly procedure rules 1.1, 1.2 (1), 1.3, 1.4, 1.5, 1.7, 1.9, 1.10, 1.11, 1.16 (1,2,3,26 and 27), 1.17 (1,2,5 and 6), 2.1, 2.2, 3.3 (4 and 5), 3.4, 3.8 and 4.2 may not be suspended. All the other rules may be suspended by motion on notice or without notice if at least one half of the whole number of members of the council are present. Suspension can only be for the duration of the meeting.

### **Amendment**

2. Any motion to add to, vary or revoke these council assembly rules of procedure will, when proposed and seconded, stand adjourned without

discussion to be considered by the standards committee for report to the next ordinary meeting of the council.

**9. INTERIM DECISION MAKING ARRANGEMENTS FOR THE PERIOD BETWEEN THE MUNICIPAL ELECTION AND CONSTITUTIONAL COUNCIL**

During a year in which full council elections are held, the period between the elections and the first meeting of the executive / respective committees, the leaders (or in their absence the deputy leaders) of the two largest political groups are empowered to act as an urgency committee in respect of any urgent decisions which are not reserved by law to council assembly for decision. It will be possible for one member of the urgency committee to refer any decision as a recommendation to a meeting of the council assembly.

**Protocol governing the discussion in council assembly on investigations and rulings of the Standards Board for England, standards committee and the Adjudication panel**

In addition to the provisions provided for in rules 1.16 (3)(e), 3.6.5, 3.9.8, 3.10.4 and 3.12.4 of the council procedure rules, members should note that:

A member or members of the council assembly as a whole should not comment on an investigation that is being undertaken or has been completed, or a ruling of the Standards Board for England, the standards committee or the Adjudication panel except by moving a motion that relates to a general corporate action.

A general corporate action would include:

- raising concerns about general behaviour or standards in the council, that do not expressly refer to a particular member or members;
- calling for the council to develop additional protocols governing members' conduct or actions;
- calling for the council to review or amend existing protocols governing members' conduct or actions to ensure that they are providing members with clear and comprehensive guidance on conduct issues;
- calling for the council to undertake member development training on the code of conduct, or any part of it, or protocol to increase awareness amongst members of the existence and contents of the council protocols and code of conduct.

Council assembly should delegate a request for a general corporate action to the appropriate committee or officer (for example a request to revise the member-officer protocol would need to be referred to the standards committee).

Calls for a particular member or members to take further action, including calling on a member or members to make a public apology, resign or any other action that could be taken to be a punitive action against that member or members, will be ruled out of order by the Mayor on advice from the borough solicitor.

## **APPENDIX 2**

### **Protocol for receipt of members' questions, motions and amendments**

Members may submit questions, motions and amendments in the following forms:

- (1) In writing or faxed (in which case they should be accompanied by the signature of the member moving (and seconder); or,
- (2) By email (in which case they can be sent unsigned – items can also be sent on behalf of a member by a group officer or political assistant).

In the case of (2) above the following protocol shall apply.

#### **Protocol**

1. Motions, questions and amendments will be accepted when received from a member's official Southwark e-mail address.
2. Motions, questions and amendments will be accepted from any alternative e-mail address notified either in writing to the borough secretary or from the member's official Southwark e-mail address prior to the relevant deadline.
3. Motions and amendments submitted in a member's name by a group officer (leader, deputy leader or chief whip) or political assistant will be forwarded to the member's official Southwark e-mail address or by the most practical means within 24 hours of the relevant deadline.
4. It will be the responsibility of the relevant member to check that motions, questions and amendments submitted by a group officer on their behalf are correct.
5. Motions, questions and amendments may still be submitted in the traditional way i.e. in writing, by fax.



## **COMMITTEES AND COMMUNITY COUNCILS PROCEDURE RULES**

### **CONTENTS**

- 1. GENERAL PROCEDURES APPLYING TO ALL COMMITTEES AND COMMUNITY COUNCIL MEETINGS**
- 2. APPOINTMENT OF MEMBERS TO COMMITTEES**
- 3. AGENDA AND MINUTES**
- 4. DEPUTATIONS**
- 5. PUBLIC QUESTION TIME**
- 6. INTERIM DECISION MAKING ARRANGEMENTS FOR THE PERIOD BETWEEN A MUNICIPAL ELECTION AND CONSTITUTIONAL COUNCIL**

**Information to members of the public:**

Members of the public may attend any meeting of the council's committees, sub-committees and community councils subject to the business being considered at the meeting not being exempt under the provisions set out in the access to information rules.

\* Denotes where a committee and community council procedure rule may not be suspended

## **1.0 GENERAL PROCEDURES APPLYING TO ALL MEETINGS**

### **1.1 NO SMOKING/ EATING AT MEETINGS**

- 1.\* No smoking or eating shall be permitted at any committee meeting.

### **1.2 NOTICE AND SUMMONS OF MEETINGS**

1. \* The borough solicitor will give notice to the public of the time and place of any meeting in accordance with the access to information rules. At least five clear working days before a meeting, the chief executive will send a summons signed by him or her by post to every member of the committee or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

#### **Time and place**

2. Unless the meeting, or the chair, shall otherwise decide, all meetings shall commence at 7.00 pm
3. The ordinary place of meeting for committees shall be Town Hall, Peckham Road, London SE5 unless otherwise specified in the summons. Community councils shall meet at local venues.
4. Meetings may only be convened at less than five clear working days notice where by reason of special circumstances, which shall be specified in the summons, the meeting is required to be called at that time as a matter of urgency.

#### **Dates and frequency of meetings**

5. Council assembly at its constitutional meeting in May shall fix the dates that all council committees, sub-committees and community councils shall meet for the municipal year.
6. The chair of a committee, sub-committee or community council may direct the chief executive to call a special meeting of the committee, sub-committee or community council at any time.

#### **Cancellation of meetings**

7. The chair, in consultation with the borough solicitor may cancel a meeting or direct that an ordinary meeting of the relevant committee, sub-committee or community council be not called.

### **1.3 \* QUORUM**

1. No business shall be considered unless 25% of the membership are present in the meeting room, except for the following meeting for which the quorum is:

Disciplinary appeals committee = three

Licensing sub-committees<sup>32</sup> = three

If the chair considers the meeting to be inquorate, the meeting shall stand deferred for 15 minutes. If after 15 minutes' deferment there is still no quorum then the consideration of any business not transacted shall be held over to the next ordinary meeting of the committee, unless the chair fixes an alternative date.

#### **Quorum at start of meeting**

2. The meeting shall commence as soon as there is a quorum, following the time at which the meeting has been appointed to be held.

#### **1.4 \* POWERS OF THE CHAIR/VICE-CHAIR**

1. The chair shall decide, having taken the advice of the borough solicitor, all matters of order, competence, relevancy and interpretation of committee and community councils procedure rules relating to the conduct of the meeting.

#### **1.5 \* PREVENTION OF DISORDERLY CONDUCT**

1. A councillor may be directed to discontinue speaking if the chair considers the councillor is being repetitive, irrelevant, uses unbecoming language, or is in some other way breaching the order of the meeting. If a member persistently disregards the ruling of the chair by behaving improperly or offensively or deliberately obstructs business, the chair, having warned the councillor shall move that the councillor called by name, leaves the meeting. The motion, if seconded, shall be put immediately to the vote without further debate and if carried the councillor shall leave immediately.
2. In the case of a member of the public disrupting the meeting or if there is a general disturbance, the chair may order the removal of a person or that the public areas be cleared. Re-admission shall be at the discretion of the chair.
3. In the event of a general disturbance making orderly business impossible, the chair may adjourn the meeting for as long as he/she thinks necessary for order to be restored.

#### **1.6 BROADCASTING AND RECORDING**

1. Electronic recording, photographing or filming of the proceedings of a committee, sub-committee or community council meeting by any member of the public, media or councillor shall only take place with the prior agreement of the chair.

---

<sup>32</sup> The procedures governing the proceedings of the licensing sub-committees are set by the licensing committee. The licensing committee agreed on the May 17 2005 that the quorum of sub-committees shall be three members.

### **1.7 \* DECLARATION OF INTERESTS**

1. Councillors shall abide by the members' code of conduct. It is the responsibility of every councillor to declare an interest by the time the relevant item of business is reached.

### **1.8 RULES OF DEBATE**

1. A councillor may indicate their desire to speak by raising their hand, but shall only speak when called by name by the chair.
2. Councillors shall address the chair when speaking, and:
  - (a) refer to each other as Mayor, Deputy Mayor, leader, executive member, chair or councillor, as the case may be;
  - (b) refrain from using unbecoming language;
  - (c) refrain from comments of a personal nature about another councillor;
  - (d) not attribute improper motives to another councillor;
  - (e) speeches must be directed to the matter under discussion or to a personal explanation or point of order.
3. No debate shall be allowed except in relation to a motion or amendment under consideration. Only one motion or amendment may be considered at a time. A motion or amendment once moved and seconded, may be withdrawn only by the mover and seconder, with the consent of the meeting. No further debate shall take place on a motion or amendment once it has been withdrawn.
4. Every motion or amendment must be moved and seconded. A councillor may not move more than one amendment or motion on the same subject.

#### **Seconder's speech**

5. When seconding a motion or amendment, the seconder may reserve their speech until later in the debate.

#### **Amendments to motions**

6. An amendment to a motion must be in writing, be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words.

As long as the effect of (i) to (iv) is not to negate the motion.

7. Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been completely dealt with.

**Right of reply**

8. The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
9. If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it. If an amendment is carried, the mover of the amendment shall hold the right to reply to any subsequent amendments and, if no further amendments are carried, at the conclusion of the debate on the substantive motion.
10. The mover of the amendment has no right of reply to the debate on his or her amendment.

**Motions which may be moved during debate**

11. When a motion is under debate, no other motion may be moved except the following procedural motions:
  - (a) to withdraw a motion;
  - (b) to amend a motion;
  - (c) to proceed to the next business;
  - (d) that the question be now put;
  - (e) to adjourn a debate;
  - (f) to adjourn a meeting;
  - (g) to exclude the public and press in accordance with the access to information rules; and
  - (h) to not hear further a member named under rule 1.5(1) or to exclude them from the meeting under rule 1.5(1).

The procedures governing closure motions (see 11(c), 11(d), 11(e) and 11(f) above), which are contained in the council assembly procedure rules shall be followed.

**Point of order**

12. \* A member may raise a point of order at any time. The chair will hear them immediately. A point of order may only relate to an alleged breach of the committee and community councils procedure rules or the law. The member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the chair on the matter will be

final.

### **Personal explanation**

13. \* A member may request to make a personal explanation at any time. A personal explanation may only enable the member to refute or correct a statement attributed to him/her or any action he/she has taken.

The procedures governing personal explanations contained in council assembly procedure rule 1.16 (27) shall be followed.

## **1.9 VOTING**

### **Majority**

1. \* Unless this constitution provides otherwise or it is required by statute, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put to the vote.

### **Chair's casting vote**

2. \* If there are equal numbers of votes for and against, the chair will have a second or casting vote. There will be no restriction on how the chair chooses to exercise a casting vote.

### **Show of hands**

3. The chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### **Right to require individual vote to be recorded**

*This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993/17.6.*

4. \* Where any member requests it immediately after the vote is taken, their vote will be recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

### **Voting on appointments**

5. \* If there are more than two people nominated for any position to be filled, the names will be put to the vote in alphabetical order and the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

## **1.10 FORMAL RECORDS TO BE MAINTAINED**

All meetings of the council committees, sub-committees and community councils are to be clerked by a representative of the borough solicitor, with minutes to be produced including details of members attending each meeting and details of decisions taken. Copies of all agendas and minutes are to be maintained by the borough solicitor.

## **2. APPOINTMENT OF MEMBERS**

### **2.1 APPOINTMENT OF RESERVE/SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES**

#### **Powers and duties<sup>33</sup>**

1. Substitute members will have all the powers and duties of any ordinary member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

#### **Substitution**

2. At the commencement of each meeting each political group shall announce whether any of the named voting members are to be substituted by a reserve or deputy. This substitution shall remain in effect for the whole of the meeting.

### **2.2 PROPER OFFICER SHALL MAKE OR TERMINATE APPOINTMENTS IF NECESSARY**

1. Whenever an appointment of a voting member of a committee or sub-committee fails to be made in accordance with the wishes of a political group to whom the seat has been allocated, and whenever such an appointment fails to be terminated in accordance with such wishes, then the proper officer shall make or terminate the appointment accordingly and inform the appropriate committee or sub-committee at its next available meeting. The proper officer shall maintain a full list of committee and sub-committee memberships. In the event of the termination of an appointment, in accordance with the wishes of a political group, the proper officer is to inform the individual concerned, in writing, within three days of notice being received.

#### **Notification of appointments, resignations and termination of appointments**

2. All appointments to and resignations from the membership of committees and sub committees must be submitted in writing to the borough solicitor. A minimum of five clear working days must elapse from the date of receipt of such notices before any appointments become effective.

## **3. AGENDA AND MINUTES**

### **3.1 ORDER OF BUSINESS AT COMMITTEE, SUB-COMMITTEE AND COMMUNITY COUNCIL MEETINGS**

1. The order of business at every meeting shall be:
  - (a) To choose a person to preside if the chair and vice-chair are absent.
  - (b) Apologies for absence.

---

<sup>33</sup> In respect to the numbers of members serving on each committee or sub-committee, council assembly will appoint one fewer reserve seat(s) than a political group holds ordinary seats, subject to a minimum of one. On scrutiny committees the number of reserves is equal to the membership of the committee.

- (c) Declarations of interest.
- (d) To approve the minutes of the previous meeting, which shall then be signed by the person presiding.
- (e) To receive reports of the officers.
- (f) Any other business specified in the summons.

### **3.2 VARIATION IN ORDER OF BUSINESS**

1. Business falling under paragraph 3.1 shall not be displaced but, subject thereto, the order of business or the timing of the business may be varied
  - (a) by the chair in consultation with the borough solicitor
  - (b) a resolution passed on a motion which shall be put without debate.

### **3.3 MINUTES**

#### **Minutes**

1. The borough solicitor shall ensure that a record is made of the decisions taken at every meeting of the council. The minutes shall also include a record of the councillors in attendance, those absent and any apologies received. The declaration of any personal interest shall be recorded in the minutes of the meeting, including whether the councillor remained present or withdrew from the meeting for the duration of the discussion.

#### **Signing the minutes**

2. \* The chair will sign the minutes of the proceedings at the next suitable meeting. The chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.
3. \* **No requirement to sign minutes of previous meeting at extraordinary meeting**

*This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993.*

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an extraordinary meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

### **3.4 ADMISSION OF PRESS AND PUBLIC**

1. Members of the public and press shall be admitted to all meetings of committees, sub-committees and community councils subject to the

access to information rules in part 4 of the constitution or rule 1.5 (Disturbance by public).

#### **Public speaking at committee**

2. *(This section does not apply to planning or licensing applications where separate procedures exist).*

Members of the public shall only address a meeting of a committee or sub-committee or community council as part of a deputation or at the discretion of the chair.

#### **3.5 \* RECORD OF ATTENDANCE**

All members during the whole or part of a meeting must sign their names on the attendance sheets and their time of departure, if before the meeting ends, before the conclusion of any meeting to assist with the record of attendance.

#### **4. DEPUTATIONS**

1. Requests for deputations from groups of people who have alternative means of expressing their views through recognised channels e.g. employees of the authority, trade unions representing staff employed by the authority etc. should not be entertained under this rule. Deputations can only be made by a person or people resident or working in the borough.
2. The deputation shall not concern approval or otherwise of a current planning or licensing application but may address any other issue within the direct responsibility of the council, or where the council could be reasonably expected to lobby on behalf of residents.

#### **Formalities to be observed in applying to be heard**

3. An application for a deputation to be heard shall be submitted in writing to the borough solicitor. Any written representations or petitions associated with a deputation should ideally be submitted at the same time as the request for a deputation and certainly no later than three clear working days before the day of the meeting.

#### **Arrangements for attendance**

4. The borough solicitor shall arrange for the attendance of any deputation. In doing so she/he shall inform the applicants that the meeting has discretion whether or not to receive the deputation.

#### **Procedures at meetings**

5. (i) Motion in respect of the receipt of a deputation

The borough solicitor shall report the request for the deputation to the meeting. Thereupon, any member may move, without prior notice being given: -

- (a) that the deputation be received at this meeting or a future

meeting; or

(b) that the deputation not be received; or

(c) that the deputation be referred to the most appropriate committee/sub-committee/community council.

If and when seconded, any such motion shall be put to the vote without debate and, if carried, the relevant course of action will be taken.

(ii) Composition of deputation

The deputation shall consist of not more than six persons, including its spokesperson.

(iii) Speech on behalf of deputation

Only one member of the deputation shall be allowed to address the meeting, her or his speech being limited to five minutes

(iv) Questions to the deputation and time limit

Members of the meeting may ask questions of the deputation, which shall be answered by their spokesperson or any member of the deputation nominated by her or him for up to five minutes at the conclusion of the spokesperson's address.

(v) No Debate during deputation

Members shall not debate any issues arising out of the deputation, or the item to which it relates, with any members of the deputation.

(vi) Deputation to withdraw from the floor

As soon as questions under sub paragraph (iv) above have been concluded, the deputation shall withdraw from the floor and return to the public area where they may remain (subject to any resolution excluding attendance of the public).

(vii) Debate, motion and amendments

If more than one deputation is to be heard in respect of one subject there shall be no debate until each deputation has been presented. At the conclusion of the deputation(s) the subject of the deputation shall then be open to debate by the committee. If the subject does not relate to a report on the agenda, members may move motions and amendments without prior notice.

(viii) Debate on deputations concerning reports on the agenda

Having received the deputation(s) on a matter subject to a report on the agenda, the chair will seek consent of the meeting for that item to be brought forward for immediate consideration. A vote on this matter is to be taken without debate. In the event of this motion being carried the report may then be considered in accordance with

council procedure rule 1.6(b) and committee procedure rule (3.2.1). If the motion is lost, the subject matter will not be debated until the relevant item is reached in the order of business.

(ix) Subject of deputation not on agenda

If the subject of the deputation does not relate to a report on the agenda, members may move motions and amendments without prior notice.

(x) Formal communication of committee decision

The borough solicitor shall, in writing formally communicate the decision of the meeting to the person who submitted the request for the deputation to be received.

**Deputations concerning licensing or development control applications**

6. Deputations or representations received concerning licensing or development control applications will not be considered by committees of the council. Any such representations received should be forwarded to the appropriate proper officer(s) for consideration as part of the formal consultation on such applications.

**5. PUBLIC QUESTION TIME**

**(This applies to community councils only)**

1. The chair, in consultation with the borough solicitor, shall have discretion to include a public question time on the order of business and to determine the time allocation for public question time.
2. A resident or business ratepayer of the borough may ask one question on any matter in relation to which the council have powers.
3. Each question must provide the name and address of the questioner.
4. Questions shall be dealt with in the order in which they are received. A copy of each question shall be given to chair. The content of any answers shall be within the discretion of the appropriate chair.

**Scope of questions**

5. The chair in consultation with the borough solicitor may reject a question if it:
  - is not about a matter for which the local authority has a responsibility or which affects the borough;
  - is defamatory, frivolous or offensive;
  - is substantially the same as a question which has been put at a meeting in the past six months;

- requires the disclosure of confidential or exempt information;
- concerns a planning or licensing application;
- raises a grievance for which there are other established processes for resolution.
- relates to an investigation (whether completed or no) by, or ruling of, the Standards Board for England, the standards committee or the Adjudication panel, in so far as those comments relate to the behaviour or conduct of an individual member or members.

**6. INTERIM DECISION MAKING ARRANGEMENTS FOR THE PERIOD BETWEEN A MUNICIPAL ELECTION AND THE CONSTITUTIONAL COUNCIL**

- 6.1. During a year in which full council elections are held in the period between the election and the first meeting of the respective committees, the leader of the council together with the deputy leader of the council and the leader of the majority opposition group are empowered to act as an urgency committee in respect of any urgent decisions which are not reserved by law to council for decision. All decisions taken by this urgency committee are to be reported for information to the constitutional council or first meeting of the relevant committee, whichever is the sooner stating clearly the reason for urgency.

# **Access to information procedure rules**

## **1. SCOPE**

These rules apply to all meetings of the council assembly, overview and scrutiny committees and sub-committees, the standards committee, regulatory committees, community councils and meetings of the executive (together called “meetings”).

## **2. ADDITIONAL RIGHTS TO INFORMATION**

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

## **3. RIGHTS TO ATTEND MEETINGS**

Members of the public may attend all meetings subject only to the exceptions in these rules.

## **4. NOTICES OF MEETING**

Subject to the rules relating to urgent decisions, the council will give at least five clear days notice of any meeting by posting details of the meeting at Southwark Town Hall and on the council website.

## **5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

The council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting.

If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection for the time the item was added to the agenda.

## **6. SUPPLY OF COPIES**

The council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the proper officer thinks fit, copies of any other documents supplied to councillors in connection with an item to any person on payment of a charge for postage and any other costs.

## **7. ACCESS TO MINUTES ETC AFTER THE MEETING**

The council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the executive, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) the agenda for the meeting; and
- (c) reports relating to items when the meeting was open to the public.

## **8. BACKGROUND PAPERS**

### **8.1 List of background papers**

The proper officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in rule 10) and in respect of executive reports, the advice of a political assistant.

### **8.2 Public inspection of background papers**

The council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

## **9. SUMMARY OF PUBLIC'S RIGHTS**

A written summary of the public's rights to attend meetings and to inspect and copy documents are kept at and available to the public at the council's main offices.

## **10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **10.1 Confidential information – Requirement to exclude public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings

that confidential information would be disclosed.

**10.2 Meaning of confidential information**

Confidential information means information given to the council by a government department on terms which forbid its public disclosure or information which cannot be publicly disclosed by court order.

**10.3 Exempt information – Discretion to exclude public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

**10.4 Meaning of exempt information**

Exempt information means information falling within the following 15 categories (subject to any condition):

Category	Condition
1. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, the authority	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated
2. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, a magistrates court committee or probation committee	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated
3. Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the authority	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated

Category	Condition
4. Information relating to any particular applicant for, or recipient or former recipient of any service provided by the authority	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated
5. Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the authority	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated
6. Information relating to the adoption, care, fostering or education of any particular child	Child means a person under 18 and anyone who is 18 and is still registered as a school pupil, or is the subject of a care order, within the meaning of section 31 Children Act 1989
7. Information relating to the financial or business affairs of any particular person (other than the authority)	Information within paragraph 7 is not exempt if it must be registered under various statutes, such as the Companies Act or Charities Act. To be exempt the information must relate to a particular third person who must be identifiable
8. The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services	Information within paragraph 8 is only exempt if, and for so long as, disclosure of the amount involved would be likely to give an advantage to a person entering into or seeking to enter into a contract with the authority in respect of the advantage would arise as against the authority or as against other such persons.
9. Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services	Information within paragraph 9 is only exempt if, and for so long as, disclosure to the public of the terms would prejudice the authority in those or any other negotiations concerning that property or those goods or services. (The disposal of property includes granting an interest in or right over it)

Category	Condition
<p>10. The identity of the authority (as well as of any other person, by virtue of paragraph 7 above) as the person offering any particular tender for a contract for the supply of goods or services</p>	<p>For the purposes of this paragraph “tender” includes a DLO/DSO written bid</p>
<p>11. 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</p>	<p>Information within paragraph 11 is only exempt if and for so long as its disclosure to the public would prejudice the authority in those or any other consultations or negotiations in connection with a labour relations matter. “Labour relations matters” are as specified in paragraphs (a) to (g) of section 29(1) of the Trade Unions and Labour Relations Act 1974, i.e. matters which may be the subject of a trade dispute</p>
<p>12. Any instructions to counsel and any opinion of counsel (whether or not in connection with any proceedings), and any advice received, information obtained or action to be taken in connection with:</p> <ul style="list-style-type: none"> <li>(a) any legal proceedings by or against the authority; or</li> <li>(b) the determination of any matter affecting the authority; authority; whether, in either case, proceedings have been commenced or are in contemplation.</li> </ul>	
<p>13. Information which, if disclosed to the public, would reveal that the authority proposes:</p> <ul style="list-style-type: none"> <li>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</li> <li>(b) to make an order or direction under any enactment</li> </ul>	<p>Information within paragraph 13 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made</p>

Category	Condition
14. Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	
15. The identity of a protected informant	<p>A "protected informant" means a person giving the authority information which tends to show that</p> <ul style="list-style-type: none"> <li>(a) a criminal offence;</li> <li>(b) a breach of statutory duty;</li> <li>(c) a breach of planning control; or</li> <li>(d) a nuisance, has been, or is being, or is about to be committed</li> </ul>

Information falling within any of paragraphs 1-15 is not exempt by virtue of that paragraph 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.

#### **11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the proper officer thinks fit, the council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

#### **12. APPLICATION OF RULES TO THE EXECUTIVE**

Rules 13 – 24 apply to the executive and its committees. If the executive or its committees meet to take a key decision then it must also comply with rules 1 – 11 unless rule 16 (general exception) or rule 17 (special urgency) apply. A key decision is as defined in article 13.03 of this constitution and the appendix to these rules.

If the executive or its committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with rules 1 – 11 unless rule 16 (general exception) or rule 17 (special urgency) apply. This requirement does not include meetings, whose sole purpose is for officers to brief members.

#### **13. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE**

##### **13.1 Reports intended to be taken into account**

Where an individual member of the executive receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least five clear days after receipt of that report.

### **13.2 Provision of copies of reports to overview and scrutiny committees**

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the chair of overview and scrutiny committee as soon as reasonably practicable, and make it publicly available at the same time.

### **13.3 Record of individual decision**

As soon as reasonably practicable after an executive decision has been taken by an individual member of the executive or a key decision has been taken by an officer, he/she will prepare, or instruct the proper officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the executive. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

## **14. PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to rule 16 (general exception) and rule 17 (special urgency), a key decision may not be taken unless:

- (a) the matter is on the forward plan
- (b) where the decision is to be taken at a meeting of the executive or its committees, notice of the meeting has been given in accordance with rule 4 (notice of meetings).

## **15. THE FORWARD PLAN**

### **15.1 Period of forward plan**

Forward plans will be prepared on behalf of the leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

### **15.2 Contents of forward plan**

The forward plan will contain matters which the leader has reason to believe will be subject of a key decision to be taken by the executive, a committee of the executive, officers, area committees or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan.

It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;

- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The forward plan must be published at least 14 days before the start of the period covered. The proper officer will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that key decisions are to be taken on behalf of the council;
- (b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the plan will contain details of the key decisions to be made for the four month period following its publication;
- (d) that each plan will be available for inspection at reasonable hours free of charge at the council's offices;
- (e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;
- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the following year on which each forward plan will be published and available to the public at the council's offices.

Exempt information need not be included in a forward plan and confidential information cannot be included.

## **16. GENERAL EXCEPTION**

If a matter which is likely to be a key decision has not been included in the forward plan, then subject to rule 17 (special urgency/urgent implementation), 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 it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
- (b) the proper officer has informed the chair of a relevant overview and scrutiny committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the proper officer has made copies of that notice available to the public at the offices of the council; and
- (d) at least five clear days have elapsed since the proper officer complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public.

## **17. SPECIAL URGENCY / URGENT IMPLEMENTATION**

**17.1 Special urgency** - If by virtue of the date by which a decision must be taken rule 16 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of the chair of a relevant overview and scrutiny committee that the taking of the decision cannot be reasonably deferred. If there is no chair of a relevant overview and scrutiny committee, or if the chair of each relevant overview and scrutiny committee is unable to act, then the agreement of the Mayor of the council, or in his/her absence the Deputy Mayor will suffice.

**17.2 Urgent implementation** – If a decision needs to be implemented immediately by virtue of the urgency of the actions that need to be taken, then the decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of the chair of the overview and scrutiny committee both that the decision proposed is reasonable in all circumstances and that it should be treated as a matter of urgency. If there is no chair or if the chair is unable to act, then the agreement of the Mayor of the council, or in his/her absence the Deputy Mayor, will suffice.

## **18. REPORT TO COUNCIL**

### **18.1 When an overview and scrutiny committee/sub-committee can require a report**

If an overview and scrutiny committee/sub-committee thinks that a key decision has been taken which was not:

- (a) included in the forward plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant overview and scrutiny committee chair, or the Mayor or Deputy Mayor of the council under

rule 17;

the committee/sub-committee may require the executive to submit a report to the council assembly within such reasonable time as the committee/sub-committee specifies. The power to require a report rests with the committee/sub-committee, but is also delegated to the proper officer, who shall require such a report on behalf of the committee/sub-committee when so requested by the chair or any five members. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant overview and scrutiny committee/sub-committee.

### **18.2 Executive's report to council**

The executive will prepare a report for submission to the next available meeting of the council assembly. However, if the next meeting of the council assembly is within seven days of receipt of the written notice, or the resolution of the committee/sub-committee, then the report may be submitted to the meeting after that. The report to council assembly will set out particulars of the decision, the body making the decision, and if the leader is of the opinion that it was not a key decision the reasons for that opinion.

### **18.3 Quarterly reports on special urgency decisions**

In any event the leader will submit quarterly reports to the council assembly on the executive decisions taken in the circumstances set out in rule 17.1 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **19. RECORD OF DECISIONS**

After any meeting of the executive or any of its committees, the proper officer will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

## **20. OVERVIEW & SCRUTINY COMMITTEE/SUB-COMMITTEES' ACCESS TO DOCUMENTS**

### **20.1 Rights to copies**

Subject to rule 20.2 below, an overview and scrutiny committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the executive or its committees and which contains material relating to any business transacted at a meeting of the executive or its committees.

### **20.2 Limit on rights**

An overview and scrutiny committee/sub-committee will not be entitled to:

- (a) any document that is in draft form;

- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (c) the advice of a political assistant.

## **21 ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **21.1 Material relating to previous business**

All members, provided that they can demonstrate a “need to know”, will be entitled to inspect any document which contains any material relating to any business previously transacted at a meeting of the executive or its committees and is in the control of the executive unless:

- (a) it contains confidential or exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of the categories of exempt information; or,
- (b) it contains advice of a political assistant.

### **21.2 Material relating to key decisions**

All members of the council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the executive or its committees which relates to any key decision unless paragraph (a) or (b) above applies.

### **21.3 Nature of rights**

These rights of a member are additional to any other right he/she may have.

### **21.4 Freedom of information**

Members can make a request under freedom of information and should state as such in their request.

## PROTOCOL ON KEY DECISIONS

---

### Definitions of key decisions

There are two types of key decision:

#### 1. Those which are subject to a general financial threshold

Key decisions are those which result in the authority incurring expenditure or savings of £500,000 or more.

Examples include:

- disposal of any council property with a value of £500,000 or more
- taking by the council of any interest in land with a value of £500,000 or more
- the granting of any interest in land worth £500,000 or more
- applications for funding from any external body which if successful would require match funding of £500,000 or more, or require revenue commitment of £500,000 or more
- the award of a contract worth £500,000 or more in any one year

#### 2. Those which have a significant impact on communities

Key decisions are those which are likely to be significant in terms of their impact on communities and specifically in one ward or more.

Examples include:

- closure or significant changes to the provision of any council service, school or education facility
- where there is evidence of significant local opposition to any proposals

In considering whether a decision is likely to be significant, the decision maker is to consider the strategic nature of the decision and whether the outcome will have an impact, for better or worse, on the local amenity of the community or the quality of service provided to a significant number of people living or working in the locality affected.

In deciding whether a decision will have a significant impact on communities in one or more wards the following factors should be taken into account:

- the extent of the impact (i.e. how many people and wards will be affected)
- the likely views of those affected (i.e. is the decision likely to result in substantial public interest)
- whether the decision is likely to be a matter of political sensitivity
- where the decision may incur a significant social, economic or environmental risk
- where there is evidence of significant local opposition to any proposals

Where a decision is only likely to have a significant impact on a very small number of people in one ward, the decision maker should ensure those people are informed of the forthcoming decision in sufficient time to make an input into the decision making process. Ward councillors should also be informed of the decision to be taken. Officers should always be aware of the issues arising which might mean that a decision becomes a key one (for example, if input, even from a small number of those likely to be affected points to the decision being one which will have a much greater impact than was first apparent)

**In addition there are other decisions, which although not deemed to be key decision, are still deemed to have significance and will be included in the forward plan. These specifically include:**

- Setting of fees and charges
- Granting or withdrawing financial support to any external community or voluntary organisation in excess of £10,000 (this would not apply to those organisations from which the council commissions services)
- Writing off any bad debt in excess of (£50,000 per case)
- Disposal of any council property for less than best consideration
- The exercise of the council's compulsory purchase order powers
- Consideration of an inspection or reports by the Best Value Inspectorate, Social Services Inspectorate, District Auditor, Office For Standards In Education (OfSTED) and the council's response to any such report

**Where there is any doubt that a decision should be treated as a key decision, it should be treated as if it were a key decision.**

## **Protocol for dealing with consultation responses**

### **Role and purpose**

This protocol sets out the respective responsibilities for responding to consultations. The protocol supplements and interprets, but does not supplant the provisions of the council's constitution and in particular the responsibilities for functions at part 3 of the constitution.

This protocol gives a guide as to the appropriate individual or body who should agree a response to a consultation. If it is not clear who should agree a consultation response advice should be sought from legal and democratic services. If any doubt remains the response should be agreed by the body or individual at the higher level of delegation.

### **Responsibilities for consultation responses**

The appropriate individual or body, to agree a response to a consultation, will depend on the nature of the consultation and the implications for the council's strategic policy or operational delivery. There are four levels where agreeing a consultation response may be reserved to:

1. Council assembly - responsible for responses relating to fundamental changes to:
  - The constitution.
  - Finance / budget.
  - The policy framework.
  - Central / local government relationships.
2. Executive - responsible for responses relating to:
  - Significant changes to crosscutting policy, which would not require changes to the budget and policy framework.
  - Significant changes to crosscutting activities or operations, which would not require changes to the budget and policy framework.
3. Individual members - responsible for responses relating to:
  - Significant changes to policy, within their portfolio, which would not require changes to the budget and policy framework.
  - Significant changes to activities or operations, within their portfolio, which would not require changes to the budget and policy framework.
4. Chief officers - responsible for all other responses.
  - Where any such consultation would affect a particular ward or wards the relevant ward members should be kept informed of the consultation and the council's response.

# Budget and policy framework procedure rules

## 1. The framework for executive decisions

The council will be responsible for the adoption of the budget and policy framework as set out in article 4.

Once the framework is in place, it will be the responsibility of the executive to implement it within the resources approved by council.

## 2. Process for developing the framework

The process by which the budget and policy framework shall be developed is:

- a) The executive will publish, by including in the forward plan, a timetable for making proposals to the council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those proposals. The consultation for the policy framework shall generally be around eight weeks. However, this timetable must take into account any statutory deadlines and allow sufficient time for those deadlines to be met (e.g. council tax setting). The chairs of overview & scrutiny committee and its sub-committees will also be notified. The overview & scrutiny committee and its sub-committees will determine whether it wishes to consult with community councils as part of its deliberations on the budget and policy framework.
- b) At the end of the consultation, the executive will then draw up firm proposals having regard to the responses to that consultation. If a relevant overview and scrutiny committee/sub-committee wishes to respond to the executive in that consultation process then it may do so. As the overview & scrutiny committee and its sub-committees have responsibility for fixing their own work programmes, it is open to the scrutiny committee/sub-committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The overview & scrutiny committee and its sub-committees shall consider any responses received from community councils when considering its recommendations to the executive. The executive will take any response from an overview and scrutiny committee/sub-committee into account in drawing up firm proposals for submission to the council assembly and its report to council assembly will reflect the comments made by consultees and the executive's response.
- c) Once the executive has approved the firm proposals, the proper officer will refer them at the earliest opportunity to the council assembly for decision.
- d) In reaching a decision council assembly may adopt the executive's proposals, amend them, refer them back to the executive for further

consideration, or in principle, substitute its own proposals in their place.

- e) If it accepts the recommendation of the executive without amendment, council assembly may make a decision, which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- f) The decision will be publicised in accordance with article 4 and a copy shall be given to the leader.
- g) An in-principle decision will automatically become effective seven days from the date of the council assembly's decision, unless the leader informs the proper officer in writing within five days of the date of the decision that he/she objects to the decision becoming effective. The written notification must state the reasons for the objection.
- h) Where such notification is received, the proper officer shall convene a further meeting of the council assembly to reconsider its decision and the decision shall not be effective pending that meeting. The council assembly meeting must take place within seven working days of the receipt of the leader's written objection.
- i) At that council assembly meeting, the decision of the council assembly shall be reconsidered in the light of the objection, which shall be available in writing for the council assembly.
- j) The council assembly shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public and shall be implemented immediately. The council assembly may:
  - (i) confirm its original decision, or
  - (ii) re-instate the executive recommendation as a decision, or
  - (iii) substitute a different decision.
- k) The decision of the council assembly at that meeting is final and may be implemented immediately. The leader may not ask for this or any other decision to the same effect to be reconsidered for a further six months.
- l) In approving the budget and policy framework, the council assembly will decide whether any amendment to financial standing orders in respect of the extent of virement is necessary. Any other changes to the budget and policy framework are reserved to the council assembly.

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

- a). Subject to the provisions of paragraph 5 (virement), the executive, committees of the executive, and any officers, or joint arrangements discharging executive functions may only take decisions which are within

the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by the council assembly, then that decision may only be taken by the council assembly, subject to 4 below.

- b). If the executive, committees of the executive and any officers, or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the monitoring officer and/or the finance director as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the council assembly for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 shall apply.
- c). Council assembly may either:
  - (i) endorse a decision or proposal of the executive as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the council assembly be minuted and circulated to all councillors in the normal way; or
  - (ii) amend the budget framework or policy concerned to encompass the decision or proposal of the executive and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the council assembly be minuted and circulated to all councillors in the normal way; or
  - (iii) where council assembly accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the decision taker to reconsider the matter in accordance with the advice of either the monitoring officer/chief financial officer and refer it back to the executive. The decision taker must reconsider within seven working days of the council assembly meeting. Whatever decision the executive takes at that meeting is final, bearing in mind that a decision taken outside the policy or budget framework will be unlawful.

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

- a). The executive, a committee of the executive or officers, or joint arrangements discharging executive functions may take a decision which is contrary to the council's policy framework or contrary to or not wholly in accordance with the budget approved by council 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 council assembly; and
- (ii) if the chair of a relevant overview and scrutiny committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of council assembly and the chair of the relevant overview and scrutiny committees' consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chair of a relevant overview and scrutiny committee the consent of the mayor, and in the absence of both the deputy mayor will be sufficient.

- b). Following the decision, the decision taker will provide a full report to the next available council assembly meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## **5. Virement**

- a). Chief officers may vire budget provision between budget heads within their departments subject to limitations contained in financial standing orders.
- b). The executive may at any time during the financial year and after considering a report of the chief executive vary departmental revenue budgets in accordance with financial standing orders.

## **6. In-year changes to policy framework**

The responsibility for agreeing the budget and policy framework lies with the council assembly, and decisions by the executive, a committee of the executive, or officers, or joint arrangements discharging executive functions must be in line with it. No changes to any policy and strategy, which make up the policy framework, may be made by those bodies or individuals except where council has agreed this at the time of agreeing the budget or relevant policy or strategy or those: -

- a) which will result in the closure or discontinuance of a service to meet a budgetary constraint or
- b) which are necessary to ensure compliance with the law, ministerial direction or government guidance.

## **7. Call-in of decisions outside the budget and policy framework**

The procedure for call-in of decisions which are not in accordance with the budget and policy procedure framework can be found in rules 18 - 20 of the overview and scrutiny procedure rules.

# Executive procedure rules

## 1. HOW THE EXECUTIVE OPERATES

### 1.1 Who may make executive decisions

The arrangements for the discharge of executive functions are set out in the executive arrangements adopted by the council. These arrangements may provide for executive functions to be discharged by:

- i) the executive as a whole;
- ii) a committee of the executive;
- iii) an individual member of the executive
- iii) community councils;
- iv) an officer;
- v) joint arrangements; or
- vi) another local authority.

### 1.2 Delegation by the leader

At the annual meeting of the council, the leader will present to the council a written record of delegations made by him/her for inclusion in the council's scheme of delegation at part 3 to this constitution. The document presented by the leader will contain the following information about executive functions in relation to the coming year:

- i) the extent of any authority delegated to executive members individually, including details of the limitation on their authority;
- ii) the terms of reference and constitution of such executive committees as the leader appoints and the names of executive members appointed to them;
- iii) the nature and extent of any delegation of executive functions to community councils, any other authority or any joint arrangements and the names of those executive members appointed to any joint committee for the coming year; and
- iv) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

### 1.3 The council's scheme of delegation and executive functions

The council's scheme of delegation will be subject to adoption by the council

assembly and may only be amended by the council assembly. It will contain the details required in article 7 and set out in part 3 of this constitution.

#### **1.4 Conflicts of interest**

- (a) Where the leader has a conflict of interest this should be dealt with as set out in the council's code of conduct for members in part 5 of this constitution.
- (b) If every member of the executive has a conflict of interest this should be dealt with as set out in the council's code of conduct for members in part 5 of this constitution.
- (c) If the exercise of an executive function has been delegated to a committee of the executive, an individual member of the executive or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the council's code of conduct for members in part 5 of this constitution.

#### **1.5 How decisions are to be taken by the executive**

- (a) Executive decisions which have been delegated to the executive as a whole will be taken at a meeting convened in accordance with the access to information rules in part 4 of the constitution and in accordance with the procedures in section 2 below.
- (b) Where executive decisions are delegated to a committee of the executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the executive as a whole.
- (c) Where executive decisions are delegated to individual members of the executive they will be taken in accordance with the procedures in section 3 below.
- (d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

### **2. HOW EXECUTIVE MEETINGS ARE CONDUCTED**

#### **2.1 Executive meetings – timing and location**

The executive will meet at least ten times per year at times to be agreed by the leader. The executive meetings must take place in the borough.

#### **2.2 Public or private meetings of the executive**

Meetings of the executive shall be open to the press and public unless the business under consideration is exempt or confidential as defined in the access to information rules as set out in part 4 of this constitution. There will be no

private meetings of the executive.

### 2.3 **Quorum**

- (a) The leader or deputy leader must be present in order for the meeting to proceed.
- (b) The quorum for a meeting of the executive, or a committee of it, shall be one quarter of the total number of members of the executive including the leader/deputy leader.

### 2.4 **Who presides**

If the leader is present he/she will preside. In his/her absence, then the deputy leader shall chair the meeting. In the absence of the leader and deputy leader, an executive member shall be appointed to preside by those present.

### 2.5 **Who may attend**

Members of the public may attend all meetings subject to the restrictions set out in the access to information rules in part 4 of this constitution.

### 2.6 **Business**

At each meeting of the executive the following business will be conducted:

- i) minutes of the last meeting;
- ii) declarations of interest, if any;
- iii) public question time – 15 minutes;
- iv) matters referred to the executive (whether by the overview & scrutiny committee or by the council assembly) for reconsideration by the executive in accordance with the provisions contained in the overview and scrutiny procedure rules or the budget and policy framework procedure rules set out in part 4 of this constitution;
- v) consideration of reports from overview and scrutiny committees/sub-committees; and
- vi) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the access to information procedure rules set out in part 4 of this constitution.

### 2.7 **Consultation**

All reports to the executive from any member of the executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant overview and scrutiny committees, and the outcome of that consultation. Reports about other

matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## **2.8 Who can put items on the executive agenda**

The leader will decide upon the schedule for the meetings of the executive. He/she may put on the agenda of any executive meeting any matter which he/she wishes, whether or not authority has been delegated to the executive, a committee of it or any officer in respect of that matter. The proper officer will comply with the leader's requests in this respect.

Any member of the executive may require the proper officer to make sure that an item is placed on the agenda of the next available meeting of the executive for consideration. If he/she receives such a request the proper officer will comply.

The proper officer will make sure that an item is placed on the agenda of the next available meeting of the executive where a relevant overview and scrutiny committee or the full council have resolved that an item be considered by the executive.

Any member of the council may ask the leader to put an item on the agenda of an executive meeting for consideration, and if the leader agrees the item will be considered at the next available meeting of the executive. The notice of the meeting will give the name of the councillor who asked for the item to be considered.

The monitoring officer and/or the director of finance may include an item for consideration on the agenda of an executive meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the head of paid service, finance director and monitoring officer are of the opinion that a meeting of the executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an executive meeting. If there is no meeting of the executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

## **2.9 Formal records to be maintained**

No meeting of the executive shall commence or conduct business unless the borough solicitor or her/his representative is present. All meetings are to be clerked by a representative of the borough solicitor, with minutes to be produced including details of members attending each meetings and details of decisions taken. Copies of all agendas and minutes are to be maintained by the borough solicitor.

## **2.10 Deputations to the executive**

1. Requests for deputations from groups of people who have alternative means of expressing their views through recognised channels e.g.

employees of the authority, trade unions representing staff employed by the authority etc. should not be entertained under this rule. Deputations can only be made by a person or people resident or working in the borough.

2. The deputation shall concern matters that fall within the responsibility of the executive or where the executive could be reasonably expected to lobby on behalf of residents.

#### **Formalities to be observed in applying to be heard**

3. An application for a deputation to be heard by, or written deputation presented to the executive shall be submitted in writing to the borough solicitor no later than nine clear working days before the day of the executive meeting. The date and time of receipt of such requests will be recorded in a book kept for that purpose. Any written representations or petitions associated with a deputation should ideally be submitted at the same time as the request for a deputation and certainly no later than three clear working days before the day of the executive meeting.

#### **Arrangements for attendance**

4. The borough solicitor shall arrange for the attendance of any deputation. In doing so s/he shall inform the applicants that the executive has discretion whether or not to receive the deputation.

#### **Procedures at executive meetings**

5. (i) Motion in respect of the receipt of a deputation –

The borough solicitor shall report the request for the deputation to the executive. Thereupon, any member may move, without prior notice being given: -

- (a) that the deputation be received at this meeting or a future meeting; or
- (b) that the deputation not be received; or
- (c) that the deputation be referred to the most appropriate committee/sub-committee

If and when seconded, any such motion shall be put to the vote without debate and, if carried, the relevant course of action will be taken.

- (ii) Composition of deputation –

The deputation shall consist of not more than six persons, including its spokesperson.

- (iii) Speech on behalf of deputation –

Only one member of the deputation shall be allowed to address the

executive, her or his speech being limited to five minutes.

(iv) Questions to the deputation and time limit –

Members of the executive may ask questions of the deputation, which shall be answered by their spokesperson or any member of the deputation nominated by her or him for up to five minutes at the conclusion of the spokesperson's address.

(v) No debate during deputation –

Members shall not debate any issues arising out of the deputation, or the item to which it relates, with any members of the deputation.

(vi) Deputation to withdraw from the floor –

As soon as questions under sub paragraph (iv) above have been concluded, the deputation shall withdraw but may remain (subject to any resolution excluding attendance of the public).

(vii) Debate, motion and amendments –

If more than one deputation is to be heard in respect of one subject there shall be no debate until each deputation has been presented. At the conclusion of the deputation(s) the subject of the deputation shall then be open to debate by the executive. If the subject does not relate to a report on the agenda, members may move motions and amendments without prior notice.

(viii) Formal communication of executive decision –

The borough solicitor shall, in writing formally communicate the decision of the executive to the person who submitted the request for the deputation to be received.

### **3. HOW INDIVIDUAL EXECUTIVE MEMBER DECISION MAKING IS CONDUCTED**

#### **3.1 Who takes the decision**

The individual executive member who is responsible for the portfolio area or to whom the decision is delegated shall take the decision, except in the following circumstances:

1. The leader, or in his/her absence, deputy leader may take the decision if the relevant individual executive member is unavailable.
2. The relevant individual executive member may indicate that they wish the decision to be referred to a meeting of the full executive.
3. The leader or the chief executive may direct that the decision be reserved

to a meeting of the full executive.

4. Where an individual executive member has a personal and prejudicial interest in the decision the matter shall be referred to the full executive.
5. Where the decision affects more than one portfolio or is a crosscutting issue the matter shall be referred to the full executive.

### **3.2 Who may inspect documents**

All reports for key individual executive member decisions shall be available for public inspection five clear working days prior to the decision, subject to the access to information rules in part 4 of this constitution.

### **3.3 Business**

The relevant individual executive member shall consider a report setting out the recommendation, the justification for the decision, any options to be considered, details of the consultation and any representations received.

A decision sheet shall be sent to the individual executive member with the report. This will state the earliest date when the decision-taker can take the decision.

The decision-taker can discuss the report with relevant officers if required.

### **3.4 Consultation/ representations**

All reports to the individual executive member will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration. Any representations received must be forwarded to the decision maker for consideration.

Where a ward member submits representations, the relevant individual executive member should discuss the matter with the councillor prior to taking the decision.

### **3.5 Formal records to be maintained**

The decision maker must complete and sign a decision sheet for each decision. The decision sheet has sections to be filled in giving the decision, date of the decision, reason for the decision, alternatives considered and any representations received by the individual decision maker.

All completed decision sheets must be forwarded to the borough solicitor. Copies of all reports and decision sheets are to be maintained by the borough solicitor.

### **3.6 Non-key decisions relating to contract standing orders**

Rule 18 of the overview and scrutiny rules in part 4 of this constitution will not apply to non-key decisions relating to contract standing orders.

### **3.7 All other decisions**

All other decisions delegated to an individual in accordance with rule 1.1

above, will be subject to rule 18 of the overview and scrutiny rules. The borough solicitor or his/her representative will circulate the decision to all members in accordance with the scrutiny call-in process (see paragraph 18.4 overview and scrutiny procedure rules).

# Overview and scrutiny procedure rules

## 1. Arrangements for the overview & scrutiny committee and sub-committees

- 1.1 The council will appoint a co-ordinating overview & scrutiny committee. The overview & scrutiny committee will appoint five themed sub-committees and determine their themes and specific terms of reference.
- 1.2 The overview & scrutiny committee and its sub-committees may from time to time appoint ad hoc informal member working groups. Whilst such informal bodies cannot substitute for the scrutiny committees, or exercise the powers associated with scrutiny (which are the preserve of the scrutiny committees) they can contribute to or inform the scrutiny process.
- 1.3 That the number of reserve member seats on scrutiny sub-committees that each political group is entitled to nominate be equal to the number of seats each group holds on the sub-committee.

## 2. Overview & scrutiny committee

- 2.1 The council will have a co-ordinating overview & scrutiny committee, which will have the terms of reference set out in 3.1 below.
- 2.2 The overview & scrutiny committee will consist of:
  - A chair, appointed by the council;
  - A vice-chair, appointed by the council;

The chairs of the five scrutiny sub-committees provided that the proportionality rules are not compromised and provided that each political group is permitted to nominate one non-executive member should this be necessary to maintain proportionality; and Education representatives as set out at paragraph 7.
- 2.3 The council can consider appointing co-opted members.

## 3. Terms of reference of the overview & scrutiny committee

- 3.1 The terms of reference of the co-ordinating overview & scrutiny committee will be:
  - (a) To approve an annual overview and scrutiny work programme, including the programme of the sub-committees, to ensure that there is efficient use of the sub-committees' time, that the potential for duplication of effort is minimised, and to manage scrutiny of the council's budget and policy framework;
  - (b) Where matters fall within the remit of more than one sub-committee, to determine which of them will assume responsibility for any particular issue, and to resolve any issues of dispute between sub-committees;
  - (c) To receive requests from the executive, community councils and/or council assembly for reports from sub-committees and to allocate them if appropriate to one or more sub-committees;

- (d) To put in place and maintain a system to ensure that referrals from overview and scrutiny to the executive, either by way of report or for reconsideration, are managed efficiently;
- (e) To determine the issue for debate or the matters to be raised in the scrutiny slot at each ordinary council assembly meeting.
- (f) To periodically review overview and scrutiny procedures to ensure that the function is operating effectively;
- (g) To report annually to council assembly on the previous year's scrutiny activity;
- (h) To monitor the budget for additional scrutiny research, and to determine funding requests from sub-committees in respect of particular reviews;
- (i) To comment on scrutiny reports that propose policy change or that have resource implications (as opposed to reports that comment on performance);
- (i) To exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the executive; and
- (k) To appoint five themed sub-committees.

#### **4. General terms of reference of all scrutiny committees/ sub-committees**

4.1 Within their terms of reference, all scrutiny committees/sub-committees will:

- (a) Produce a one year rolling work programme, which will be approved by the co-ordinating overview & scrutiny committee;
- (b) Review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the council's functions;
- (c) Review and scrutinise the decisions made by and performance of the executive and council officers both in relation to individual decisions and over time in areas covered by its terms of reference;
- (d) Review and scrutinise the performance of the council in relation to its policy objectives, performance targets and/or particular service areas;
- (e) Question members of the executive and officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects and about their views on issues and proposals affecting the area;
- (f) Assist council assembly and the executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- (g) Make reports and recommendations to the executive, and council assembly arising from the outcome of the scrutiny process;
- (h) Consider any matter affecting the area or its inhabitants;
- (i) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
- (j) Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the scrutiny committee/sub-committee and local people about their activities and performance;
- (k) Conduct research, community and other consultation in the analysis of policy issues and possible options;
- (l) Question and gather evidence from any other person (with their consent);

- (m) Consider and implement mechanisms to encourage and enhance community participation in the scrutiny process and in the development of policy options; and
- (n) Conclude inquiries promptly and normally within six months.

**5. Members entitled to sit on the co-ordinating overview & scrutiny committee and sub-committees**

- 5.1 All councillors except members of the executive may be members of the overview & scrutiny committee and sub-committees. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

**6. Co-optees**

- 6.1 Overview & scrutiny committee and sub-committees shall be entitled to recommend to council assembly the appointment of a number of people as non-voting co-optees.

**7. Education representatives**

- 7.1 Overview & scrutiny committee and any sub-committee dealing with education functions shall include in its membership the following voting representatives:

- (a) one Church of England diocese representative;
- (b) one Roman Catholic diocese representative; and
- (c) two duly-elected parent governor representatives

- 7.2 Overview & scrutiny committee and any sub-committee dealing with education functions may also contain the following co-opted, non-voting members:

- (a) Up to three representatives of other faiths or denominations, of which at least two should be from non-Christian faiths; and
- (b) Up to two co-opted non-voting representatives of community groups.

- 7.3 If the committee/sub-committee deals with any matters outside education functions, these representatives shall not vote on these matters, though they may stay in the meeting and, with the discretion of the chair, speak.

- 7.4 Education representatives may only sign a call-in request when the matter called-in relates to an education function.

**8. Meetings of the overview & scrutiny committee and its sub-committees**

- 8.1 There shall be at least eight ordinary meetings of the co-ordinating overview & scrutiny committee in each year. In addition, extraordinary meetings may be called by the chair of the committee, by two-thirds of the committee's voting membership or by the proper officer if he/she considers it necessary or appropriate.

- 8.2 The chair of the committee may also cancel a meeting for lack of business, or reschedule a meeting, having first consulted with the designated representatives

of all political groups recognised by the council.

8.3 The themed sub-committees shall determine their own arrangements for meetings

8.4 A schedule of meetings will be published.

## **9. Quorum**

9.1 The quorum for the co-ordinating overview & scrutiny committee and its sub-committees shall normally be 25% of the voting membership of the relevant committee/sub-committee but no fewer than two.

## **10. Chairs of overview & scrutiny committee and its sub-committees**

10.1 Council assembly will appoint the chair, the vice-chair, and remaining members of the co-ordinating overview & scrutiny committee, in accordance with the statutory rules relating to proportionality.

10.2 Overview & scrutiny committee will appoint the chairs, vice-chairs and remaining members of the other scrutiny committees, in accordance with the statutory rules relating to proportionality.

## **11. Work programme**

11.1 Each of the themed sub-committees will, subject to the co-ordinating overview & scrutiny committee, develop an annual work programme; these will be one-year rolling programmes. The co-ordinating overview & scrutiny committee will approve individual work programmes and will review the work programmes of the themed sub-committees annually. It will only consider individual additions or subtractions to the work programmes of themed sub-committees if requested to do so by any five members of the council.

## **12. Formal records to be maintained**

12.1 No meeting of council assembly, the executive or a committee or sub-committee shall commence or conduct business unless the borough solicitor or her/his representative is present. All meetings are to be clerked by a representative of the borough solicitor, with minutes to be produced including details of members attending each meetings and details of decisions taken. Copies of all agendas and minutes are to be maintained by the borough solicitor.

## **13. Agenda items**

13.1 Any member of the overview & scrutiny committee or a sub-committee shall be entitled to give notice to the proper officer that he/she wishes an item relevant to the functions of the committee/sub-committee of which they are a member to be included on the agenda for the next available meeting. On receipt of such a request the proper officer will ensure that it is included on the next available agenda.

13.2 Any two members of the council who are not members of the overview & scrutiny committee or a sub-committee may give written notice to the proper officer that they wish an item to be included on the agenda of that committee/sub-committee. If the proper officer receives such a notification, then he/she will include the item on the first available agenda of the committee/sub-committee for consideration.

#### **14. Policy review and development**

14.1 The role of the overview & scrutiny committee and its sub-committees in relation to the development of the council's budget and policy framework is set out in detail in the budget and policy framework procedure rules.

14.2 In relation to council policy, the overview & scrutiny committee/sub-committees may make proposals to the executive for developments in so far as they relate to matters within their terms of reference.

14.3 Within the agreed budget for scrutiny, the overview & scrutiny committee/sub-committees may:

- hold enquiries and investigate the available options for future direction in policy development;
- appoint advisers and assessors to assist them in this process;
- go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations;
- ask witnesses to attend to address them on any matter under consideration; and
- pay any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

14.4 The co-ordinating overview & scrutiny committee will have responsibility for monitoring the budget for additional scrutiny research and determining funding requests from its sub-committees in respect of particular reviews.

#### **15. Reports from the overview & scrutiny committee and its sub-committees**

15.1 Once it has formed recommendations on proposals for development, overview & scrutiny committee or a sub-committee will prepare a formal report and submit it to the proper officer for consideration by the executive. The committee/sub-committee will also report to council assembly as appropriate (in respect of the budget setting process, relevant scrutiny reports should be forwarded with executive recommendations to council assembly).

15.2 If the overview & scrutiny committee or a sub-committee cannot agree on one single final report, then any member of the committee/sub-committee may prepare a minority report to be submitted for consideration by the executive or council assembly with the majority report.

15.3 The executive shall consider and provide a written response to a scrutiny committee's/sub-committee's report within two months.

15.4 Management of the flow of reports to the executive will be the responsibility of the co-ordinating overview & scrutiny committee. Reports that propose policy change or that have resource implications (as opposed to comments on performance) are formally routed via the overview & scrutiny committee so that it can add its own comments.

## **16. Members and officers giving account**

16.1 Overview & scrutiny committee or a sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the executive, the head of paid service and/or any senior officer to attend before it to explain in relation to matters within their remit:

- i) any particular decision or series of decisions;
- ii) the extent to which the actions taken implement council policy; and/or
- iii) their performance.

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

16.2 Where any member or officer is required to attend a scrutiny committee/sub-committee under this provision, the chair of the committee/sub-committee will inform the proper officer. The proper officer shall inform the member or officer in writing giving at least five working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account, the specific area of inquiry and whether any papers are required to be produced for the committee/sub-committee. Where the account to be given to the committee/sub-committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

16.3 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the proper officer in consultation with the committee/sub-committee and the member or officer shall arrange an alternative date for attendance.

## **17. Attendance by others**

17.1 A scrutiny committee/sub-committee may invite people other than those people referred to in paragraph 16 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend. Attendance by these people is optional.

## **18. Call-in**

18.1 The overview & scrutiny committee can “call-in” a decision which has been made by the executive but not yet implemented. This enables the overview & scrutiny committee to consider whether the decision is appropriate. The committee may recommend that the executive reconsider the decision.

- 18.2 Requests for call-in should normally only be made if there is evidence that the executive did not take the decision in accordance with the principles of decision making as set out in the constitution:
- (a) Proportionality (i.e. the action must be proportionate to the outcome).
  - (b) Due consultation and the taking of professional advice from officers.
  - (c) Respect for human rights.
  - (d) Presumption in favour of openness.
  - (e) Clarity of aims and desired outcomes.
  - (f) The link between strategy and implementation must be maintained.
  - (g) Decision making generally, whether by individual officers, individual executive members or the executive collectively, should have reference to the policy framework and be in accordance with the budget.
- 18.3 A valid request for call-in must contain the requisite number of signatures, give reasons for the call-in and set out any alternative course of action proposed. In particular, the request must state whether or not the members believe that the decision is outside the policy or budget framework.
- 18.4 When a decision is made by the executive, an individual member of the executive or a committee of the executive, or an executive decision is taken by a community council, or a key decision is made by an officer with delegated authority from the executive, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the council normally within two days of being made. All members will be sent copies of the records of all such decisions within the same time scale, by the person responsible for publishing the decision.
- 18.5 That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five clear working days after the publication of the decision, unless the overview & scrutiny committee objects to it and calls it in.
- 18.6 During that period, the proper officer shall call-in a decision for scrutiny if so requested by:
- The chair or vice-chair of the overview & scrutiny committee, plus three members of the committee including education co-optees for the purpose of education decisions only.
- 18.7 A member serving on a community council (who is also a member of the overview & scrutiny committee) who participates in taking an executive decision shall not sign a call-in request on the same decision (thus avoiding any conflict of interests).

18.8 In the event that the chair or vice-chair of overview and scrutiny decides not to support a call-in request received within deadline and signed by three members of the committee, they are required to set out their reasons in writing, and this letter will be circulated to members and other interested stakeholders.

## **19. Procedure following call-in**

19.1 If the head of overview and scrutiny (HoS) is of the opinion that a request for a call-in may not be valid, because of a breach of procedure or other reason under this constitution, they shall inform the relevant members (this must always include the chair and vice chair) within one working day of receipt of the request. In the event of dispute, the decision of the monitoring officer shall be final.

19.2 Following call-in of a decision, the HoS shall notify the decision maker and the relevant chief officer, who shall suspend implementation of the decision. If the request for call-in states that the reason for call-in is that the decision is outside the budget or policy framework, the HoS shall also notify the monitoring officer or director of finance in order for a report to be prepared for the overview & scrutiny committee.

19.3 Within five clear working days of the call-in request, and where possible in consultation with the chair of the overview and scrutiny committee, the HoS shall either:

- (1) refer the called-in decision to the next meeting of the overview & scrutiny committee, if that meeting is within ten clear working days of the receipt of the call-in request; or
- (2) call an extraordinary meeting of the overview & scrutiny committee to consider the called-in decision, to take place as soon as possible and in any case within ten clear working days of the call-in request; or exceptionally
- (3) where a called-in decision cannot reasonably be considered within the timescale in clauses (i) or (ii) above, the head of overview and scrutiny will arrange an extraordinary meeting of the overview and scrutiny committee to consider the matter outside the normal timetable, unless in the view of the monitoring officer and/or the director of finance, in consultation with the relevant chief officer, the matter cannot wait and in which case it shall be considered in accordance with the timescale set out above.

19.4 If the overview & scrutiny committee does not meet within the constitutional timescale set out for call-ins, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the scrutiny meeting, or the expiry of 15 clear working days after the decision was published, whichever is the earlier, unless the provisions of 19.3(3) are applied.

19.5 On meeting, the committee will consider the call-in request and in particular whether or not the decision might be contrary to the policy framework or not wholly in accordance with the budget. Advice should be sought from appropriate

chief officers, the monitoring officer or the finance director. The monitoring officer's report and/or finance director's report shall be copied to every member of the council.

- 19.6 If, having considered the decision and all relevant advice, the overview & scrutiny committee is still concerned about it, then it may either:
- refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns; or
  - refer the matter to council assembly if the decision is deemed to be outside the policy and budget framework.
- 19.7 If referred to the decision maker, with the exception of community councils they shall then reconsider their decision within a further seven clear working days. If referred back to a community council, reconsideration will wait until the next scheduled meeting of the community council, unless the borough solicitor determines, following consultation with the relevant chief officer and chair of the relevant community council (or in his or her absence the vice-chair), that the matter can not wait in which case it will be considered within seven working days. If it is the view of the monitoring officer or the finance director that the decision falls within the policy and budget framework, the decision maker may amend the decision or not, before adopting a final decision.
- 19.8 If referred to council assembly, the decision is further suspended pending a meeting of council assembly, which must take place within seven clear working days of the decision to refer to council. Within this time, the executive must meet to decide what action to take in respect of the monitoring officer's and/or finance director's advice and to prepare a report to council assembly.
- 19.9 If the council assembly does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the council assembly meeting, or the expiry of 15 clear working days after the decision was published, whichever is the earlier.
- 19.10 The council assembly will receive details of the decision, the advice of the monitoring officer and/or the finance director, the comments of the overview & scrutiny committee and the report from the executive.
- 19.11 Where the council assembly accepts that the decision is within the budgetary and policy framework it may either:
- i) endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the council assembly be minuted and circulated to all councillors in the normal way; or
  - ii) if it objects to the decision on grounds other than it falling outside the budget or policy framework, refer the decision back to the decision making person or body, together with the council assembly's views on the

decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it, reporting this to the relevant scrutiny committee. Where the decision was taken by the executive, a meeting will be convened to reconsider within five working days of the council assembly request. Where the decision was made by an individual, the individual will reconsider within five working days of the council assembly request.

19.12 Where the council assembly accepts that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget, it may either:

- i) amend the council's budget or policy framework to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the council assembly be minuted and circulated to all councillors in the normal way; or
- ii) require the executive to reconsider the matter in accordance with the advice of either the monitoring officer/finance director. A meeting will be convened by the executive within five working days to reconsider/amend the decision and this will be reported to the overview & scrutiny committee.

## **20. Urgent decisions – definitions of urgency and steps that must be followed**

20.1 There are four categories of urgent decisions:

- (1). **General exceptions** – (rule 15, access to information procedure rules) If a matter which is likely to be a key decision has not been included in the forward plan, then, subject to 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 it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
  - (b) the proper officer has informed the chair of the overview and scrutiny committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
  - (c) the proper officer has made copies of that notice available to the public at the offices of the council; and
  - (d) at least five clear days have elapsed since the proper officer complied with (a) and (b).

**This decision will be subject to call-in.**

- (2). **Special urgency** – (rule 16, access to information procedure rules) If by virtue of the date by which a decision must be taken under general exception cannot be followed, then the decision can only be taken if the

decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of the chair of the overview and scrutiny committee that the taking of the decision cannot be reasonably deferred. If there is no chair of the overview and scrutiny committee, or if the chair is unable to act, then the agreement of the Mayor of the council, or in his/her absence the Deputy Mayor, will suffice.

**This decision will be subject to call-in.**

- (3). **Decisions for urgent implementation** - These are decisions which have either not previously been included on the forward plan, or have been included but need to be implemented immediately by virtue of the urgency of the actions that need to be taken.

*This decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of the chair of the overview and scrutiny committee both that the decision proposed is reasonable in all circumstances and that it should be treated as a matter of urgency. If there is no chair or if the chair is unable to act, then the agreement of the Mayor of the council, or in his/her absence the Deputy Mayor, will suffice.*

**This decision will not be subject to call-in.**

*Note: Any requests for a key decision not to be called-in and communicated to the chair of overview and scrutiny committee should be copied to all overview and scrutiny committee members.*

- (4). **Urgent decisions outside the budget or policy framework (rule 4, budget & policy framework procedure rules)**

- (a) The executive, a committee of the executive, an individual member of the executive or officers, or joint arrangements discharging executive functions may take a decision which is contrary to the council's policy framework or contrary to or not wholly in accordance with the budget approved by council assembly if the decision is a matter of urgency. However, the decision may only be taken if:

it is not practical to convene a quorate meeting of the council assembly; and the chair of the overview and scrutiny committee agrees that the decision is a matter of urgency

The reasons why it is not practical to convene a quorate meeting of council assembly and the chair of the relevant overview and scrutiny committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chair the consent of the Mayor, and in the absence of both the Deputy Mayor, will be sufficient.

- (b) Following the decision, the decision taker will provide a full report to the next available council assembly meeting explaining the decision,

the reasons for it and why the decision was treated as a matter of urgency.

**This decision will not be subject to call-in**

20.2 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to council with proposals for review if necessary.

**21. Prohibition of party whip over voting on scrutiny committees/sub-committees**

21.1 The party whip does not apply to meetings of scrutiny committees or sub-committees.

21.2 The expression "party whip" is taken to mean: "Any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner."

**22. Procedure at scrutiny committee/sub-committee meetings**

22.1 The overview & scrutiny committee and its sub-committees shall consider the following business (with the exception of iii) which only applies to overview & scrutiny committee):

- i) Minutes of the last meeting;
- ii) Declarations of interest;
- iii) Consideration of any matter referred to the committee for a decision in relation to call-in of a decision;
- iv) Responses of the executive to reports of the committee; and
- v) The business otherwise set out on the agenda for the meeting.

22.2 Where the overview & scrutiny committee/sub-committee conducts investigations (e.g. with a view to policy development), it may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:

- i) That the investigation be conducted fairly and all members of the committee/sub-committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- ii) That those assisting the meeting by giving evidence be treated with respect and courtesy; and
- iii) That the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

22.3 Following any investigation or review, the committee/sub-committee shall prepare a report, for submission to the executive and/or council assembly as appropriate and shall make its report and findings public.

**23. Matters within the remit of more than one scrutiny sub-committee**

23.1 Where a matter for consideration by a themed scrutiny sub-committee also falls (whether in whole or in part) within the remit of one or more other scrutiny sub-committee(s), then the sub-committee conducting the review shall, either:

- invite the chair of the other sub-committee (or his/her nominee) to attend meetings when the matter is being reviewed; or
- invite the other sub-committee to comment on findings prior to submitting its report to the executive/council assembly.



## **CONTRACT STANDING ORDERS**

### **INTRODUCTION**

The purpose of contract standing orders (CSOs) is to provide a framework within which the council can get value for money and achieve best value when obtaining supplies of goods, services and works. CSOs do not apply where grant giving powers are to be used; this should be rare. CSOs do not apply to a land transaction or to contracts of employment, but will apply to any obtaining of goods, services or works linked to that land transaction. Guidelines on all issues to do with contracts and on grants is given in the procurement guidelines.

CSOs do not provide guidelines on what is the best way to procure goods, services and works. They set out minimum requirements to be followed. Guidelines can be found in the procurement guidelines. Officers must always seek advice from Southwark procurement and/or from the council's legal services when in any doubt and in particular for all contracts where European law applies or which are strategic procurement.

CSOs must always be followed unless the law (in particular, European Procurement Directives, but also U.K. law) requires something different.

CSOs do not override other parts of the council's constitution – for example, a decision about a contract may be a key decision, and then the requirements of the constitution in relation to CSOs and to key decisions will need to be followed.

## DEFINITIONS

Approval report	a report produced under CSO 3
Consortium contract	as set out in CSO 5.3
Contract register	a register of contracts held by Southwark procurement
Contract value	means the total value of a proposed contract, net of VAT, in accordance with the valuation rules contained in European Regulations (whether or not the particular contract is one to which those regulations apply)
Corporate contract	a contract arranged by Southwark procurement or another department that should be used by the whole council for all goods, works or services specified in it
Departmental list	means a list of providers of supplies, services or works used by only one department, which have been appraised to meet minimum criteria in respect of their financial standing, level of insurance held, health and safety policies and procedures, and equal opportunities policies and procedures
Estimated contract value	see CSO 4.1
EU regulations	means the public works/supplies/utilities contracts regulations issued in relation to the directives of the Council of the European Communities or any amendment to or successor to those regulations or directives
EU threshold	means the current contract value at which the requirements of the EU regulations apply
High value contract	means a contract where the contract value is over £2 million for non-works and £10 million for works
IDM	means a decision taken by an individual member of the executive
LCO	see CSO 2.6
Lowest bid	the lowest price offered by tender or quotation, which meets the specification and other requirements of the contract
Procurement guidelines	means a document issued and maintained by Southwark procurement containing best practice information on procurement matters
Strategic procurement	means procurement where one or more of the following apply:

	<ul style="list-style-type: none"> <li>(1) Contract value over £2 million for non-works and £10 million for works;</li> <li>(2) Significant change to previous service;</li> <li>(3) Possible externalisation or change in manner of delivery;</li> <li>(4) Significant transfer of assets or staff;</li> <li>(5) Political sensitivity; and</li> <li>(6) Carrying a high level of risk.</li> </ul>
Tender value	means the value of the contract on the award of the contract
Urgent payment	means one where delay would lead to significant demonstrable financial loss to the council (and where no breach of EU or domestic requirements would be occasioned)
Works approved list	a list of providers of works and services maintained by Southwark procurement, which have been appraised to meet minimum criteria in respect of their financial standing, level of insurance held, health and safety policies and procedures, and equal opportunities policies and procedures. (For further information about the use of approved lists, see the procurement guidelines or seek advice from the Southwark procurement).

## **CSO1 WHEN DO CONTRACT STANDING ORDERS APPLY?**

- 1.1 Contract standing orders apply to any procurement or tendering process or contract entered into by the council for the provision of goods, services and works and to any concession.
- 1.2 This includes involvement by the council in partnerships and other joint working where that is funded partly or entirely by external funding, to the extent that the money passes through the council's accounts. Note: see CSO 3.2.4.
- 1.3 Contract standing orders apply to all schools maintained by the London Borough of Southwark but subject to the current Southwark scheme for financing schools and the schools contract standing orders.

## **CSO2 GENERAL PRINCIPLES**

- 2.1 The chief executive and the borough solicitor will maintain CSOs. Advice should be sought on the implementation of these CSO where a contract value is over the EU threshold for the type of contract or below that level where there is any risk involved to the council in undertaking that action.
- 2.2 Every contract made by the council or on its behalf must comply with the all

- relevant EU and domestic requirements and legislation and the council's constitution (including these CSOs and financial standing orders), and must take full account of the council's procurement strategy, the procurement guidelines and other council policies and procedures.
- 2.3 It is the obligation of everyone engaged in obtaining supplies, services and works to ensure probity, obtain value for money and achieve best value. This means considering whether a matter is a strategic procurement, considering all procurement options and ensuring that all approvals required are obtained.
- 2.4 Consequences of non-compliance  
It is a disciplinary offence to fail to comply with contract standing orders and the procurement guidelines when letting contracts and employees have a duty to report breaches of CSOs to an appropriate senior manager and the head of audit. Every officer working in relation to contracts must comply with their obligations under the Employee code of conduct, including the obligation to declare interests and the need to avoid any impropriety or appearance of impropriety.
- 2.5 General principle of contract award  
Where there is to be a contract, it will be awarded to the most economically advantageous tender (which may or may not be the lowest sum offered).
- 2.6 Lead contract officer  
A properly authorised lead contract officer ("LCO") must be appointed for each contract. Where no LCO is appointed, the LCO will be deemed to be the budget holder of the section from which the contract is funded. The duties of the LCO include:
- a) ensuring that CSOs complied with and value for money and best value are obtained;
  - b) recording actions taken on and maintaining detailed contract files in respect of each contract, including the estimated contract value ;
  - c) ensuring the highest standards of propriety and proper practice (including respecting the confidentiality of commercial information);
  - d) ensuring that the tender and contract documents clearly and fully state what the council requires the provider to do and the terms of that provision;
  - e) ensuring that tender evaluation is carried out properly and against pre-determined evaluation criteria;
  - f) recording the contract in the council's contract register; and
  - g) sending a contract award notice under the EU regulations within 48 days of award of contract.
- 2.7 Each officer will when carrying out CSOs, act only within the limits of their delegated authority, including the authority of chief officers in relation to approving entry into contracts and granting of approvals.
- 2.8 For each contract, no steps may be taken to award the contract or pay any additional sum once the contract has been awarded such as a variation unless

the expenditure involved has been included in approved estimates or on capital or revenue accounts; or has been otherwise approved by, or on behalf, of the council. The LCO will ensure that evidence of authority to spend, and the budget code to be used, is recorded on the contract file.

### **CSO3            APPROVALS**

3.1 CSOs set out the usual procedure, which should be followed. If in a particular case there is an exceptional reason for not following these usual procedures then approval must be obtained in advance in writing with reasons being given to do something different, at whatever stage of the procurement process. Such a report is called an “approval report” in these contract standing orders. No approval can be given which would mean that there would be no compliance with:

- a) the requirements of propriety;
- b) the requirement for value for money and best value;
- c) requirements of the council’s constitution apart from contract standing orders – such as requirements for action by the executive or members; and
- d) requirements of EU and domestic legislation.

3.2 Examples of circumstances which might amount to exceptional reasons (but this is not an exclusive list) are:

3.2.1 The nature of the market has been investigated and is such that a departure from CSO requirements is justified;

3.2.2 The contract is one required because of circumstances of extreme urgency which could not reasonably have been foreseen;

3.2.3 The circumstances of the proposed contract are covered by legislative exemptions (whether under EU or domestic law); and

3.2.4 (in relation particularly to requirements for obtaining quotes and tenders and for contract award) where:

- a) the council is involved in a partnership or other joint working arrangement where that is funded partly or entirely by external funding; and
- b) where the partnership or joint working structure has equivalent controls to those in CSOs in place, and the application of those controls instead of the controls set out in these contract standing orders has been approved through an approval report.

#### 3.3 Content of approval reports

The request for an approval must be in a written report (“approval report”). This report must set out what the officer wants to do differently from the normal requirements of CSOs; what the normal requirement would be; and the reasons for requesting the approval, and satisfy any other requirements set out in CSOs. For contracts where the contract value is over the relevant EU threshold, the report must include a legal concurrent setting out the view of the borough solicitor to the approval, and a procurement concurrent setting out the view of the head of procurement, without which the approval cannot be granted.

### 3.4 Who makes approval decisions

The identity of the person who makes the decision on whether to grant the request will depend on what the request is. Where there is no requirement elsewhere in these CSOs or in the council's constitution about who is to make that decision, then the decision is one, which can be made by the LCO's chief officer. However, where a proposed contract would affect the budget of more than one department, all chief officers concerned must agree or, where the decision is one to be made by IDM and the matter affects the remit of more than one individual member, the executive should take the decision.

### 3.5 Emergencies

An emergency is a situation where action is needed to prevent a risk of injury to or loss of life, or to the security or structural viability of a property. Where there is an emergency, the action can be taken by a chief officer without obtaining any other prior written approval. Such action shall be confined to prevention of further danger. Where such action is taken, it must subsequently be recorded in a written report.

### 3.6 Register of approvals

Each chief officer will keep a register of approvals granted by them where the LCO is a member of their department. Each chief officer will report to chief executive every six months on the approvals given during the preceding period.

## **CSO4 ESTIMATED CONTRACT VALUE**

4.1 The estimated contract value of a contract is the total value of a proposed contract, net of VAT, in accordance with the valuation rules contained in European regulations whether or not the particular contract is one to which those regulations apply. This may be different to the lifetime cost of the contract, which may need to be considered for other purposes (see procurement guidelines).

4.2 A contract may not be artificially packaged into two or more separate contracts, nor a valuation method selected, with the intention of avoiding the application of these CSOs. Contracts will be packaged to best ensure delivery of CSO requirements. Chief officers are responsible for considering aggregation within their own Department.

4.3 Chief officers will supply to Southwark procurement, at the commencement of each financial year, an estimate of their requirements for supplies or for services for the forthcoming 12 months, for the purposes of the annual pre-information notice required under E.U. directives.

## **CSO5 PARTICULAR TYPES OF CONTRACT: CORPORATE CONTRACTS, FRAMEWORK CONTRACTS, SCHEDULES OF RATES AND SPOT CONTRACTS**

### 5.1 Corporate contracts

Where there are corporate contracts for a service, supplies or for works, these should be used to make the relevant purchase. If a lead contract officer believes

that the corporate contract does not meet their requirements they must obtain approval through an approval report regardless of the value of the purchase.

#### 5.2 Framework / schedule of rates

In framework contracts or similar types of contract (such as schedule of rates contracts), the council is under no obligation to offer work but the provider is obliged to perform work (which might be for works, services or supplies) if the council asks it to do so. The contract value for the contract will be established under the principles above. However, once the framework contract is entered into, no individual order, which is likely to exceed the EU threshold level for supplies, may be placed. For any order above that threshold unless an approval is obtained (whether at the time of the tendering of the entire contract or before the placing of the individual order), a fresh tendering exercise will take place.

#### 5.3 Consortium contracts

The requirements in these contract standing orders for obtaining tenders or quotes shall not apply where the adoption of this procurement strategy has been approved through approval report and either:

- a) the council is part of a consortium of councils contracting with the same contractor in respect of the provision of a particular good or service and where the council is not the lead borough in the consortium, and the contract has been tendered and the form of contract agreed in accordance with the contract standing orders of another borough council in the consortium; or
- b) where the government procurement schemes GCAT, SCAT or GTC are to be used.

#### 5.4 Social services care and certain education contracts for individuals

Social services care contracts or certain education contracts may be 'block' or 'term' contracts (where a number of beds, places or services is provided by the contractor at pre-agreed prices, to which the council may refer users over the contract period) or 'spot' contracts (one-off contracts meeting an individual's needs, or framework contracts without pre-agreed prices). The relevant chief officers will seek to maximise the use of block or term contracts where this represents best value for the council. The following provisions shall apply to social services care contracts and some education contracts:

- a) the requirements in these contract standing orders for obtaining tenders or quotes shall not apply to spot contracts; other than this, all requirements of these contract standing orders apply to block and term contracts;
- b) the relevant chief officer may award all spot contracts; and
- c) the relevant chief officer must provide quarterly reports to the executive lead member responsible for their area and an annual report to the executive detailing the nature, extent and value of spot contracts entered into in the previous year.

## **CSO6 REQUIREMENTS DEPENDING ON TYPE OF CONTRACT AND LEVELS OF CONTRACT VALUE**

6.1 The general requirements set out in CSOs will always apply – for example, the requirement to obtain best value and value for money. The obligations below are the minimum, depending on the level of contract value.

6.2 Where the estimated contract value is:

a) less than £5,000

No requirement to obtain competitive quotes; requirement is to ensure value for money and best value and in the manner most expedient for efficient management, and to keep a record of what action is taken and why;

b) between £5,000 to £49,999

Requirement to obtain at least three written quotes. However, the LCO may decide that this process is not appropriate in order to secure value for money. If that is the case, a method which will secure value for money and best value should be used. Either way, a record must be kept of what action is taken and why; and

c) £50,000 or above

Requirement to invite at least five tenders following a publicly advertised competitive tendering process in accordance with these contract standing orders and any procurement guidelines.

6.3 Works contracts below EU threshold

Where the contract is one for works (as defined by EU requirements, whether or not those requirements apply for the particular contract being considered) and below the EU threshold for works contracts, the following requirements apply in addition to the requirements of 6.2 above:

- a) where less than £5,000 – as in 6.2 a) but in addition consider obtaining provider from works approved list; and
- b) where between £5,000 to £50,000 and above – those invite to submit quotes or tenders must be selected from works approved list in the manner set out in procurement guidelines unless permission is obtained to do otherwise through an approval report; such an approval report must include a procurement concurrent setting out the view of the head of procurement, without which the approval cannot be granted.

## **CSO7 TENDER PROCEDURE**

7.1 All tender procedures must ensure propriety and should be in accordance with the procurement guidelines.

7.2 Tenderers must be told that their tenders will only be considered if they are:

7.2.1 Sent in a plain envelope or parcel which is marked clearly “tender” followed by the subject of the contract;

7.2.2 The envelope or parcel does not show the identity of the tenderer in any

way; and

7.2.3 Delivered to the place and by the time stated in the tender invitation.

- 7.3 All tenders will be opened at the same time and place, after the closing date and time for receipt stated in the tender documents. Tenders where the estimated contract value is over £500,000 must be returned to the borough solicitor and shall be opened by an authorised representative of the borough solicitor. Where the estimated contract value is less than £500,000, tenders may be returned to the chief officer or their authorised representative who will arrange for tender opening in the presence of at least two officers of different disciplines one will be the witness and will not have been directly involved in that particular contract.
- 7.4 A tender received after the time and date specified in the invitation shall not be accepted or considered unless at the time of receipt, other tenders have not been opened and the relevant chief officer authorises to the contrary in writing following consultation with Southwark procurement or legal services.
- 7.5 Tenders may be received electronically with the prior approval of the head of procurement and (where the estimated contract value is over £500,000) borough solicitor and where in accordance with a procedure specified by the head of procurement.
- 7.6 The LCO will keep securely all tenders or quotations received with their envelopes for a period of at least 12 months after the award of the contract.

## **CSO8 DECISIONS**

- 8.1 Decisions must be made on the basis of a written report which complies with the requirements of these CSOs. For contracts where the contract value is over the current EU threshold, the report must include a legal concurrent setting out the view of the borough solicitor, and a procurement concurrent setting out the view of the head of procurement, without which the decision cannot be made and comment on equalities, health and safety and sustainability.
- 8.2 Every decision maker must make a record of the decision which they take and the reasons for that decision in writing in accordance with procurement guidelines and other council requirements.
- 8.3 Decisions about procurement of goods, services and works and variations to existing contracts can be made by the relevant chief officer (or under his/her delegated authority) unless there is a requirement in these CSOs for someone else to make that decision.
- 8.4 The main requirements for decisions other than by chief officer are set out in the table below. The other potential decision makers are the executive and an individual member of the executive (called "IDM" in these CSOs). The decision maker may take a decision to delegate their decision to another decision maker; such as from executive to IDM or from IDM to chief officer. The leader, deputy leader and/or the chief executive may direct that any decision about a particular contract should be reserved to the executive. An individual member of the executive may refer any IDM decision to the executive.

	<b>DECISION TO BE MADE</b>	<b>WHO MUST TAKE DECISION</b>
Decision to proceed with the procurement process or where partnership or joint working arrangement		
A Application to partnerships and other joint working	<p>Decision on whether usual CSO procedures (such as in particular to obtaining quotes and tenders and for contract award) should apply.</p> <p>See decision column. For example, where a decision on entry into the partnership or joint working or on the award of a particular contract funded by the external funding would (but for the approval report) have had to be made by executive, only the executive can decide to give the decision to someone else.</p>	As set out in 8.3 or below
B Strategic procurement	Agreement on the procurement strategy in relation to a strategic procurement.	The executive
C Single tender/ negotiation	Decision to carry out a tender process with only a single tenderer or to negotiate with only a single provider where the estimated contract value is above the relevant EU threshold (where EU requirements allow this).	IDM
Decision on contract award		
D Strategic procurement — contract award	Award of contract which is strategic procurement and the executive has not previously agreed a different route for award, such as to IDM.	The executive
	Award of a contract which is a strategic procurement and where the executive has previously agreed that IDM will make the decision on award of the contract (such as they may consider in relation to high value contracts).	IDM

	<b>DECISION TO BE MADE</b>	<b>WHO MUST TAKE DECISION</b>
<b>E</b> Contract award – not strategic procurement and award to other than lowest bid		
	a) Where the tender value is below relevant EU threshold and - is not more than 15% above the lowest bid	Chief officer
	- is more than 15% above the lowest bid	IDM
	b) Where the tender value is above relevant EU threshold and - is not more than 15% above the lowest bid	IDM
	- is more than 15% above the lowest bid	The executive
Decision to allow variations during contract term		
<b>F</b> Variations of contracts	<ul style="list-style-type: none"> <li>Any decision to vary a contract must be made in accordance with CSOs. For the purpose of this CSO a variation is a sum to be paid which was not anticipated when the contract was awarded or is not allowed for in the terms of the contract.</li> <li>Where an additional amount is to be paid which is in respect of an outstanding sum for works or services already provided or where there is a variation required because an urgent payment is required, and the officer has obtained confirmation from the borough solicitor that the sums are legally payable, the decision to make the payment may be made by a chief officer regardless of the amount. The decision must be reported in writing to the executive or to IDM subsequently (depending on which would, other than for the urgency, have taken the decision).</li> <li>Where a decision on a variation is made in relation to a contract for works, there will also be a deemed decision that the contract of any consultant engaged in relation to that works contract will be varied to the same percentage as that applied to the works contract, without the need for a separate decision in relation to the consultant's contract. Where the sum to be paid to the consultant is not a fixed percentage of the works contract value, then this does not apply.</li> </ul>	

	<b>DECISION TO BE MADE</b>	<b>WHO MUST TAKE DECISION</b>
	<u>F1 Executive</u>	
	Where the amount of the variation is more than 15% of the tender value, unless the decision is one given to the chief officer by E3 below.	The executive
	<u>F2 IDM</u>	
	a) <u>Services / supplies</u> : where the tender value plus the amount of the proposed variation and any previous variations is more than £500,000, and the amount of the proposed variation is not more than 15% of the tender value; and	IDM
	b) <u>Works</u> : where the tender value plus the amount of the proposed variation and any previous variations is more than the current EU works limit, and the amount of the proposed variation is not more than 15% of the tender value.	IDM
	<u>F3 Chief officer</u>	
	a) <u>Services / supplies</u> : where the tender value plus the amount of the proposed variation and any previous variations is less than £500,000, and the amount of the proposed variation is not more than 15% of the tender value;	Chief officer or on his/her delegated authority
	b) <u>Works</u> : where the tender value plus the amount of the proposed variation and any previous variations is less than the current EU works limit, and the amount of the proposed variation is not more than 15% of the tender value; and	Chief officer or on his/her delegated authority
	c) <u>General</u> : where the total of the tender value and the amount of the proposed variation and any previous variations is less than £25,000.	Chief officer or on his/her delegated authority

## **CSO9 DECLARATIONS OF INTERESTS**

9.1. The following will declare any interests which may affect the contract process:

- a) all staff, whether employed by the council or other wise, who play an influential role in any aspect of the tendering process;
- b) all staff listed on a scheme of delegation; and
- c) external consultants and representatives of bodies other than the council

(including community representatives) whose work gives them influence over or information about any aspect of the contract process.

- 9.2 Chief officers will ensure staff, consultants and representatives of bodies other than the council (including community representatives) appointed or agreed by them make declarations on appointment, or on any change in circumstances (and annually in the case of staff); and will either certify them as acceptable or take any necessary action in respect of potential conflicts of interest.
- 9.3 Chief officers will keep completed staff declarations on the individual's personnel file; and also maintain a departmental register of declarations indicating the names and grades of all those declaring, and the nature of their declaration; LCOs will keep any consultants' or other bodies' representatives' declarations on the contract file.

#### **CSO10 CONTRACTS IN WRITING**

- 10.1 Every contract awarded must be in writing and wherever practicable, on terms agreed by the council and consistent with any council terms of trading and contain full details of the contract documents and contract terms. All strategic procurement contracts and those works contracts whose contract value is in excess of the EU threshold for services/supplies must be executed on behalf of the council under seal as a deed.
- 10.2 All other contracts must be signed by or on behalf of the chief officer of the LCO's department.
- 10.3 Contracts for works must wherever practicable be signed or sealed before work starts on site and in accordance with the procedures set out in the procurement guidelines. If works must commence before the contract is signed or sealed the procedure set out in the procurement guidelines must first be followed.



## FINANCIAL STANDING ORDERS

---

### Introduction

#### 1. Financial administration

- (a) Director of finance
- (b) Strategic directors
- (c) Financial advice to the executive
- (d) Financial regulations
- (e) Fees and charges
- (f) Debt write offs
- (g) Internal audit

#### 2. Financial planning

- (a) Planning process

#### 3. Preparation of the revenue budget

- (a) Director of finance's responsibilities
- (b) Strategic director responsibilities
- (c) Budget working papers and revenue estimates
- (d) Budget timetable and cash limits

#### 4. Setting the annual budget and the council tax

- (a) Precepting authorities and the tax base
- (b) Collection fund
- (c) Decision by members

#### 5. Monitoring and control of the revenue budget

- (a) Budget spending
- (b) Monitoring
- (c) Virements
- (d) Budget adjustments

- (e) Carry forward of underspends
- (f) Accuracy of accounts

**6. Annual statement of accounts**

- (a) Director of finance
- (b) Strategic directors

**7. Preparation of the capital programme**

- (a) Capital strategy
- (b) Capital programme
- (c) Financing of schemes
- (d) Capital schemes

**8. Monitoring and control of the capital programme**

- (a) Control
- (b) Reporting requirements
- (c) Variations to the capital programme
- (d) Major overspends
- (e) Accuracy of accounts

**9. Leases**

- (a) Inclusion in capital accounts
- (b) Consent

**10. Schools Fair Funding**

- (a) Application of standing orders
- (b) Financial regulations
- (c) Scheme for financing schools

**11. Treasury management**

- (a) Prudential framework
- (b) Borrowing and investment strategy and decisions
- (c) Departure from ODPM guidance or the CIPFA code

**Glossary**

## **Introduction**

The council allocates resources for both capital and revenue purposes. The council has systems to monitor expenditure and income on an accruals basis and to monitor accounting commitments on both revenue and capital budgets. All references to income and expenditure in the financial standing orders and financial regulations include accrued income and expenditure in addition to cash receipts and payments. A short glossary of other terms is appended to the financial standing orders for ease of reference – a more detailed version may be found appended to the financial regulations.

References in these standing orders to “the executive” should be taken to include decisions taken by the whole executive, decisions by any subcommittee of the executive and decisions by individual members of the executive. Delegations to the executive are set out in the constitution.

### **1. Financial administration**

#### **a) Director of finance**

- i) The director of finance is the officer appointed by the council in accordance with section 151 of the Local Government Act 1972, section 114 of the Local Government Finance Act 1988, the Accounts and Audit Regulations 2003, and section 25 of the Local Government Act 2003. The postholder must ensure that the council’s financial affairs are administered in a proper manner, in compliance with all relevant professional codes of practice, and all statutory obligations;
- ii) All matters connected with the financial administration of the council’s affairs are the delegated responsibility of the director of finance, except any matters which are delegated to other officers or reserved to committees of council members, the executive, or to the council itself. The director of finance may authorise other officers to carry out matters delegated to him/her except the section 151 responsibilities.

#### **b) Strategic directors**

Strategic directors are responsible for ensuring that there is proper financial management within their department. Specific responsibilities are set out in the scheme of delegation for financial authority and accountability. Strategic directors must maintain adequate systems of internal control over financial operations and processes and secure the accuracy and integrity of financial information and systems operating within their departments. Strategic directors must ensure compliance with procedural instructions on financial administration issued by the director of finance. Strategic directors must set and maintain a departmental scheme of management setting out the levels of authorisation and standards for the department.

#### **c) Financial advice to the executive**

- iii) Corporate and strategic matters. The director of finance will provide financial advice to the council, its committees, subcommittees, and similar bodies of members including the executive on all matters of a corporate or strategic financial nature or of an interdepartmental nature;

- iv) Departmental matters. Strategic directors are responsible for financial advice to committees, subcommittees and similar service bodies of members including the executive on all financial matters of a departmental nature.

**d) Financial regulations**

The director of finance will issue financial regulations applicable to all or specified categories of council staff. Strategic directors will ensure that all relevant staff in their departments fully comply with them. Individual council officers must familiarise themselves with the financial regulations, or similar, relevant to their work, and fully comply with them.

The 'managing money' section of the council's business managers' handbook for the purposes of these financial standing orders is the council financial regulations.

**e) Fees and charges**

Fees and charges set by statute or regulation should be increased in line with them, while fees and charges capped by statute should be increased by a minimum of the medium term financial strategy rate up to the maximum allowed. Changes in all flexible fees and charges at a rate other than that approved by the medium term financial strategy require the approval of the individual decision maker in accordance with the council's scheme for individual executive member decision making. Within the fees and charges set, strategic directors are responsible for maximising income for the council.

**f) Debt write offs**

The authority to write off bad debts under £5,000 is delegated to strategic directors within the scheme of delegation for financial authority and accountability, subject to compliance with the council's write off policy. Write offs of bad debts over £5,000 but under £50,000 are reserved to individual executive members for decision and write offs in excess of £50,000 per case are key decisions that should be dealt with through the council's protocol for decision making. Note that write offs should be for the cumulative debt for one debtor for a business unit.

**g) Internal audit**

- (i) The director of finance is responsible for:
- Safeguarding the independence of internal audit;
  - Determining the overall audit arrangements and the annual internal audit plan;
  - The content and distribution of internal audit reports; and
  - The form and frequency of reports which may be made to the executive arising from internal audit activity;
- (ii) It is the responsibility of all council officers to implement agreed

recommendations and to provide, upon the request of the director of finance or a person nominated by him or her for this purpose, any information, explanation or document under the control of the officer concerned which is required for the purposes of or in connection with an internal audit inquiry, project, or investigation; and

- (iii) The director of finance will report to the executive any serious breach of financial standing orders or of the financial regulations or procedural instructions issued in accordance with them.

## **2. Financial planning**

### **a) Planning process**

The council's financial planning processes and planning horizons, for the revenue budgets (including the housing revenue account) and the capital programme, will be determined by the director of finance, subject to approval by the executive. This will have regard to the council's community strategy, corporate priorities and business plans.

## **3. Preparation of the revenue budget**

### **a) Director of finance's responsibilities**

The director of finance is responsible for the overall coordination of the budget process. Under section 25 of the Local Government Act 2003, s/he also has specific responsibilities for reporting on

- the robustness of the estimates
- the adequacy of the proposed financial reserves

### **b) Strategic director responsibilities**

- (i) Preparing the revenue budget for the services in his/her departments in consultation with the relevant member of the executive, which will have regard to the community strategy, corporate priorities and business plans.
- (ii) Ensuring that corporate deadlines are met.
- (iii) Ensuring that resources are allocated through a detailed budget on SAP by the deadline set by the director of finance.

### **c) Budget working papers and revenue estimates**

- (i) All working papers and revenue estimates must be prepared in accordance with issued procedural instructions. The instructions will include information in respect of inflation, capital financing costs and other variables outside the control of service departments.
- (ii) The revenue estimates must include forecast expenditure and income for the year.

#### **d) Budget timetable and cash limits**

As part of the council's arrangements for medium term financial planning and budget preparation, the executive will give guidance on the budget timetable to be adopted and the resource constraints (cash limits) within which business plans and budget estimates must be prepared. The executive may also, as part of a strategy to integrate strategic planning with three-year budgeting, issue indicative cash limits for up to three years ahead.

### **4 Setting the annual budget and the council tax**

#### **a) Precepting authorities and the tax base**

The council must before January 31 each year approve the council tax base for the following financial year. Following the council decision, the director of finance will inform precepting and levying bodies of the approved council tax base.

#### **b) Collection fund**

The director of finance will determine the probable collection fund surplus or deficit for the year, notify precepting bodies, and report to the executive.

#### **c) Decision by members**

- (i) The executive will make recommendations to the council regarding the annual budget for the following financial year and the council tax required to finance it; and
- (ii) At a meeting on or before March 1 each year, the council will set the overall council tax (including impact of the Greater London Authority precept) for the following financial year.

### **5 Monitoring and control of the revenue budget**

#### **a) Budget spending**

Following approval by the council of the annual revenue estimates, strategic directors may spend within the agreed budget for their departments. They must ensure that the net expenditure for their departments does not exceed the approved budget. They must also ensure that they do not incur expenditure on budgets outside their departmental budget without first getting approval from the relevant strategic director.

#### **b) Monitoring**

- (i) Strategic directors must:
  - i ensure that there are adequate systems to monitor and audit the resources allocated to services;
  - ii monitor at least monthly the accurately projected income and expenditure outturn for the financial year under each budget heading, having regard to

any contingent or other liabilities for which financial provision may be required;

iii present reports containing up to date summary projections to the relevant executive member each month.

(ii) The director of finance must:

i report on the overall financial position of the council to the executive as required, but at least three times a year. This report will include any concerns s/he may have about the outturns projected by strategic directors or about financial controls within departments; and

ii report to the council assembly, not later than August of each year, on the financial outturn for the previous financial year.

### **c) Virements**

Strategic directors may vire budget provision between budgets within their department, subject to the following:

(i) The authority for all virements must comply with each department's scheme of management;

(ii) Provisions included within departmental budgets on the instructions of the director of finance, e.g. insurance, capital charges, leasing costs, service level agreements etc, may not be vired for other purposes without the written consent of the director of finance; and

(iii) The departmental strategic director must report virements in excess of £250,000 (including grossing up of budgets where total virements net to nil) to the executive at least twice a year, in as much detail as requested by the executive.

### **d) Budget adjustments**

(i) Where responsibility for a service is transferred from one department to another, the director of finance will transfer resources in consultation with the relevant strategic director(s). The transfer must be approved by the executive if the annual cost transferred exceeds £250,000.

(ii) Subject to paragraph 10 of part 3A of the constitution "matters reserved to council assembly", the executive may at any time during a financial year, having considered a report of the director of finance, vary the departmental approved budget either:

i. To require mid year savings to compensate for a projected corporate overspend;

ii. To allocate to departments sums included within corporate provisions or budgets; or

- iii. Following transfer of service(s) between departments.

**e) Carry forward of underspends**

The director of finance may, on consideration of the overall financial position of the council at the end of a financial year, recommend to the council assembly whether underspends by departments can be made available for specific projects or carried forward to the subsequent financial year, or otherwise accounted for.

**f) Accuracy of accounts**

It is the responsibility of strategic directors, having regard to any guidance which may be issued by the director of finance, to ensure that all items are correctly accounted for, and that all expenditure and income is charged to a revenue account in the first instance, in accordance with proper accounting practices. The only exceptions under the provisos of the Local Government Act 2003 are:

- Expenditure under finance leases
- Expenditure permitted to be charged to capital
- The repayment of sums borrowed
- Expenditure on approved instruments (treasury loans)
- Payments from the superannuation funds
- The use of trust funds
- Transactions within the collection fund

**6 Annual statement of accounts**

**a) Director of finance**

The director of finance is responsible for the preparation and certification of the annual statement of accounts in accordance with current legislation and in particular with the Accounts and Audit Regulations 2003. The director of finance will make arrangements for the coordination of the council closing of accounts programme to ensure compliance with national guidelines.

**b) Strategic directors**

Strategic directors are responsible for ensuring:

- i. The accuracy of their departmental accounts and compliance with all current legislation and applicable accounting codes of practice; and
- ii. The prompt production of adequate working papers to justify all items attributable to them in the statement of accounts; and
- iii. The achievement of their departmental closing of accounts programme in line with the director of finance's timetable for the closure of accounts and production of the annual statement of accounts; and
- iv. The completion of all grant claims accurately, within deadlines and with adequate

supporting working papers, ensuring that income due to the council is maximised.

- v. That their staff fully cooperate with the council's external auditors during their audit of the accounts and grant claims.

## **7 Preparation of the capital programme**

### **a) Capital strategy**

The council assembly will approve the capital strategy annually. This will include setting the council's investment priorities and the principles upon which the capital programme will operate.

### **b) Capital programme**

The executive will, on consideration of annual and ad hoc reports from the director of finance, agree the capital programme. The reports from the director of finance will consider the compliance of proposed schemes in the programme with the capital investment strategy, the capital resources available to the council, the revenue implications of the proposed capital expenditure, and any other relevant information.

### **c) Financing of schemes**

Within the overall approved capital programme, the director of finance will decide the method by which any particular scheme will be financed in consultation with the executive member for resources.

### **d) Capital schemes**

Approval to spend on individual capital schemes will only be given once issued procedural instructions have been complied with and cash flow implications have been determined and assessed to the satisfaction of the director of finance.

## **8 Monitoring and control of the capital programme**

### **a) Control**

Strategic directors must ensure that their total departmental capital spending in any financial year does not exceed the relevant provision within the capital programme, except where approved by the executive.

### **b) Reporting requirements**

- (i) Strategic directors must report at least quarterly to the relevant executive member on departmental capital expenditure incurred to date in the financial year and the projected outturn for the financial year compared to budget. The quarterly reports will also include indicative proposals for the next two years including forecasts of cash outflows by project in each year, highlighting slippage and project delays and the latest estimates of capital receipts for the same period.

- (ii) The director of finance will report on the actual capital expenditure incurred by the council as a whole to the executive as required, but not less than twice a year. This report will include details of the projected outturn for the financial year and the total capital resources available to the council with which to finance such expenditure.
- (iii) The director of finance will report to the executive on the outturn position for capital expenditure for each financial year.

**c) Variations to the capital programme**

Strategic directors may vary the budget for individual schemes or block provisions and may add schemes from the reserve list subject to any increase in budget being met by virements or additional resources and subject to the agreement of the director of finance and relevant executive members. They must report such variations to the executive, at the earliest opportunity.

**d) Major overspends**

Strategic directors must report to the executive on any schemes in progress, which are forecast to overspend by 15% or more compared to the contract sum unless the overspending amounts to less than £200,000. The report must give the reasons for the overspending.

**e) Accuracy of accounts**

It is the responsibility of strategic directors, having regard to any guidance which may be issued by the director of finance, to ensure that all items are correctly coded and only expenditure classified as capital expenditure in accordance with proper accounting practices or as defined as such under the Local Government Act 2003 (and subsequent regulations) is charged to capital.

**9 Leases**

**a) Inclusion in capital accounts**

The taking or granting of a lease on any asset may form part of the council's capital expenditure or receipts, and must, therefore, be provided for.

**b) Consent**

Strategic directors are required to obtain written permission from the director of finance before taking or granting a lease on any asset. The exceptions to this are:

- (i) The granting of short term leases on property within the commercial property portfolio managed by the head of property services; and
- (ii) The granting of leases on housing revenue account dwellings under the right to buy provisions of the Housing Act 1985.

## **10 Schools fair funding**

### **a) Application of standing orders**

Delegated budgets of schools, in accordance with the Schools Standards and Framework Act 1998, remain part of the authority. The statutory responsibilities of the director of finance apply to schools in the same way as any other part of the council.

### **b) Financial regulations**

Financial regulations applying to schools which differ from those issued to strategic directors and departments will be issued by the director of education after agreeing them with the director of finance.

### **c) Scheme for financing schools**

The director of finance and director of education will consult on and issue a scheme for financing schools annually.

## **11 Treasury management**

### **a) Prudential framework**

#### **(i) Prudential indicators**

The director of finance shall set out prudential indicators for capital finance and treasury management under the provisions of the Local Government Act 2003 for consideration and decision by council assembly alongside consideration of the budget and council tax each year.

#### **(ii) Reporting**

The director of finance shall monitor and report at least twice a year on performance against the indicators.

### **b) Borrowing and investment strategy and decisions**

#### **(i) Strategy**

The director of finance shall set out the borrowing and investment strategy (including prudential borrowing arrangements) for consideration and decision by the council assembly each year, in accordance with ODPM guidance on local government investments and the CIPFA code of practice on treasury management in the public sector.

#### **(ii) Decisions**

All executive and operational decisions on borrowing, credit finance and investments are delegated to the director of finance, who shall report on activity at least twice a year.

**c) Departure from ODPM Guidance or the CIPFA Code**

If the director of finance should wish to depart materially from the main principles of the guidance or code, the reasons should be reported to the council assembly.

## **Glossary**

### Capital programme

The capital programme is a medium term statement of the council's proposals for capital expenditure, including leasing, having regard to the likely level of resources.

### Financial regulations

Financial regulations are such procedures that the director of finance shall issue from time to time as part of the financial standing orders. Currently these are contained within the managing money section of the business managers' handbook and all complementary or otherwise similar procedures issued.

### ODPM

The Office of the Deputy Prime Minister – a government department.

### Prudential indicators

Prudential indicators are indicators set by each local authority under CIPFA's prudential code for capital finance to help demonstrate that capital investment plans are affordable, prudent and sustainable and that treasury management (see below) decisions are taken in accordance with good practice. Examples of indicators are ratios of financing costs to net revenue streams; estimates of the incremental impact of capital investment decisions on council tax and levels of external debt.

### Schools fair funding

The Department for Education and Skills approves the council's fair funding scheme. The scheme contains details of financial standing orders and regulations.

### Treasury management

In order to maximise the return on temporary surplus cash balances and minimise the cost of short term borrowing, the council employs a policy of "treasury management".

### Virements

A virement is an agreed reallocation of budgetary provision that has been approved for one purpose to another designated budget.

# Officer employment procedure rules

## 1. Appointments generally

### (a) Appointments to be on merit.

Every appointment of a person to a paid office of the council shall be made on merit, and in accordance with the council's policies and procedures contained in the business managers' handbook.

### (b) Declarations

(i) The council has drawn up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the council; or of the partner of such persons.

(ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

### (c) Seeking support for appointment.

(i) Subject to paragraph (iii), the council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the council. The content of this paragraph will be included in any recruitment information.

(ii) Subject to paragraph (iii), no councillor will seek support for any person for any appointment with the council.

(iii) Nothing in paragraphs (i) and (ii) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment.

## 2. Recruitment of head of paid service and chief officers

Where the council proposes to appoint a chief officer, director of finance or the borough solicitor and it is not proposed that the appointment be made exclusively from among its existing officers, the council will as a minimum:

### (a) draw up a statement specifying:

i) the duties of the officer concerned; and

ii) any qualifications or qualities to be sought in the person to be appointed;

(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

(c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

### **3. Appointment of head of paid service**

This process is subject to the Local Authorities (Standing Orders) (England) Regulations 2001.

- (a) The council assembly will approve the appointment of the head of paid service following the recommendation of such an appointment by the appointments committee of the council. That committee must include at least one member of the executive.
- (b) The council assembly may only make or approve the appointment of the head of paid service where no well-founded and material objection has been made by any member of the executive.

### **4. Appointment of the borough solicitor**

- (a) The appointments committee will appoint the borough solicitor.
- (b) An offer of employment as borough solicitor shall only be made where no well-founded and material objection from any member of the executive has been received.

### **5. Appointment of the director of finance**

This process is subject to the Local Authorities (Standing Orders) (England) Regulations 2001.

- a). The appointments committee will appoint the director of finance.
- b). An offer of employment as director of finance shall only be made where no well-founded and material objection from any member of the executive has been received.

### **6. Appointment of chief officers**

This process is subject to the Local Authorities (Standing Orders) (England) Regulations 2001.

- a). The appointments committee will appoint chief officers.
- b). An offer of employment as a chief officer shall only be made where no well-founded and material objection from any member of the executive has been received.

### **7. Appointment of deputy chief officers**

This process is subject to the Local Authorities (Standing Orders) (England) Regulations 2001. "Deputy chief officer" is defined in section 2(8)&(9) the Local Government and Housing Act 1989 to mean a person who, in respect of all or most of the duties of his or her post, is required to report directly or is directly accountable to one or more chief officers (excluding persons whose function is solely secretarial,

clerical or otherwise in the nature of support services). By law, members are only able to play a role in appointments of deputy chief officer or above.

- (a) The head of paid services or his/her nominee will appoint deputy chief officers.
- (b) An offer of employment as a deputy chief officer shall only be made where no well-founded and material objection from any member of the executive has been received.

## 8. Other appointments

- a) **Officers below deputy chief officer.** Appointment of officers below deputy chief officer (other than assistants to political groups and an assistant to the mayor) is the responsibility of the head of paid service or his/her nominee, and may not be made by councillors.
- b) **Assistants to political groups.**
  - (i) Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group, and the Local Government and Housing Act 1989.
  - (ii) No appointment may be made to any post allocated to a political group until a post has been allocated to each group which qualifies for one.
  - (iii) A political assistant may not be appointed unless the group qualifies for one under the Local Government and Housing Act 1989.
  - (iv) No more than one political assistant can be appointed to each political group.
  - (v) No arrangement may be made for the discharge of any of the council's functions by a political assistant.
  - (vi) The terms and conditions of any such post shall be the same for all such posts.
  - (vii) Whenever any such post has been established and is vacant, the proper officer shall, in accordance with the wishes of the political group to which it is allocated, make appropriate arrangements for posts to be filled.

## 9. Disciplinary action

This process is subject to the Local Authorities (Standing Orders) (England) Regulations 2001.

- (a) **Suspension.** The head of paid service, monitoring officer and director of finance may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.

- (b) **Independent person.** No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.
- (c) Councillors will not be involved in the disciplinary action against any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

## 10. Dismissal

This process is subject to the Local Authorities (Standing Orders) (England) Regulations 2001.

- a). Head of paid service

The council assembly must approve any dismissal before notice of dismissal is given to the head of the paid service.

- b). Chief officers, director of finance, monitoring officer, deputy chief officers
- c). A notice of dismissal shall only be given to an officer specified in paragraph (b) where, in accordance with the regulations, no well-founded and material objection from any member of the executive has been received.
- d). Paragraph (a) applies to the dismissal of the head of paid service, a chief officer (as defined by regulation 3(a) or 3(b) of the Local Authorities (Standing Orders) (England) Regulations, the monitoring officer, or to any deputy chief officer as defined by regulation 3(c) of the Local Authorities (Standing Orders) (England) Regulations.

- (a) Officers below deputy chief officer.

Councillors will not be involved in the dismissal of any officer below deputy chief officer except:

- (i) where such involvement is necessary for any investigation or inquiry into alleged misconduct, or
- (ii) where the councillor hears an appeal as a member of the disciplinary appeals committee, or the disciplinary appeals (safeguarding of children and vulnerable adults) panel.



## The Southwark Council code of conduct for members

### PART 1 - GENERAL PROVISIONS

#### Scope

1. A member must observe the authority's code of conduct whenever he or she –
  - (a) conducts the business of the authority;
  - (b) conducts the business of the office to which he or she has been elected or appointed; or
  - (c) acts as a representative of the authority, and references to a member's official capacity shall be construed accordingly.
2. An authority's code of conduct shall not, apart from paragraphs 7 and 8(a) below, have effect in relation to the activities of a member undertaken other than in an official capacity.
3. Where a member acts as a representative of the authority –
  - (a) on another relevant authority, he or she must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, he or she must, when acting for that other body, comply with the authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.
4. In this code, "member" includes a co-opted member of an authority.

#### General obligations

5. A member must -
  - (a) promote equality by not discriminating unlawfully against any person;
  - (b) treat others with respect; and
  - (c) not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority.

6. A member must not –
  - (a) disclose information given to him/her in confidence by anyone, or information acquired which he or she believes is of a confidential nature, without the consent of a person authorised to give it, or unless he or she is required by law to do so; nor
  - (b) prevent another person from gaining access to information to which that person is entitled by law.
7. A member must not in his or her official capacity, or any other circumstance, conduct himself or herself in a manner which could reasonably be regarded as bringing his or her office or authority into disrepute.
8. A member –
  - (a) must not in his or her official capacity, or any other circumstance, use his or her position as a member improperly to confer on or secure for himself or herself or any other person, an advantage or disadvantage; and
  - (b) must, when using or authorising the use by others of the resources of the authority -
    - (i) act in accordance with the authority's requirements; and
    - (ii) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the authority or of the office to which the member has been elected or appointed.
9. A member must when reaching decisions –
  - (a) have regard to any relevant advice provided to him or her by –
    - (i) the authority's finance director acting in pursuance of his or her duties under section 114 of the Local Government Finance Act 1988; and
    - (ii) the authority's monitoring officer acting in pursuance of his or her duties under section 5(2) of the Local Government and Housing Act 1989; and
  - (b) give the reasons for those decisions in accordance with the authority's and any statutory requirements in relation to the taking of an executive decision.
    - (2) In sub-paragraph (1)(b) above and in paragraph 12(2) below, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.
10. A member must, if he or she becomes aware of any conduct by another member which he or she reasonably believes involves a failure to comply with the authority's code of conduct, make a written allegation to that effect to the Standards Board for

England as soon as it is practicable for him to do so.

## **PART 2 - INTERESTS**

### **Personal interests**

11. (1) A member must regard himself or herself as having a personal interest in any matter if the matter relates to an interest in respect of which notification must be given under paragraphs 17 and 18 below, or if a decision upon it might reasonably be regarded as affecting to a greater extent than other council tax payers, ratepayers or inhabitants of the authority's area, the well-being or financial position of himself or herself, a relative or a friend or –
- (a) any employment or business carried on by such persons;
  - (b) any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
  - (c) any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
  - (d) anybody listed in sub-paragraphs (a) to (e) of paragraph 18 below in which such persons hold a position of general control or management.
- (2) In this paragraph –
- (a) "relative" means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and
  - (b) "partner" in sub-paragraph (2)(a) above means a member of a couple who live together

### **Disclosure of personal interests**

12. (1) A member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Subject to paragraph 15(1)(b) below, a member with a personal interest in any matter who has made an executive decision in relation to that matter must ensure that any written statement of that decision records the existence and nature of that interest.

### **Prejudicial interests**

13. (1) Subject to sub-paragraph (2) below, a member with a personal interest in a matter also has a prejudicial interest in that matter if 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 the member's judgement of the public interest.

- (2) A member may regard himself as not having a prejudicial interest in a matter if that matter relates to -
- a). another relevant authority of which he or she is a member;
  - b). another public authority in which he or she holds a position of general control or management;
  - c). a body to which he or she has been appointed or nominated by the authority as its representative;
  - d). the housing functions of the authority where the member holds a tenancy or lease with a relevant authority, provided that he or she does not have arrears of rent with that relevant authority of more than two months, and provided that those functions do not relate particularly to the member's tenancy or lease;
  - e). the functions of the authority in respect of school meals, transport and travelling expenses, where the member is a guardian or parent of a child in full time education, unless it relates particularly to the school which the child attends;
  - f). the functions of the authority in respect of statutory sick pay under part XI of the Social Security Contributions and Benefits Act 1992, where the member is in receipt of, or is entitled to the receipt of such pay from a relevant authority; and
  - g). the functions of the authority in respect of an allowance or payment made under sections 173 to 176 of the Local Government Act 1972 or section 18 of the Local Government and Housing Act 1989.

### **Overview and scrutiny committees**

14. (1) For the purposes of this part, a member must if he or she is involved in the consideration of a matter at a meeting of an overview and scrutiny committee of the authority or a sub-committee of such a committee, regard himself/herself as having a personal and a prejudicial interest if that consideration relates to a decision made, or action taken, by another of the authority's -
- (a) committees or sub-committees; or
  - (b) joint committees or joint sub-committees, of which he or she may also be a member.
- (2) But sub-paragraph (1) above shall not apply if that member attends that meeting for the purpose of answering questions or otherwise giving evidence relating to that decision or action.

### **Participation in relation to disclosed interests**

15. (1) Subject to sub-paragraph (2) below, a member with a prejudicial interest in any matter must –

- a) withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless he or she has obtained a dispensation from the authority's standard's committee;
- b) not exercise executive functions in relation to that matter; and
- c) not seek improperly to influence a decision about that matter.

(2) A member with a prejudicial interest may, unless that interest is of a financial nature, and unless it is an interest of the type described in paragraph 14 above, participate in a meeting of the authority's –

- (a) overview and scrutiny committees; and
- (b) joint or area committees,

to the extent that such committees are not exercising functions of the authority or its executive.

16. For the purposes of this part, "meeting" means any meeting of –

- (a) the authority;
- (b) the executive of the authority; or
- (c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees.

## **PART 3**

### **- THE REGISTER OF MEMBERS' INTERESTS**

#### **Registration of financial and other interests**

17. Within 28 days of the provisions of an authority's code of conduct being adopted or applied to that authority or within 28 days of his or her election or appointment to office (if that is later), a member must register his or her financial interests in the authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to the authority's monitoring officer of –

- (a) any employment or business carried on by him/her;
- (b) the name of the person who employs or has appointed him/her, the name of any firm in which he or she is a partner, and the name of any company for which he or she is a remunerated director;

- (c) the name of any person, other than a relevant authority, who has made a payment to him/her in respect of his or her election or any expenses incurred by him/her in carrying out his or her duties;
- (d) the name of any corporate body which has a place of business or land in the authority's area, and in which the member has a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
- (e) a description of any contract for goods, services or works made between the authority and himself/herself or a firm in which he or she is a partner, a company of which he or she is a remunerated director, or a body of the description specified in sub-paragraph (d) above;
- (f) the address or other description (sufficient to identify the location) of any land in which he or she has a beneficial interest and which is in the area of the authority;
- (g) the address or other description (sufficient to identify the location) of any land where the landlord is the authority and the tenant is a firm in which he or she is a partner, a company of which he or she is a remunerated director, or a body of the description specified in sub-paragraph (d) above; and
- (h) the address or other description (sufficient to identify the location) of any land in the authority's area in which he or she has a licence (alone or jointly with others) to occupy for 28 days or longer.

18. Within 28 days of the provisions of the authority's code of conduct being adopted or applied to that authority or within 28 days of his or her election or appointment to office (if that is later), a member must register his or her other interests in the authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to the authority's monitoring officer of his or her membership of or position of general control or management in any –

- (a) body to which he or she has been appointed or nominated by the authority as its representative;
- (b) public authority or body exercising functions of a public nature;
- (c) company, industrial and provident society, charity, or body directed to charitable purposes;
- (d) body whose principal purposes include the influence of public opinion or policy; and
- (e) trade union or professional association.

19. A member must within 28 days of becoming aware of any change to the interests specified under paragraphs 17 and 18 above, provide written notification to the authority's monitoring officer of that change.

### **Registration of gifts and hospitality**

20. A member must within 28 days of receiving any gift or hospitality over the value of £25, provide written notification to the authority's monitoring officer of the existence and nature of that gift or hospitality.



## **MEMBER AND OFFICER PROTOCOL**

### **1. Role and purpose**

The purpose of this protocol is to set down principles and procedures, which have been jointly agreed by officers and members to guide their joint working in the public interest. The protocol supplements and interprets, but does not supplant:

- statutory provisions, the member code of conduct and other codes and guidance;
- the provisions of the council's own adopted constitution and especially the rules of procedure;
- the disciplinary codes which regulate the conduct of officers.

It contains interpretation and guidance on some of the issues which commonly arise. It cannot cover every matter which will arise in council life but it reflects an approach and sets standards which will serve as a guide to dealing with other issues. It is intended to guide new members and officers and explain to them what they can expect of each other. It also explains what to do when things go wrong.

This protocol applies to voting non-elected members of committees and also to consultants and agency staff working for the council, to whom a copy should be supplied.

### **2. Review**

The standards committee and the borough solicitor will jointly keep the protocol under review and make recommendations for changes as appropriate. Review will take place in time for an updated version to be circulated annually after constitutional council with the new constitution, to all members and officers.

The borough solicitor will assess the corporate awareness of the protocol annually and report to standards committee.

### **3. Definition of the role of officers and members**

Both councillors and officers are servants of the public and they are indispensable to one another but their responsibilities are distinct.

## Members

Councillors are responsible to the electorate and serve only so long as their term of office lasts. All councillors have responsibilities to determine the policy of the council, monitor its performance, represent the council externally and act as advocates on behalf of their constituents. Executive members, chair and vice-chairs of scrutiny and other committees may also have additional responsibilities. However, all councillors have the same rights and obligations in their relationship with officers and should be treated equally.

## Officers

Officers are responsible to the council. Their job is to give advice to councillors and the council, and to carry out the council's work under the direction and control of the council, its executive, committees and sub-committees. Within these guidelines all officers should endeavour to give every assistance to members carrying out their various roles. Officers have a duty to keep members of all political groups fully informed about developments of significance in relation to council activities.

## Roles of statutory officers

The duties of both the monitoring officer and chief financial officer (apart from the administration of the financial affairs of the council) must be carried out personally, but can be carried out by a deputy nominated by them in cases of absence or illness and, in the case of the monitoring officer, the deputy may also carry out functions prescribed by statute and regulations.

<b>Post</b>	<b>Designation</b>	<b>Deputy</b>
Chief executive	Head of paid service	N/A
Borough solicitor	Monitoring officer	Assistant borough solicitor (community services)
Director of finance	Chief financial officer	Chief executive

#### 4. **Member development program**

The council runs a member-development scheme which is co-ordinated through legal and democratic services. However the scheme reflects the obligation on all parts of the council to ensure that all members are able to achieve their full potential in the position to which they have been elected. When this is achieved it benefits the council as a whole and the people of the borough but it also improves the mutual understanding of members and officers.

#### 5. **Member-officer relations**

One of the key issues addressed by the member/officer protocol is the question of member/officer relations. Mutual trust and respect should be the key aim of both members and officers, as it is essential for good local government.

### *Obtaining or granting favours*

The member code of conduct emphasises the need for members to avoid behaviour which could be viewed as conferring an advantage or disadvantage on an officer. Members should not seek personal favours from officers. Officers should not be tempted to give favours to please a councillor. An example of favour seeking would be asking whether a councillor's parking ticket could be withdrawn or whether an application for a service could be expedited. Similarly officers should not seek to circumvent agreed staff consultative procedures by lobbying councillors on matters which directly concern them as employees.

### *Personal familiarity*

Personal familiarity between members and officers can undermine public confidence in the council. It is acknowledged that some close relationships will inevitably develop, particularly when officers and executive members or chairs of committees work closely together. It is important that close relationships between members and officers are openly declared and should never be allowed to become so close, or appear to be so close as to bring into question the officer's ability to deal impartially with other members and other party groups, nor to undermine public trust and confidence in the council. Where possible members and officers who have close personal relationships should try to avoid coming into contact on projects and in the day to day business of the council.

### *Courtesy*

Members and officers should be courteous to each other at all times even if they disagree strongly with each others' views.

### *Bullying*

Bad relations between members and officers can be equally destructive to good governance. Members may from time to time become frustrated by what they regard as unacceptable or incompetent officer behaviour. It is self-evident that sometimes these feelings may be entirely justified although sometimes there may be a legitimate reason why member expectations cannot be met, e.g. because of a council policy or a legal requirement such as confidentiality.

However, members should take up their concerns through the dispute procedure described in this document, rather than through public criticism. They should bear in mind that officers are instructed not to "answer back" in public. Attacking an officer's conduct in public can in severe cases constitute bullying, and the Standards Board has already suspended one councillor for such behaviour. Similarly, undue pressure brought by either officers or members in private can be construed as bullying.

### *Lines of contact between members and officers*

It must be remembered that officers within a department are accountable to their chief officer. Members should direct enquiries to junior staff through senior management, or if the matter is routine at least keep a senior manager informed by copying the manager in on correspondence or emails. Officers should always seek to assist members but in so doing they must not go beyond the bounds of whatever authority they have been given by their chief officer under the delegation scheme.

In relation to visits to front-line services by members, members should consider advising relevant chief officers in advance of such visits. In the case of unannounced visits to front-line services, members should take care not to disrupt organisations unreasonably. If the visit is of a statutory inspection nature other procedures apply.

## **6. Reports**

Officers' reports should contain clear, evidence-based advice as to why a course of action is being recommended. From time to time corporate advice is given to officers on report writing and they should take care to follow it. The report should lay out all relevant factors for the decision maker, and examine all alternatives in an even handed way. Officers should take care to include even unpopular options if they feel they are relevant. They should bear in mind that if they have not done so and the decision is later challenged or proved to be the wrong decision they may find themselves personally and professionally liable.

Members can refuse to agree recommendations and table amendments to any recommendations. The member should be clear about the reasons for making alternative recommendations, and any amendments or recommendations proposed at a meeting should have a clear and rational basis, which is accessible to the public.

With executive reports the report writer should consult with the relevant executive member(s). That member is able to write his or her report in addition to the report submitted by the chief officer.

Where there is disagreement about the right course of action, it is always best practice for this to be open with both opinions available for discussion. Sometimes, in the course of preparing reports, these disagreements can be reconciled. However, it is always poor practice to bring pressure to bear on officers unwilling to amend their professional judgement, and in some cases this could be construed as bullying.

In relation to action between meetings, it is important to remember that the law only allows for decisions (relating to the discharge of any of the council's functions) to be taken by the executive, an executive member, a committee, a sub-committee or an officer.

## 7. **Officer advice to party groups**

There is now statutory recognition for party groups and it is common for such groups to give preliminary consideration to matters of council business in advance of such matters being considered by the relevant decision making body. The opposition groups may seek support to enable them to function as an effective opposition on the bodies on which they sit.

Officers may properly be called upon to support and contribute to such deliberations by party groups, provided they maintain a stance which is politically impartial. Officers should be required to give information and advice to political groups on matters relating to the council's functions only and not on matters which are primarily issues of party politics or political strategy. It is important that the political neutrality of officers is preserved. When engaging council officers at group meetings, party members should seek to avoid involving them in any political debate. With the exception of political assistants, officers should not attend, or be invited to attend, any political group meeting which includes non-council members.

Attendance at group meetings should normally be restricted to chief officers or heads of service who could be expected to have an understanding of both service and political perspectives. If other officers are asked to attend group meetings they should be invited to attend with their chief officer or head of service.

These briefings are confidential, to allow the free expression of views, and officers must be careful to maintain confidentiality. However, any written report supplied to party political group must be accessible to members of other parties.

## 8. **Support services for members**

The role of officers is to assist members in discharging their role as members of the council for council business and in their role as advocates for local communities. Officers should not be used in connection with party political campaigning or for private purposes, and this includes the support offered by political assistants. Council resources (e.g. stationery and photocopying) may only be used for council business or where such use may be seen as calculated to facilitate or is conducive or incidental to the discharge of the functions of the authority or of the office to which the member has been elected or appointed.

Support to members is a resource which is subject to the same budget pressures as any other. Given its importance to how effective members can be, it is essential that its allocation is agreed to be fair and in proportion to the duties of all groups of members.

Direct support and administrative help is provided by member services. Information technology support and training responsibilities are shared between a number of sections but are organised through the member services' manager. From time to time the manager or the member development and e-governance officer will issue training and guidelines on the proper and effective use of council supplied I.T. resources. Requests for further assistance or clarification should be

referred in the first instance to them.

Use of council resources includes the use of council owned facilities. Outside of council meetings, political groups may use meeting rooms for private meetings of their group which will include ordinary group meetings and training sessions. Otherwise facilities must be hired under the council's normal conditions of charging.

Use of the council chamber for party political purposes will only rarely be permissible and applications will be referred to the borough solicitor.

## 9. **Postage**

Preparation and postage of correspondence are a significant part of the support given to members. The content and purpose of letters, leaflets, and other correspondence must relate to the member's role in the authority. The members' services manager will arrange for monitoring arrangements to be put in place, and refer doubtful cases to the borough solicitor.

While this is not an exhaustive list, the use of council resources in the preparation and postage of the following kinds of post are not likely to be appropriate:

- Mailshots to all inhabitants of a ward;
- Letters sending out information (about timing of planning applications, refuse collections etc), which it is the task of officers to publicise, but requests will be considered on a case-by-case basis; or
- Letters which criticise other groups and their members or praise the writer or their political group.

Where members are uncertain as to whether a communication or publicity is appropriate they should seek advice from the head of communications and the borough solicitor in those cases.

Nothing in this protocol prevents the chief executive from approving the issuing of constituency wide mailshots, informing constituents who their ward councillors are, how they can contact them and other general information on the member, for the purposes of raising the profile of ward councillors generally.

## 10. **Correspondence**

In general correspondence from one member should not be copied to, or discussed with, another member without the member's consent. If a member has sought advice from an officer and included a circulation list at the bottom of the letter, it can be assumed that the officer's response can be circulated to those people on the circulation list for the original letter, even if that list includes other members.

This does not prevent officers copying letters to each other about casework across ward or interest boundaries in order to respond to a member inquiry.

Points of general interest to all members may be converted into general advice, and circulated (within the limitations set down in the Data Protection Act). A chief officer is also able to advise a relevant executive member in general terms of an issue raised with the chief officer in correspondence, or otherwise, by another member.

Official letters from the council should normally be sent out in the name of the appropriate officer rather than a member. It may be appropriate for members to write in certain circumstances (e.g. representations to a government minister), however, this would be the exception rather than the norm. Letters which create obligations or give instructions should not be sent out in the name of a member.

#### **11. Political assistants**

The Local Government and Housing Act 1989 gives councils a power to appoint political assistants to qualifying political groups. Southwark Council currently employs political assistants to the two largest groups. Political assistants are council officers who are employed to assist members of a political group, "in the discharge of any of their functions as members of a relevant authority." Unlike other officer appointments, the political affiliations and preferences of the political group for whom the assistant is hired can be taken into account in the selection process. They provide a useful means of broadening the base of advice to members.

The Act also restricts the work that political assistants can do. A political assistant's role is to provide assistance to members in carrying out their duties as members of the authority, and not in any additional political, or other, activity. For example, political assistants are not employed to work on election campaigns. Political assistants hold politically restricted posts under the Local Government and Housing Act 1989, and therefore also face restrictions on their personal political activity.

#### **12. Members' access to information and council documents and data information**

Members often require access to information to carry out their work in decision making, scrutiny, and representing their constituents. Officers should always process such requests promptly. They are required to ensure that the information required can be released. In some cases they will need to consult their managers or third parties who may hold the information, which may cause some delay.

The process for obtaining information is set out in the access to information rules in the council's constitution. Advice on the legal framework can be obtained from the borough solicitor.

The common law right of members is based on the principle that any member has a prima facie right to inspect council documents so far as his/her access to the documents is reasonably necessary to enable the member properly to perform their duties as a member of the council. This principle is commonly referred to as the "need to know" principle and it is well established that a member has no right to "a roving commission" to go and examine documents of the council. The

crucial question is the determination of the “need to know” and this question must initially be determined by the particular chief officer whose department holds the document in question (with advice from the borough solicitor).

In some circumstances (e.g. an executive or scrutiny committee/sub-committee member wishing to inspect documents relating to the functions of their portfolio/committee/sub-committee) a member’s “need to know” will normally be presumed, and also where the member is representing a constituent within his ward. 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, possibly in writing.

Guidance on holding and processing data to comply with the Data Protection Act is issued by the corporate records manager, who acts as the council’s data protection officer. Assistance with compliance is co-ordinated by member support services, but members should be aware that they are personally responsible under the Act, and should take care to follow any guidance issued.

### **13. Operation of the overview & scrutiny committee and its sub-committees**

The overview & scrutiny committee and its sub-committees may require officers and members to attend and provide any information required to answer questions. It is the duty of any officer or member to attend and answer questions (other than those which he or she would be entitled to refuse to answer in a court of law) if the overview & scrutiny committee and its sub-committees so request. The council may consider that chief officers and other senior managers as described in the delegation scheme (contained in the business managers handbook) and not more junior staff are the appropriate officers to attend scrutiny meetings and answer questions.

Members of the overview & scrutiny committee or one of its sub-committees should explain the role and operation of the committee/sub-committee, particularly in relation to future policy development, before asking questions of witnesses. Members should adopt an inquisitorial (information seeking) approach to questioning rather than a confrontational one. They may be firm and assertive, but adopting a facilitative and exploratory way of working should generate an atmosphere in which members and officers can explore issues openly and honestly. Under no circumstance should members adopt a rude or aggressive style.

Officers should provide all relevant information in their possession, and they should use their best efforts to make sure that they possess all relevant information. They should never seek to conceal or ‘improve’ inconvenient facts, and more senior officers, or other members should never attempt to persuade them to do so.

Reports of scrutiny committees, while drafted by officers, are the reports of the committees themselves and there is nothing improper in members of those committees asking for draft reports to be amended.

14. **Ceremonial events**

Civic ceremonial events will normally be led by the Mayor or the Deputy Mayor with the leaders of all political groups and other local members informed or invited as appropriate.

15. **Other events**

Events which involve government ministers or other political figures should usually be led by the leader or executive member with the Mayor informed or invited to lead as appropriate. Ward councillors and leaders of all the political parties should be invited where possible and appropriate.

16. **Involvement of ward councillors**

Ward councillors should be kept informed and consulted on relevant matters affecting their ward, i.e. on planning, licensing and other relevant matters (unless the ward councillor will be involved in making a decision at their community council). In the case of public meetings in a particular locality, all ward councillors will normally be invited to attend and should normally be consulted on any form of consultative exercise on local issues.

17. **When things go wrong:**

**Procedure for officers**

It is always preferable to resolve matters informally, through an appropriate senior manager. Officers however do have recourse to the staff complaints procedure (which is contained in the business managers handbook), the protections laid down in the officer employment procedure rules (contained in the part 4 of the constitution) or to the council's monitoring officer. In some cases they may wish to utilise the council's whistleblowing procedure (again contained in the business managers handbook). In the event of a complaint being upheld, the matter will be referred to the chief executive. A local solution may be found after discussion with the leader of the council and the leader and/or whip of the group concerned. Referral of the matter to the Standards Board, should be considered, particularly in serious cases, and the advice of the monitoring officer should be sought.

**Procedure for councillors**

Where a councillor is dissatisfied with the conduct, behaviour or performance of an officer, and feels that the officer response is unsatisfactory, they should refer the matter to the officer's head of service or senior manager. The manager should then make a preliminary investigation and consider whether the council's disciplinary and capability procedure is appropriate, and report back to the member concerned. Where the complaint relates to a chief officer, the complaint should be referred to the chief executive. Where the complaint relates to the chief executive, it should be referred to the head of human resources and to the council's monitoring officer. Depending on the nature and severity of the complaint, it may be necessary to investigate under the council's disciplinary and

capability procedures (contained in the business managers handbook).<sup>34</sup>

### **Standards committee**

The function of the standards committee is set out in the council's constitution. It has a role in offering guidance on the content and working of this protocol, although it will not arbitrate, except in considering cases relating to potential breaches of the members code of conduct. Such cases would have been referred to the Standards Board in the first instance.

---

<sup>34</sup> The officer employment procedure rules set out the special provisions regarding the formal disciplinary process for the chief executive and chief officers, including the right to a report by an independent person prior to a dismissal process being begun.



## **Appendix: Communications protocol**

### **1. Publicity**

Members need to comply with the requirements of the Local Government Act 1986 and the Code of Recommended Practice on Local Authority Publicity which prohibits authorities from publishing any material which appears to be designed to affect public support for a political party. Publicity cannot be used as a means to publicise individual councillors, except where they are acting to represent the council as a whole

The head of communications can advise members on how to deal with press enquiries, and how to arrange publicity for events which can be properly publicised. Members should seek advice before releasing information to the press which they have obtained in their role as members. They have a remit to discover and make public inefficiency and poor public service: however they should be careful where a matter they wish to make public relates to identifiable officers, and seek advice from the head of communications or the borough solicitor in those cases.

### **2. The role of the communications unit**

The communications unit works on behalf of the council and not for any political party. The purpose of its work is to provide high quality information about the council, its policies and its services and to maintain public confidence and where appropriate to protect and to promote the council's reputation. It aims to encourage public participation and the creation of local partnerships.

Publicity and information will cover areas such as why the council makes the decisions it does, and why other proposals are rejected. The communications unit will feature the decisions of the council – i.e. those decisions made by the council assembly, executive, scrutiny, planning or licensing committees or community councils, or those actions which have been taken within the broad policy framework already set by the council, subject to any call in arrangements.

### **3. Scrutiny**

Publicity about scrutiny will concentrate on factual information about which scrutiny exercises the council is conducting, who is involved, the process they will follow and the decisions they take. Where scrutiny suggests a course of

action that differs to or challenges one agreed by the executive or any other council decision making body, this would be made clear in publicity – together with the process for resolving the difference.

4. **Obligations on officers in relation to documents being prepared for public consumption**

When considering whether a communication or publicity is safe to be put out officers should ask themselves whether the communication or publicity is objective, balanced, informative and accurate? If the answer is an unequivocal yes then the communication or publicity is safe to be put out.

Where officers are uncertain as to whether a communication or publicity is appropriate they should seek advice from the communications unit and the borough solicitor in those cases.

In particular officers should seek advice from the borough solicitor and the communications unit on putting out a document for public consumption if:

- an election or by-election is due
- the publicity or statement tries to influence public opinion
- the publicity or statement tries to promote a particular candidate or party
- the material promotes a view of a matter of political controversy
- the publication is being distributed to all households in the borough

If something cannot go out as a member has suggested then officers can explain why and offer an alternative form of words. Again the communications unit or the borough solicitor can offer you guidance on what would be appropriate.

5. **Key spokespeople**

The role of the spokesperson is to present facts about council decisions, the context in which they were taken, actions, and issues faced by the council.

Members who are key council spokespeople are the leader and deputy leader and executive members within their portfolio, the chair of overview and scrutiny committee, planning chair, licensing chair, chair of the relevant community council and standards chair. They will be quoted or featured in publicity where it relates to their responsibilities on the council.



**MEMBERS' ALLOWANCES  
SCHEME**

**AS AGREED BY COUNCIL ASSEMBLY ON  
OCTOBER 29 2003 AND NOVEMBER 26 2003**

## **MEMBERS' ALLOWANCES SCHEMES – 2005/06**

### **1. Introduction**

- 1.1 The Local Government & Housing Act 1989 and the Local Authorities (Members' Allowances) (England) Regulations 2003 require authorities to make a scheme for payment of allowances to councillors. The regulations do not limit the amount that can be paid.
- 1.2 Before making, amending or reworking its allowance scheme, the council is required to have regard to the recommendations of an independent remuneration panel. The council is not, however, bound to adopt all or any of the panel's recommendations provided it has given them due consideration and is satisfied that it has justifiable reasons for not doing so.
- 1.3 In October and November 2003 the council agreed a new members' allowances scheme having considered the recommendations of the standards committee and having taken into account the Association of London Government Independent Remuneration Panel's reports of summer 2001 and 2003.

### **2. Basic allowance**

- 2.1 Each member of the council is entitled to receive the annual basic allowance of £9,678.00. This is paid on a monthly basis rather than as a lump sum.
- 2.2 If a member of the council does not serve for the whole of the 12-month period, or becomes disqualified, they will only be entitled to pro-rata payments for the period(s) during which they were actually a serving member of the council.
- 2.3 If a member wishes to waive their right to receive a basic allowance, or any other allowance under the scheme, they must notify the borough solicitor in writing.

### **3. Special responsibility allowance**

- 3.1 The council has decided to pay special responsibility allowances (SRA) to those members whom it considers to have special responsibilities for the discharge of the council's functions. The list of SRAs payable is set out in paragraph 12 below. This allowance is in addition to the basic allowance. No member may normally receive more than one SRA except for members of licensing committee who may, if they already receive a band 1 or band 2 allowance, receive an additional band 1 allowance to recognise the increased workload for this committee, due to the new licensing legislation.
- 3.2 The level of allowance paid to a band 3 or band 4 member is dependent on the average number of hours per week the member is employed elsewhere, as set out below:
  - less than 11 hours elsewhere, full SRA
  - 11 to 24 hours elsewhere, two thirds SRA
  - more than 24 hours elsewhere, one third SRA

3.3 SRAs are paid monthly. Where a member does not hold the post attracting an SRA for a complete calendar month, it will be paid proportionately for the number of days during which they held the post. If a member of the council does not serve as an elected member for the whole of the 12 month period, or becomes disqualified, or if they cease to perform the duties for which the allowance is payable, they will only be entitled to pro rata payments for the period(s) during which they undertake the duties. Similarly, if the scheme is amended so as to affect entitlement, the allowance will be paid pro rata.

3.4 In accordance with the Local Authorities (Members Allowances) (England) Regulations 2001, the council is required to publish details of any basic and special responsibility allowances paid to councillors for the previous financial year, along with details of the allowances scheme which applied at that time.

#### **4. Travel allowance**

4.1 Councillors (and co-optees receiving a special responsibility allowance) may only claim travel expenses incurred in the performance of “approved duties” (see paragraph 7 below) for meetings held outside the borough, subject to the following exceptions (no allowance is paid for approved duties held within the borough).

- Members with mobility difficulties are able to claim the cost of travel when on council business.
- That members are able to claim for taxis home after council meetings ending after 9.00pm in summer (BST) and 7.00pm in winter (GMT).
- Non statutory co-optees (who do not receive an allowance) can claim their travel expenses.

4.2 Members cannot currently reclaim expenses they have incurred due to

- a. congestion charges
- b. parking/clamping fines.

4.3 Other conditions applying and the approved rates are set out in paragraph 13 below and are the same as for officers who claim casual car or cycle user allowance.

#### **5. Subsistence allowance**

5.1 The maximum rates for subsistence allowance relating to “approved duties” are set out in paragraph 14 below and are the same for members as for officers. This allowance is not payable where the council has made arrangements for refreshments and/or accommodation.

5.2 Subsistence allowance may be claimed in respect of “approved duties” if they involve an absence from the normal place of residence exceeding four hours in total which includes one hour travelling time.

5.3 The amount to be reimbursed in respect of qualifying duties is the actual amount spent subject to the maximum figures in paragraph 14. Receipts must be produced in respect of all claims.

## **6. Child-care and dependant carers allowance scheme**

- 6.1 Members may claim this allowance as reimbursement of costs they incur in arranging carers to look after dependants who cannot be left by themselves by reason of age or other special needs. The allowance may only be claimed in respect of “approved duties”.
- 6.2 The maximum rate claimable is £6.00 per hour (*and may be increased from time to time by the chief executive on the advice of the strategic director of social services taking into account local conditions*). The following criteria also apply:
- payment is claimable in respect of children aged 15 or under or in respect of other dependants where there is medical or social work evidence that care is required;
  - the allowance will be paid as a reimbursement of incurred expenditure against receipts;
  - the allowance is not payable to a member of the claimant’s own household;
  - the carer must be 18 or over (and not a spouse or partner/co-habitee of the member or a relative living at the same address); and
  - any dispute as to entitlement and any allegation of abuse will be referred to the standards committee for adjudication.

## **7. Approved duties**

- 7.1 For a member, an “approved duty” for the purpose of travel, subsistence and child-care and dependant carers allowances means:
- a. attendance at a meeting of the council or of any committee or sub-committee of the council, or of any other body to which the council makes appointments or nominations, or of any committee or sub-committee of such a body, provided they are a member of the body concerned;
  - b. attendance at any other meeting, the holding of which is authorised by the council, or a committee or sub-committee of the council or a joint committee of the council, or a sub committee of such a joint committee, provided that it is a meeting to which members of at least two political groups have been invited;
  - c. attendance at a meeting of any association of authorities of which the council is a member;
  - d. attendance at a meeting of the executive or of any of its committees;
  - e. attendance at tender openings, where this is required by the council’s procedure rules;
  - f. performance of any duty in connection with the discharge of a function of the authority empowering or requiring the inspection of premises; and
  - g. performance of any duty in connection with arrangements made by the authority for the attendance of pupils at special schools;
  - h. any other duty approved by the council for the purpose of, or in connection with, the discharge of the functions of the council, or any of its committees or sub-committees; and
  - i. any duty for the purpose of or in connection with the discharge of the functions of the executive.

7.2 No allowances can be claimed in respect of political group meetings, members' surgeries or attendance at college or school governing bodies.

## **8. Claiming allowances**

8.1 Basic and special responsibility allowances are paid automatically, unless a member elects to forego them, by writing to the borough solicitor. Claims for all other allowances must be submitted within two months of the duty undertaken and accompanied by relevant receipts. Claims submitted outside of the two-month period may be put forward to the standards committee for consideration.

## **9. Withholding allowances**

9.1 The standards committee may withdraw allowances in whole or in part in the event of a member being suspended or partially suspended. All allowances should be withheld for the period of total suspension.

9.2 In the case of partial suspension:

- the basic allowance should continue to be paid (though the council expects a member voluntarily to abate their claim according to the extent to which they were able to continue to fulfil the functions of a non-executive member).
- to the extent that the partial suspension made it impossible or impracticable for a member to undertake activities in respect of which a special responsibility allowance was payable, that allowance should be withdrawn.

## **10. Co-opted members**

10.1 On the November 26 2003 council assembly agreed the following regarding payment of allowances to co-opted members.

- i. The chair of standards committee should receive a band 1 allowance of £2,766 but no allowance under part (ii) below
- ii. All other statutory co-optees (i.e. standards committee members and statutory co-optees to the education committee) should receive an annual allowance of £1,027
- iii. No statutory co-optees may receive more than one allowance under (i) or (ii) above
- iv. That statutory co-optees should be subject to the same travel and subsistence claim regime as councillors. (i.e. not able to claim for intra borough travel and subsistence except where one of the exceptions applies)
- v. Non-statutory co-optees should be able to claim re-imbursment of travelling and subsistence expenses.

10.2 Co-optees, the same as members may, in writing to the borough solicitor, elect not to receive allowances.

10.3 Allowances to standards committee co-optees should be payable either from the date of their appointment, or the date they obtained power to determine complaints of breaches of the members' code of conduct i.e. June 30 2003. The allowance to education co-optees should be payable from May 01 2003 - the

earliest date possible or the date of appointment.

- 10.4 Index linking: co-optees allowances to be subject to the same index as members allowances generally.
- 10.5 Co-optees do not receive the basic allowance.
- 10.6 If a co-opted member does not serve for the whole of the 12-month period, or become disqualified, they will only be entitled to pro-rata payments for the period(s) during which they were actually a serving co-opted member.
- 10.7 Both statutory and non-statutory co-opted members are entitled to claim dependant carer's allowance as set out in section 6.

**11. Amendments to the allowances scheme**

- 11.1 Levels of basic, special responsibility and financial loss allowance are adjusted in accordance with the local government pay settlement. This index linking will continue until April 2007.
- 11.2 Travel and subsistence allowances: will be amended in line with changes to allowances for officers.
- 11.3 Dependent carer's allowance may be increased from time to time by the chief executive, in consultation with the strategic director of social services, to reflect local conditions, and amounts payable by the social services department for the level of care required.

**12. Special responsibility allowances in addition to basic allowance of £9,678.00**

<b><u>Band 1</u></b>	<b>£2,766</b>	<b>23% of total leader's allowance</b>
Deputy leader majority opposition Leader of minority opposition Opposition group whip Licensing committee members Independent chair of standards		
<b><u>Band 2</u></b>	<b>£8,178</b>	<b>33% of total leader's allowance</b>
Deputy Mayor Chairs of scrutiny sub-committees Chair, planning committee Chair, licensing committee Chief whip Leader of majority opposition Vice chair overview & scrutiny Chairs of community councils Chair of disciplinary appeals		
<b><u>Band 2.25</u></b>	<b>£20,082</b>	<b>55% of total leader's allowance</b>
Mayor		

<b><u>Band 3</u></b>	<b>£29,817</b>	<b>73% of total leader's allowance</b>
Deputy leader Executive members Chair, overview & scrutiny		
<b><u>Band 4</u></b>	<b>£44,430</b>	
Leader		

### **13. Travel allowance**

13.1 Members may claim the cost of public transport relating to “approved duties” outside the borough (receipts must be produced in respect of all claims). Members using their own transport may submit mileage claims. The maximum rates per mile are set out below:

13.2 Travelling expenses necessarily incurred in carrying out their approved duties will be reimbursed, subject to the conditions set out below, and in the members’ allowances scheme.

13.3 The following is a summary of the conditions, and have been excerpted and adapted from those which apply to officers.

#### **13.4 Casual car users allowances: general conditions**

- Public transport must be used on all appropriate occasions, e.g. where more economic, timely etc.
- Members should not use their own cars when there is room in one of the local authority’s cars or in the car of another member making the same journey on the same business. As far as possible journeys over the same route should be arranged so as to synchronise.
- All official mileage has to be recorded.
- Members shall have included and maintain in their insurance policy a clause indemnifying the local authority against all third party claims (including those concerning passengers) arising out of the use of the vehicle on official business.
- Members must ensure that the car they are travelling in has current insurance and MOT certificates and are encouraged to ensure that their car has passed emission checks.
- For cars less than three years old, annually.
- For cars three years and above, twice yearly.

13.5 The national joint council reviews the rates payable to staff on an annual basis. The current rates are set out below.

13.6 There are three bands of allowance according to the cubic capacity of the car: 451 - 999 CC; 1000 - 1199 CC; 1200 CC and above.

Casual Users

	451-999 cc	1000-1199 cc	1200 cc and above
<b>Per mile-first 8,500 miles</b>	37.0 pence	40.4 pence	50.5 pence
<b>Per mile-after 8,500 miles</b>	10.8 pence	11.2 pence	13.1 pence

13.7 **Motorcycles:**

13.8 There are five bands of allowance according to the engine size of the motorcycle: the rates are set out below:

**Rates of allowances: moped, motorcycle & pedal cycle allowances from 1<sup>st</sup> October 2002**

Engine Size (cc)	Mileage (pence per mile)
Up to 150	7.0 pence per mile
151 – 244	10.7 pence per mile
245 – 500	13.2 pence per mile
501 – 999	17.4 pence per mile
1000 +	21.2 pence per mile

13.9 **Pedal cycles:**

Monthly cycle allowance is payable for councillors, independent and co-opted members who use their own cycles in connection with their official duties. The rate is currently:

**£20 per month**

**14. Subsistence allowance**

14.1 **Conditions**

Subsistence allowance may be claimed in respect of “approved duties” if they involve an absence from the normal place of residence exceeding four hours in total which includes one hour travelling time.

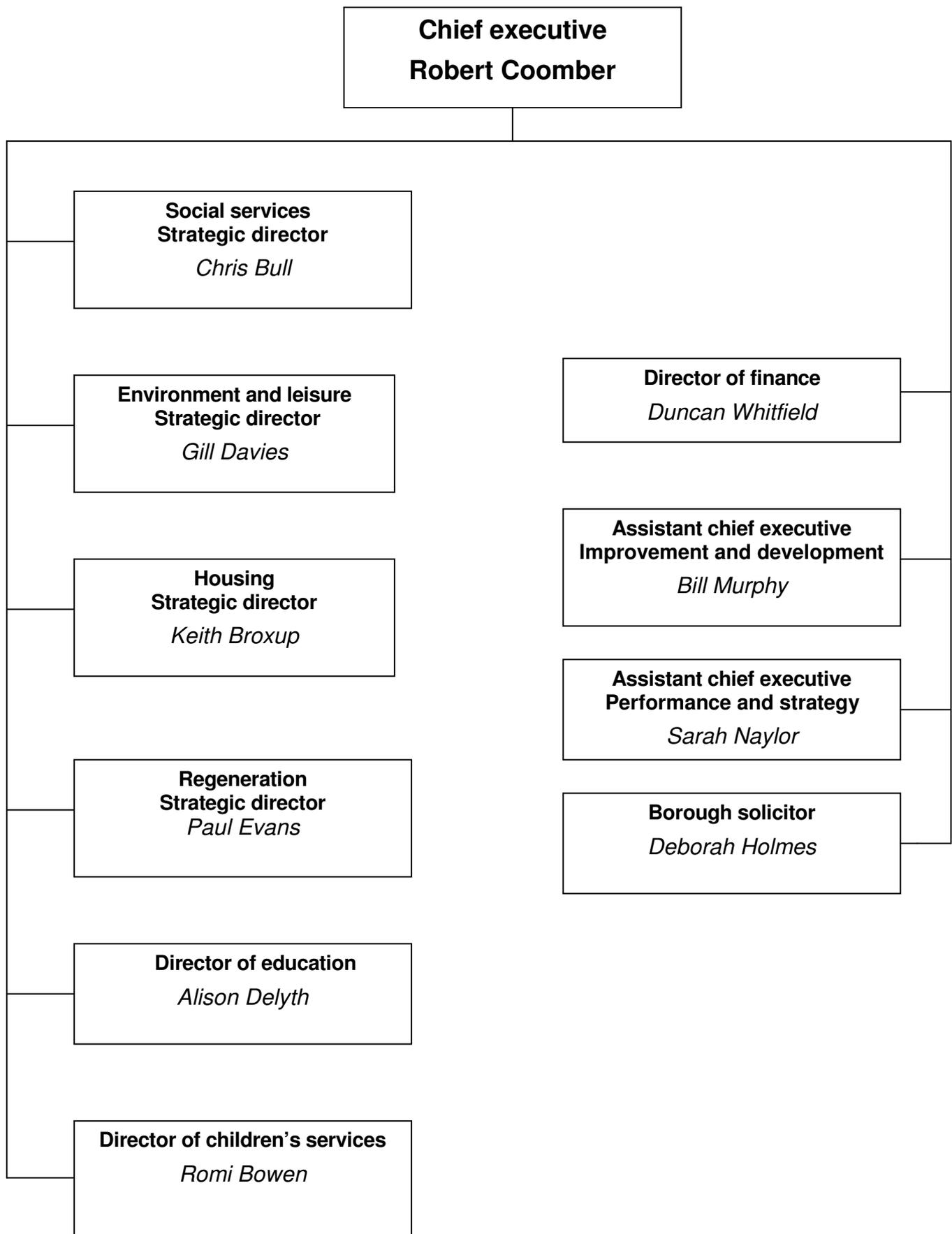
14.2 Claims are subject to the following maximum, which are the same for members as they are for officers:

Breakfast	£5.42
Lunch	£7.48
Evening Meal	£9.23

14.3 The amount to be reimbursed in respect of qualifying duties is the actual amount spent subject to the maximum figures quoted above. Receipts must be produced in respect of all claims.

**15. Summary list of approved duties**

1. Attendance at council, committee or sub-committee meetings.
2. Attendance at neighbourhood forums that fall within the member's ward.
3. Attendance at tenants' council and leaseholders' council.
4. Attendance at licensing or development control committees as a ward representative.
5. Attendance at a meeting of a body to which the member has been nominated by the council.



## Council decision making structure

