



**SOUTHWARK  
CONSTITUTION  
2003/04**

**Law & Administration**

**Strategic Services**

**Agreed by Council Assembly on 21st May 2003**

# Southwark Constitution

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# 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 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 while 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 10 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 will 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, licensing, environmental improvement, community safety, traffic management and appointment of Local Education Authority governors to local primary schools. The Planning and Licensing Committee will consider strategic applications.

## **Overview And Scrutiny**

There is an Overview & Scrutiny Committee and six 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 which 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, while 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.

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<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.

**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 workplan, 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) see reports and background papers, and any records of decisions made by the Council and the Executive; and
  - (v) 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.

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<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>:-

- Annual Library Plan
- Best Value Performance Plan
- Children’s Service Plan
- Community Care Plan
- Community Strategy
- Crime and Disorder Reduction Strategy
- Plans and strategies which comprise the Development Plan (UDP)
- Early Years Development Plan
- Education Development Plan
- Local Transport Plan
- Youth Justice Plan
- Neighbourhood Renewal Strategy<sup>5</sup>
- School Organisation Plan<sup>5</sup>
- Policy on area forums<sup>5</sup>

(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.

## 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;

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<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 29<sup>th</sup> May 2002 that approval should be reserved to Council Assembly.

- (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\*;
- (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;
- (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.

\*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.

## **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 six 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) 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.
- 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.

#### **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 (including Housing Strategy and Annual Plan, Home Energy Conservation Act Strategy)
- 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.

**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> <p>To set the principles for Section 106 agreements on those applications before the Committee.</p> <p>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.</p>

Name of Committee	Role and Functions
	<ol style="list-style-type: none"> <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> <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 inaccurate 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 Unitary Development Plan 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> <li>10. And to report to the Executive on matters relating to the implementation of planning policy.</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.</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>• Door Supervisors</li> <li>• and any other licensing responsibilities of the Authority created by statute (and delegated to the Committee).</li> </ul> </li> <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 particularly from local Ward Members and persons directly affected.</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 consider any application reserved to Community Councils in the event that the relevant Community Council meeting was inaccurate or the personal interests or decided views of a large number of Members would be likely to render the meeting inquorate.</li> <li>9. To consider and determine all licensing applications for venues 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 Environment &amp; Leisure to determine, in consultation with the Chairs of the relevant Community Council's when such boundary proximity is a material factor.</li> </ol>
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 and Secretary.</li> <li>3. To appoint the Chief Finance Officer.</li> </ol>

Name of Committee	Role of Functions
	4. To appoint to the posts designated in Article 12(b) as Chief Officers.  5. To constitute the Disciplinary Appeals Sub-Committee and Disciplinary Appeals Panel (Safeguarding Children and Vulnerable Adults).

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 - The Standards Committee

### 9.02 Standards Committee

The Council will establish a Standards Committee.

### 9.02 Composition

The Committee will consist of:

At least three 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 three 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 three 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>6</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 of prospective school governors for appointment and to make Local Education Authority appointments to secondary school governing bodies.<sup>7</sup>

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<sup>6</sup> The regulations currently in force are The Relevant Authorities (Standards Committee) (Dispensation) Regulations 2002 /339.ff

<sup>7</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.

- (p) Appointments to outside bodies (where such appointments are not a function of the Executive)<sup>8</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.

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<sup>8</sup> Statutory Guidance (para 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<sup>9</sup>

### 10.01 Community Councils

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.

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<sup>9</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, licensing, environmental improvement, community safety, traffic management and appointment of Local Education Authority governors to local 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.

#### **Licensing Functions (Non-Executive)**

7. To determine applications for the grant, renewal, transfer, revocation or variation of annual public entertainments or night café licences, reserved to Community Councils.

## Role and Functions

8. To determine any application for consent to provide striptease or hypnotism or like entertainment, the grant of new amusement arcade / prize bingo permits, fax establishment licences or applications made in respect of occasional licenses over 28 days in any 12 month period.

### **Environmental Management (Executive)**

9. To consider regular reports on environmental management issues, including street cleaning, refuse collection, abandoned vehicles and leisure centres.
10. To participate in contract reviews and be able to suggest service improvements and identify local priority issues.
11. To recommend local and major contract variations, to the Strategic Director of Environment & Leisure and the Executive respectively for consideration.
12. To appoint Ward Members to serve on warden schemes steering groups.

### **Environmental Improvement Programme (Executive)**

13. To approve the mechanism and allocation of funds to local Environmental Improvement Programme (EIP) schemes.
14. To recommend bids for the funding of EIP schemes of a strategic nature, as part of an open bidding process, to the Executive.
15. To oversee and take responsibility for the development and implementation of the local schemes.
16. If successful in the bidding to the Executive for strategic projects, to oversee and take responsibility for the development and implementation of the schemes.

### **Community Safety Functions (Executive)**

17. To undertake consultation on proposed Community Safety projects.
18. To recommend to the Executive local projects for submission for in-principle approval.
19. To grant detailed scheme approval to local projects and monitor the progress of approved schemes.

### **Traffic Management Functions (Executive)**

20. 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.

## Role and Functions

21. 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)**

22. To appoint to Local Education Authority governorships on the governing bodies of primary schools within the area of the Community Council, from among the list of suitable persons maintained by the Council's Voluntary Bodies Appointments Panel.

### **(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>10</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

- (a) 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.
- (b) 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.
- (d) 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

- (a) The Access to Information rules in Part 4 of this Constitution apply to joint arrangements.
- (b) 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.

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<sup>10</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<sup>11</sup>**

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, 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.

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<sup>11</sup> DETR 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 & Secretary, will be designated Chief Officers:

Post	Functions and areas of responsibility
Chief Executive	Overall corporate management and operational responsibility
Strategic Director Housing	Housing functions
Strategic Director Social Services	Social and welfare services
Strategic Director Regeneration	Regeneration and development control
Strategic Director Environment & Leisure	Environment, transportation, highways, public protection and leisure services
Strategic Director Education & Culture	Education services
Borough Solicitor & Secretary	Chief Legal Officer, Head of Administration and Monitoring Officer
Chief Finance Officer	Finance, Resources and benefits and strategic responsibility for debt management.

- (c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer.** The Council Assembly will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Borough Solicitor	Monitoring Officer
Chief Finance Officer	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 which 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 Chief Finance Officer 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 Chief Finance Officer, 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 Chief Finance Officer or the Head of Paid Service.

#### **12.04 Functions of the Chief Finance Officer**

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Council Assembly or to the executive in relation to an executive 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 Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and Officers in their respective roles.
- (e) **Give financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

#### **12.05 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

The Council will provide the Monitoring Officer and Chief Finance Officer 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>12</sup> and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

#### **12.07 Employment**

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<sup>12</sup> The Officer Code of Conduct will be issued by the Secretary of State. A draft code is now expected to be issued by the DTLR in early summer 2002, to be followed by consultation. 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.

The recruitment, selection and dismissal of Officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

## 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>13</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>14</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.

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<sup>13</sup>(a) – (b) local proposals; (c) – (g) – Para 7.3 Statutory Guidance; (c) – law and probity added to modular constitution principle.

<sup>14</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 and the Protocol for Key Decisions set out in Part 5 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 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 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 & Secretary 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 & Secretary 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 & Secretary. 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 & Secretary should be sealed. The affixing of the Common Seal will be attested by the Borough Solicitor & Secretary 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 Chief Finance Officer in consultation with the Head of Paid Service and the Borough Solicitor & Secretary.
- (d) **Changes to Contract Standing Orders.** Changes to the Contract Standing Orders may be made by the Borough Solicitor and Secretary after consultation with the Chief Finance Officer.

# 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 3 A: MATTERS RESERVED TO COUNCIL ASSEMBLY

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The following matters are reserved to Council Assembly for Decision.

1. Electing the Leader and the Executive\*
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:
  - Annual Library Plan
  - Policy on Area Forums
  - Best Value Performance Plan
  - Children's Service Plan
  - Community Care Plan
  - Community Strategy
  - Crime and Disorder Reduction Strategy
  - Plans and strategies which comprise the Development Plan (UDP)
  - Early Years Development Plan
  - Education Development Plan
  - Local Transport Plan
  - Neighbourhood Renewal Strategy
  - School Organisation Plan
  - Youth Justice 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>15</sup>
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.

\*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.

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<sup>15</sup> Council Assembly can decide the composition of sub-committees of the Appointments Committee. Standards Committee may not have sub-committees. Sub-Committees of Overview & Scrutiny Committee are appointed by their parent committee.



12. Making or confirming the appointment of the Chief Executive.
13. Agreeing any application to the Secretary of State in respect of any Housing Land Transfer
14. Determining the scheme and amounts of Members' Allowances
15. The Council Assembly shall establish the following:
  - Appointments Committee
  - Licensing Committee
  - Overview & Scrutiny Committee
  - Planning Committee
  - Standards Committee
  - Community Councils

**The Council Assembly will also**

16. Receive reports from the Executive
17. Question the Executive
18. Debate matters of local importance and consider Members' motions
19. Receive reports from the Overview & Scrutiny Committee
20. Make arrangements for the appointment of representatives to outside bodies

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

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### **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**

11. 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.
12. 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.
13. 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.
14. To oversee and take responsibility for effective joint work with partner agencies.
15. 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.
16. To have responsibility for the Council's role as corporate parent.
17. 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.
18. To affiliate to and appoint representatives to outside bodies where such appointments are a function of the Executive.
19. To delegate to appropriate Sub 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.
20. To agree the reduction or cessation of any service.
21. To agree the authority's response to consultation papers.
22. To consult with scrutiny and take into account the final reports of scrutiny inquiries.
23. To be responsible for all Executive matters even if not expressly set out in this Part of the Constitution.
24. 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**

Adult Learning Development Plan  
Area-based Regeneration Plans  
Asset Management Plan  
Asset Management Plan (Education)  
Behaviour Support Plan  
Capital Investment Strategy  
Class Sizes Plan  
Departmental Performance Plans  
Education Action Zone Plan  
European Strategy  
Excellence in Cities Plan  
Food Law Enforcement Plan  
Green Travel Plan  
Headship Training Plan  
Health and Social Care Strategy  
Plans and Strategies which comprise the Housing Investment Programme (including Housing Strategy and Annual Plan, Home Energy Conservation Act Strategy)  
Local Agenda 21 Strategy  
Literacy Action Plan  
LMS Scheme/Formula  
Local Cultural Strategy (including 12 key sector plans)  
National Grid for Learning – ICT Plan  
Numeracy Action Plan  
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 3H.

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

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1. All relevant matters reserved to the Executive by Council Assembly for decision.
2. Decisions to accept other than the lowest tender (except for minor contracts, under certain conditions), approval of major variations to contracts and disposal of assets in the higher financial ranges, in accordance with the provisions of Contract Standing Orders.
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 graded Hay 17<sup>16</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 to Voluntary Organisations over £2,500.
10. Approval of service agreements with voluntary organisations concerned with any of the services operated by the Committee.
11. Amendments to the Council's Equal Opportunities Policy.
12. Agreement to the disposal of leasehold and freehold interests in land and property, excluding RTB and Leasehold Reform Act cases, where the market value is more than £250,000.
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.

### **Social Services Issues**

15. Appointment of rota visitors to establishments and representatives on the Adoption Panel and Secure Accommodation Review Panel.

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<sup>2</sup>Hay is the Council's remuneration scheme. At May 2002, Hay 17 equates to £57,969 - £73,026 per annum.

16. Approval of long term or permanent closures and the cessation of services excluding changes in service delivery in individual cases.
17. 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.
18. 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.
19. 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**

20. 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 Act 1996 and School Standards and Framework Act 1998:-
  - 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 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.

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

### **The 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 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 Unitary Development Plan 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, 1<sup>st</sup> Tier Officer 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 1<sup>st</sup> Tier Officer 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 3E: MATTERS RESERVED TO THE LICENSING COMMITTEE, COMMUNITY COUNCILS, AND THE 1<sup>ST</sup> TIER OFFICER AND OFFICER PANEL EXERCISING LICENSING FUNCTIONS**

### **The Licensing Committee to consider:**

1. any application for the grant, renewal, variation or transfer of any General Safety Certificate in respect of Sports Stadium or Regulated Stands;
2. the revocation of any licence (reserved to Licensing Committee) following the successful prosecution of the holder for breach of licence terms, conditions and restrictions;
3. the non-renewal of any licence (reserved to Licensing Committee) following concerns raised by officers regarding the manner of operation under its licence;
4. new designations for sites for street trading;
5. revocation of street trading licenses;
6. 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.
7. To consider and determine all licensing applications for venues 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 Environment & Leisure to determine, in consultation with the Chairs of the relevant Community Councils, when such boundary proximity is a material factor.

### **Community Councils to consider:**

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.a.m.weekdays and 12 midnight on Sunday);
4. the revocation of any licence (reserved to Community Councils) following the successful prosecution of the holder for breach of licence terms, conditions and restrictions;
5. the non-renewal of any licence (reserved to Community Councils) 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. any application for the grant of new amusement arcade / prize bingo permits;
8. Any application for the grant, renewal, variation or transfer of any sex establishment license;
9. applications made in respect of occasional licenses over 28 days in any 12 month period.

**Matters Delegated to the 1<sup>st</sup> Tier Officer and considered by the Licensing Officer Panel**

The Panel to make recommendations to the 1<sup>st</sup> Tier Officer on the following matters:

(a) 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;

(b) any opposed application for the grant, renewal or transfer of a special treatments licence;

(c) any opposed application for the grant of any occasional licence;

(d) any application for waiver of any part of the Council's Technical Regulations or for any waiver of the Council's Rules of Management;

(e) 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;

(f) consideration of all issues relating to the grant, renewal, or revocation of door supervisors registrations; and,

(g) all films submitted for local classification under the Cinemas Act 1985.

**NOTES**

1. All matters not reserved as above are delegated to the appropriate Chief Officer, 1<sup>st</sup> Tier Officers or Business Unit Manager, except that authority to initiate prosecutions is delegated to:

Licensing

- Strategic Director of Environment and Leisure
- Head of Streetscene and Public Protection
- Head of Waste Management
- Environmental Health and Trading Standards Manager

## Street Trading

- Strategic Director of Environment and Leisure
- Head of Streetscene 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 relevant Community Council, with the exception of (f) and (g) which can be decided upon by the Licensing Committee.)*

2. Each Chief Officer and/or 1<sup>st</sup> Tier Officer 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 3F: MATTERS RESERVED TO COMMUNITY COUNCILS

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### Planning Functions (Non-Executive):<sup>17</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 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>18</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 authorisations under article 4 of the Town and Country Planning Permitted Development Order 1995 affecting the area of the Community Council.

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<sup>17</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 licensing applications for venues 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 to determine when such boundary proximity is a material factor.

<sup>18</sup> To be determined by the Strategic Director of Regeneration

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.

### **Licensing Functions (Non-Executive):<sup>19</sup>**

#### Decision-making

6. To consider:
  - (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 a.m.weekdays and 12 midnight on Sunday);
  - (4) The revocation of any licence (reserved to Community Councils) following the successful prosecution of the holder for breach of licence terms, conditions and restrictions;
  - (5) The non-renewal of any licence (reserved to Community Councils) 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) Any application for the grant of new amusement arcade / prize bingo permits;
  - (8) The granting, renewal, variation or transfer of any sex establishment licence.
  - (9) Applications made in respect of occasional licenses over 28 days in any 12 month period.

### **Environmental Management (Executive)**

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<sup>19</sup> The powers of Community Councils in respect of licensing functions are formally delegated by the Licensing Committee. For the purposes of decision-making it is constituted as a sub-committee of the main committee. The Licensing Committee will consider and determine all licensing applications for venues 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 Environment & Leisure to determine, in consultation with the Chairs of the relevant Community Councils when such boundary proximity is a material factor.

### Decision-making

7. Recommendations to the Strategic Director of Environment and Leisure, on local contract variations.<sup>20</sup>
8. Recommendations to the Executive on issues concerning major changes to contracts.
9. Appointment of Ward Members to serve on warden schemes steering groups

### **Environmental Improvement Programme (Executive)<sup>21</sup>**

#### Decision-making

10. Approval of the mechanism and the allocation of funds to Environmental Improvement 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

11. Recommendation of bids to the Executive for funding for EIP schemes of a strategic nature as part of an open bidding process

### **Community Safety Functions (Executive)**

#### Decision-making

12. Approval of the submission of Community Safety bids.

### **Traffic Management Functions (Executive)<sup>22</sup>**

#### Decision-making

13. Determination of the following local non-strategic matters:

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<sup>20</sup> Decisions regarding contract variation shall remain the responsibility of the Strategic Director of Environment & Leisure.

<sup>21</sup> In respect of traffic matters that have a potential impact on more than one Community Council, the Strategic Director of Regeneration shall determine if boundary proximity is a material issue.

<sup>20</sup> Decisions regarding contract variation shall remain the responsibility of the Strategic Director of Environment & Leisure.

<sup>21</sup> In respect of traffic matters that have a potential impact on a more than one Community Council, the Strategic Director of Regeneration to determine if boundary proximity is of a material issue.

- 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
14. Determination of objections to traffic management orders that do not relate to strategic or borough wide issues.
  15. To hear and determine traffic petitions and deputations that are of a non-strategic nature.

#### Consultation/Non decision-making

16. 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
17. 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.
18. To be consulted on decisions of strategic nature, such as whether to create parking zones or home zones.

### **Education Functions (Executive)**

#### Decision-making

19. Appointment of Local Education Authority school governorships to the governing bodies of primary schools within the area of the Community Council, from among the list of suitable persons maintained by the Council's Voluntary Bodies Appointments Panel.

### **NOTES**

- (1) All matters not reserved as above are delegated to the appropriate Chief Officer and 1<sup>st</sup> Tier Officer. All delegated matters can always be decided by the Parent Body. See also Part 3: Matters Delegated to Officers.
- (2) All planning matters not reserved as above are delegated to the appropriate Chief Officer, 1<sup>st</sup> Tier Officer 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

(3) All licensing matters not reserved as above are delegated to the appropriate Chief Officer, 1<sup>st</sup> Tier Officers or Business Unit Manager, except that authority to initiate prosecutions is delegated to:

#### Licensing

- Strategic Director of Environment and Leisure
- Head of Streetscene and Public Protection
- Head of Waste Management
- Environmental Health and Trading Standards Manager

#### Street Trading

- Strategic Director of Environment and Leisure
- Head of Streetscene 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 relevant Community Council, with the exception of (f) and (g) which can be decided upon by the Licensing Committee.)

(4) Each Chief Officer and/or 1<sup>st</sup> Tier Officer 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 APPOINTMENTS COMMITTEE**

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1. To make recommendations to Council Assembly as to the appointment of the Head of Paid Service
2. To appoint the Borough Solicitor and Secretary.
3. To appoint the Chief Finance Officer
4. To appoint to the posts designated in Article 12(b) as Chief Officers.
5. To constitute the Disciplinary Appeals Sub-Committee (comprising of four members) and Disciplinary Appeals Panel (Safeguarding Children & Vulnerable Adults) with the following Terms of Reference:

### **Disciplinary Appeals Sub-Committee - Terms of Reference**

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 Sub-Committee.
2. 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.
3. To review the operational procedures of the hearing of appeals and report to the Executive if any changes are considered necessary.
4. Responsibility not to consider appeals unless three Members of the Sub-Committee are present (3 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 Sub-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 Sub-Committee

who will confirm appointment. Payment will be on a sessional basis.

2.4 There are 4 Member places:

- Liberal Democrat Group Nominations (2), plus 2 reserves.
- Labour Group Nominations (2), plus 2 reserves.

These would be drawn from membership of the Disciplinary Appeals Sub-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 3H: MATTERS DELEGATED TO OFFICERS**

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- 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 Head of Service. This includes the requirement under the Pension Regulations to review investments made by the Investment Manager at least once every three months, and all other such duties.
- 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 arrangements, and dissemination of information both internally and externally to the Council.
- 3 It is the responsibility 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 & Secretary will maintain a list of "Proper Officers".

## PART 3I: 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 200</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>	Non-executive
	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>	<i>Non-executive</i>
	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
	Appointment of deputies to the Fire Authority (Section 44)	Non-executive

Function	Responsibility
Near Beer- - Approval of policies - Authority to license near beer premises	Non-executive
Door Supervisors - Authority to register door supervisors - Delegated authority to register door supervisors when their application is not opposed by the police	Non-executive
<b>London Local Authorities Act 1994</b>	Non-executive
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>	Non-executive
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>	Non-executive
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>	Non-executive
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>	
Power to extinguish rights of interment in cemeteries (Section 9)	Non-executive



	Function	Responsibility
	<b>Greater London Council (General Powers) Act 1975</b>	
	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
	Underpinning of houses near a street improvement (Section 9)	Non-executive
	Approval of trade refuse disposal facilities (Section 11)	Non-executive

Function	Responsibility
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
<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>	

	Function	Responsibility
	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>	
	Control of Petroleum - filling stations (Section 69)	Non-executive
	<b>London County Council (General Powers) Act 1930</b>	Non-executive
	Gratuities to non-pensionable employees (Section 61)	Non-executive
	Power to provide residences for officers or servants (Section 11[1])	Non-executive

	Function	Responsibility
	<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>	Non-executive
	Compensation to persons in Council's service on abolition of office (Section 31)	Non-executive
	<b>London County Council (General Powers) Act 1912</b>	Non-executive
	Petroleum oil depots (Part II)	Non-executive
	Power to contribute to provident fund (Section 28)	Non-executive

## PART 3 J: 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	Non-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
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 3K: 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 representatives	<p>The Local Government Association advises that votes can be allocated amongst the representatives as the local authority sees fit.</p> <p>The Local Government Association encourages local authorities with 3 or 4 representatives on the General Assembly to allocate one of the positions to Minority Group Leaders.</p>	<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 (September, October or November)	Daytime	1 representative		<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	6.00p.m.	4 representatives	One officer nomination (Director of Housing or his nominee)	<b>Executive</b>
<b>Education Action Zones</b>	To drive up educational standards in schools by concentrating its resources and programmes on improving the educational performance of identified groups of underachieving pupils, particularly boys, pupils from ethnic minority communities, pupils in care and children in need.	Council representative	Once a school term	5.30p.m	2 representatives		<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>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 representative		<b>Executive (Environment Function)</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	5.00p.m	1 representative	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	6.00p.m	1 representative		<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>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	2.00p.m	2 representatives	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.	3.00p.m	2 representatives	Likely total time commitment is up to 12 days a year.  Appointments will be for 1 to 4 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	6.30p.m	1 representative 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 representative	<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 representative		<b>Executive (Housing / Regeneration Function)</b>
<b>London Museums Agency</b>	Responsible for supporting the development of local and regional museums and galleries in Greater London.	Council representative	Once a year (AGM)	2.00p.m	1 representative		<b>Executive (Museums)</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	4.00p.m	3 representatives	One from each political group. Does not have to be a councillor	<b>Executive (Leisure)</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 Council for Community Relations</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	6.45p.m	3 representatives and 3 deputy representatives		<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 representatives		<b>Executive (Environment Function)</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 representative and 1 deputy		<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>Warwick Consortium</b>	Local authority research consortium on organisational and culture change				3 representatives	Does not have to be a Councillor.	<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 representative		<b>Executive (Libraries)</b>

Name	Purpose	Member Status	How often it meets	Time of Meeting	No. of Places to be filled	Notes	Who Appoints
<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 representatives	The Council is entitled to 5 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>



Name	Purpose	Member Status	How often it meets	Time of Meeting	No. of Places to be filled	Notes	Who Appoints
<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	2:00p.m	1 nomination	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>

Name	Purpose	Member Status	How often it meets	Time of Meeting	No. of Places to be filled	Notes	Who Appoints
<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)<sup>23</sup></b>

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<sup>23</sup> Borough Market and Corporation of Wardens are a special case. The Council Appoints on the nomination of the Members of relevant wards.





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**ADDENDUM – 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**

## **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 every Member 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 7.00 p.m.
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. Where these rules apply to Committee and Sub-Committee meetings, references to the Mayor also include the Chair of Committees and Sub-Committees.

### **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 and Secretary, 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.
4. 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 3.9(1), is signed by at least **30** 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 3.9(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 and Secretary.

### **1.13 GUILLOTINE**

#### **Concluding the meeting**

1. The guillotine shall take effect 3 hours after the beginning of question time. The time taken by announcements, presentations, adjournments and deputations, but not the time taken to consider recommendations on the agenda concerning the same subject matter as deputation(s), 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. If there are any outstanding motions on the agenda, the Mayor will ask the meeting whether any of the motions are unopposed. If a motion is unopposed, the motion shall be deemed to have been formally moved and seconded. No speeches will be allowed on the motion and it will be put to the vote.
6. All other motions not considered shall be deferred. The motions will be referred to the political group whips to be prioritised for the next ordinary meeting.

## **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;
- (t) motions under Council Assembly Procedure Rule 3.7(9i) 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 & Secretary 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 & Secretary 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 3.10(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 speak.
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.
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 3.9(1) or 3.10(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.

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 5 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 5 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 5 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 than 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 5 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**

5. 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 & Secretary 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 (Council Assembly Procedure Rule 3.9(3));

- (f) that all recommendations then outstanding be approved (Council Assembly Procedure Rule 1.13(2);
- (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 & Secretary, 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 & Secretary.

## **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 10 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 and Secretary 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 and Secretary 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 & Secretary 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 & Secretary 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.
4. 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.
5. 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 & Secretary. A minimum of 5 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**

Eleven 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 Member's 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 & Secretary 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 & Secretary 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 & Secretary
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 within the discretion of the appropriate Executive member/Committee Chair.

#### **Scope of questions**

5. The Mayor in consultation with the Borough Solicitor & Secretary 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.

#### **Record of questions**

6. The Borough Solicitor & Secretary 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 3.3(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 & Secretary 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 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 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 three and not more than five deputations shall be considered at any one meeting of the Council Assembly. In the event that more than three 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 3 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 9 is reached.

#### **Arrangements for attendance**

8. The Borough Solicitor & Secretary 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 & Secretary 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 5 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 5 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.

(x) Formal Communication of Council Assembly's Decision –

The Borough Solicitor & Secretary 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 QUESTIONS BY MEMBERS**

**Questions on notice at Council Assembly**

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 Councila question on any matter in relation to which the Council has powers or duties 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 utilised – 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 & Secretary 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 and Secretary no later than Midnight, nine clear working days prior to the day of the Council meeting. Subject to Council Assembly Procedure Rule 3.8(3) above, 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 3.8 (9) and (10)). 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 at the beginning of the meeting. Copies shall also be made available to the press and public present at the meeting.

### **Supplementary question**

8. 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**

9. 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.
10. 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**

11. In the event that a Member of the Council is named in a response to another Member's question, the Borough Solicitor & Secretary, 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 & Secretary.

### **3.9 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 & Secretary not later than thirteen clear working days before the date of the meeting. 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.

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 & Secretary. Amendments shall be placed on the agenda in order of receipt.

#### **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 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.

#### **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.

### **3.10 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 & Secretary. 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 & Secretary. (i.e by Midnight of the Monday in the week of an ordinary Wednesday Council Assembly meeting).

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

4. The Borough Solicitor and Secretary 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.

### **3.11 URGENT QUESTIONS BY GROUP LEADERS**

1. The Leader of each Group, or in his or her absence the Deputy Leader, may ask:
  - The Mayor
  - A Member of the Executive
  - The Chair of any Committee, Sub-Committee or Community Councilan 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 concerning a Planning or Licensing application.
5. 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**

6. Urgent questions must be received by the Borough Solicitor & Secretary no later than 10.00am on the morning of an Ordinary Council Assembly meeting.  
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 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**

8. 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.

### **3.12\* ADJOURNMENT DEBATES**

1. At the preceding Council Assembly, the Mayor will choose by ballot those Members who will move adjournment debates. The Mayor will draw three names (and three reserve members). Members will move debates in the order in which they are drawn.
2. Notice of subjects for the adjournment debates shall be given delivered not later than four clear working days before the day of the meeting at the office of the Borough Solicitor & Secretary by whom it shall be dated and numbered in the order it was received. These will be entered in a book kept by the proper officer and be open to inspection by every Member of the Council.
3. Subjects must relate to any matter that primarily affects a Member's ward and where the Council has powers or duties.
4. The Member moving the debate may make a contribution of up to 5 minutes. At the invitation of the Mayor, the relevant member of the Executive or Chair of Committee/Sub-Committee or Community Council must have the opportunity to respond to points made in the debate for a period of up to 5 minutes. Executive Members or Chairs shall have the discretion to refer a reply to another Executive Member or Chair, if this is appropriate. No other Members shall be invited to speak. There will be no vote at the end of the debate.
5. Each debate shall be limited to a period of 10 minutes. At the end of the period, the Member speaking must immediately sit down. The Mayor will interrupt the meeting and proceed to the next debate. The session will last for no more than 30 minutes.
6. No further motion to suspend Council Assembly Procedure Rules shall be moved once the Adjournment Debates have commenced. No further business shall be considered.

\* The provisions of this Council Assembly Procedure Rule cannot be suspended.

### **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 & Secretary 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 and Secretary 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 & Director Of Finance 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, 3.12 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.

## ADDENDUM

### **Protocol for Receipt of Members' Questions, Motions, Amendments and Adjournment Debates**

Members may submit Questions, Motions, Amendments and Adjournment Debates 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, Amendments and Adjournment Debates 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

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**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 & Secretary 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 p.m.
3. The ordinary place of meeting for Committees shall be Peckham 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,

#### **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 & Secretary 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 (or 25% of the membership) are present in the meeting room, except for the following meeting for which the quorum is:

Disciplinary Appeals Committee = 3

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**

The Chair shall decide, having taken the advice of the Borough Solicitor & Secretary, 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.

#### **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:
  - (e) refer to each other as Mayor, Deputy Mayor, Leader, Executive Member, Chair or Councillor, as the case may be;
  - (f) refrain from using unbecoming language;
  - (g) refrain from comments of a personal nature about another Councillor;
  - (h) not attribute improper motives to another Councillor.
  - (i) 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.

### **Secunder'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.
  - (v) 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 Committees 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 & Secretary, 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 & Secretary.

**2. APPOINTMENT OF MEMBERS**

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

**Powers and duties<sup>24</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 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**

3. All appointments to and resignations from the membership of Committees and Sub Committees must be submitted in writing to the Borough Solicitor & Secretary. A minimum of 5 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

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<sup>24</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.

(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 & Secretary

(b) a resolution passed on a motion which shall be put without debate.

### **3.3 MINUTES**

#### **Minutes**

1. The Borough Solicitor and Secretary 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 1.7(2) (Disturbance by Public).
2. **Public Speaking at Committee**

*(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 & Secretary. 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 & Secretary shall arrange for the attendance of any deputation. In doing so s/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 & Secretary 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 5 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 5 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 & Secretary 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 & Secretary, 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 & Secretary 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.

**6. INTERIM DECISION-MAKING ARRANGMENTS 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:  (a) any legal proceedings by or against the authority; or  (b) the determination of any matter affecting the authority; authority; whether, in either case, proceedings have been commenced or are in contemplation.</p>	
<p>13. Information which, if disclosed to the public, would reveal that the authority proposes—  (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or  (b) to make an order or direction under any enactment</p>	<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	A "protected informant" means a person giving the authority information which tends to show that (a) a criminal offence; (b) a breach of statutory duty; (c) a breach of planning control; or (d) a nuisance, has been, or is being, or is about to be committed

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 15 (general exception) or Rule 16 (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 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 13.03 of this Constitution and the Appendix to these rules. This requirement does not include meetings, whose sole purpose is for officers to brief members.

#### **13. PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 15 (general exception) and Rule 16 (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).

## **14. THE FORWARD PLAN**

### **14.1 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.

### **14.2 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.

## **15. 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 16 (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 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 5 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.

## **16. SPECIAL URGENCY**

If by virtue of the date by which a decision must be taken Rule 15 (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. REPORT TO COUNCIL**

### **17.1 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 16;

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 5 members. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant overview and scrutiny committee/sub-committee.

### **17.2 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 7 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.

### **17.3 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 16 (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.

## **18. 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.

## **19. OVERVIEW & SCRUTINY COMMITTEE/SUB-COMMITTEES' ACCESS TO DOCUMENTS**

### **19.1 Rights to copies**

Subject to Rule 19.2 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.

### **19.2 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.

## **20. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **20.1 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.

## **20.2 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.

## **20.3 Nature of rights**

These rights of a member are additional to any other right he/she may have.

## APPENDIX - PROTOCOL ON KEY DECISIONS

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### 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 CPO powers
- Consideration of an inspection or reports by the BV Inspectorate, SSI, DA, 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

**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.**

# 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 7 days from the date of the Council Assembly's decision, unless the Leader informs the proper officer in writing within 5 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 7 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 6 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 chief finance officer 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 7 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) 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
- v) 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 Sub-delegation of executive functions

- (a) Where the Executive or a committee of the executive is responsible for an executive function, they may delegate to joint arrangements or an officer.
- (b) Even where Executive functions have been delegated, that fact does not prevent

the discharge of delegated functions by the person or body who delegated.

- (c) Unless the Council directs otherwise, if the Leader delegates functions to the Executive, then the Executive may delegate further to a committee of the Executive, to Community Councils or to an officer.
- (d) Unless the Leader directs otherwise, a committee of the Executive to whom functions have been delegated by the Leader may delegate further to an officer.

#### **1.4 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.

#### **1.5 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, 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.

#### **1.6 Executive meetings – Timing and Location**

The Executive will meet at least 10 times per year at times to be agreed by the Leader. The Executive meetings must take place in the borough.

#### **1.7 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.

#### **1.8 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.

### 1.9 **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.
- (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.

## 2. **HOW THE EXECUTIVE MEETINGS ARE CONDUCTED**

### 2.1 **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.

### 2.2 **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.

### 2.3 **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.

## 2.4 **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.

## 2.5 **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 chief financial officer 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, chief finance officer 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.

## 2.6 **Formal Records to be maintained**

No meeting of the Executive shall commence or conduct business unless the Borough Solicitor & Secretary or her/his representative is present. All meetings are to be clerked by a representative of the Borough Solicitor & Secretary, 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 & Secretary.

## 2.7 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 & Secretary 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 & Secretary 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 & Secretary 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 5 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 5 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 & Secretary shall, in writing formally communicate the decision of the Executive to the person who submitted the request for the deputation to be received.



# 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 six 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.

## 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 six 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 periodically review Overview and Scrutiny procedures to ensure that the function is operating effectively;
- (f) To report annually to Council Assembly on the previous year's Scrutiny activity;
- (g) To monitor the budget for additional Scrutiny research, and to determine funding requests from Sub-Committees in respect of particular reviews;
- (h) 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
- (j) To appoint six 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) 1 Church of England diocese representative;
- (b) 1 Roman Catholic diocese representative; and
- (c) 2 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 2 should be from non-Christian faiths; and
- (b) Up to 2 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 8 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 2.

## **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 5 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 & Secretary or her/his representative is present. All meetings are to be clerked by a representative of the Borough Solicitor & Secretary, 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 & Secretary.

## **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 2 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 5 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 2 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 3 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 .
- 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).
- 19. Procedure following Call-in**
- 19.1 Following call-in of a decision, the Proper Officer shall call a meeting of the Overview & Scrutiny Committee on such date as he/she may determine, where possible after consultation with the Chair of the Committee, and in any case within 5 clear working days

of the call-in request.

- 19.2 If the Overview & Scrutiny Committee 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 scrutiny meeting, or the expiry of 8 clear working days after the decision was published, whichever is the earlier.
- 19.3 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 Chief Finance Officer. The Monitoring Officer's report and/or Chief Finance Officer's report shall be copied to every Member of the Council.
- 19.4 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.
- 19.5 If referred to the decision maker, with the exception of Community Councils they shall then reconsider their decision within a further 7 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 & Secretary 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 7 working days. If it is the view of the Monitoring Officer or the Chief Finance Officer that the decision falls within the policy and budget framework, the decision-maker may amend the decision or not, before adopting a final decision.
- 19.6 If referred to Council Assembly, the decision is further suspended pending a meeting of Council Assembly, which must take place within 7 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 Chief Finance Officer's advice and to prepare a report to Council Assembly.
- 19.7 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.
- 19.8 The Council Assembly will receive details of the decision, the advice of the Monitoring Officer and/or the Chief Finance Officer, the comments of the Overview & Scrutiny Committee and the report from the Executive.
- 19.9 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 5 working days of the Council Assembly request. Where the decision was made by an individual, the individual will reconsider within 5 working days of the Council Assembly request.

19.10 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/Chief Finance Officer. A meeting will be convened by the Executive within 5 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 5 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.**

- (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.

## **FINANCIAL STANDING ORDERS**

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- (b) Strategic Directors
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- (e) Fees and Charges
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- (g) Internal Audit

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- (a) Precepting Authorities and the Tax Base
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- (b) Decisions on Borrowing
- (c) Treasury Policy Statement
- (d) Reporting
- (e) Departure from the 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 sub-committee 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) Chief Executive**

- i) The Chief Executive is the officer appointed by the Council in accordance with Section 151 of the Local Government Act 1972, the Accounts and Audit Regulations 1996, and Section 114 of the Local Government Finance Act 1988. 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 Chief Executive, except any matters which are delegated to other officers or reserved to committees of Council Members, the Executive, or to the Council itself. The Chief Executive 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 Chief Executive. 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**

- i) Corporate and strategic matters. The Chief Executive will provide financial advice to the Council, its committees, sub-committees, and similar bodies of members – including the Executive on all matters of a corporate or strategic financial nature or of an inter departmental nature;

- ii) Departmental matters. Strategic Directors are responsible for financial advice to service sub-committees and similar service bodies of members – including the Executive on all financial matters of a departmental nature.

**d) Financial Regulations**

The Chief Executive 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 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**

Changes in all fees and charges, which are less than the annual RPI, and the introduction of new fees and charges, including proposals affecting rents and associated charges for Council dwellings, require Executive approval. However, 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 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-off’s in excess of £50,000 per case are key decisions that should be dealt with through the Council’s protocol for decision-making.

**g) Internal Audit**

(i) The Chief Executive 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 Chief Executive 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 Chief Executive 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 Chief Executive and 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) Chief Executive's Responsibilities**

The Chief Executive is responsible for the overall co-ordination of the budget process.

### **b) Strategic Director Responsibilities**

- (i) Preparing the revenue budget for the services in his/her departments, which will have regard to the Community Strategy, Corporate Priorities and service plans.
- (ii) Ensuring that corporate deadlines are met.
- (iii) Securing the approval of that budget within the agreed cash limit by the Executive.
- (iv) Ensuring that resources are allocated through a detailed budget on SAP by the deadline set by the Chief Executive.

### **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 service plans and budget estimates must be prepared. The Executive may also, as part of a strategy to integrate strategic planning with 3-year budgeting, issue indicative cash limits for up to 3 years ahead.

#### **4 SETTING THE ANNUAL BUDGET AND THE COUNCIL TAX**

##### **a) Precepting Authorities and the Tax Base**

The Council must before 31 January each year approve the council tax base for the following financial year. Following the Council decision, the Chief Executive will inform precepting and levying bodies of the approved council tax base.

##### **b) Collection Fund**

The Chief Executive 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 1st March each year, the Council will set the overall council tax (including impact of the GLA 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 of 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 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;

- iv present reports containing up to date summary projections to the Executive as a whole at least three times a year, in line with the corporate monitoring timetable.
- v The Chief Executive will 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 he or she may have about the budget projections being made by Strategic Directors or about financial controls within departments; and
- vi The Chief Executive will report to the Executive, not later than September of each year, on the financial outturn for the previous financial year.

**c) Virements**

Strategic Directors may vire budget provision between budget headings within their department, subject to the following:

- (i) The authority for all virements must comply with each Department's scheme of delegation;
- (ii) Provisions included within departmental budgets on the instructions of the Chief Executive, e.g. insurance, capital charges, leasing costs, Service Level Agreements etc, may not be vired for other purposes without the written consent of the Chief Executive; and
- (iii) The departmental Strategic Director must report virements in excess of £500,000 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 Chief Executive and Director of Finance will transfer resources in consultation with the relevant Strategic Director(s). The transfer will be reported to the Executive at the earliest opportunity.
- (ii) The Executive may at any time during a financial year, having considered a report of the Chief Executive and 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.

**iv. Carry Forward of Underspends**

The Chief Executive and Director of Finance may, on consideration of the overall financial position of the Council at the end of a financial year, recommend to the Executive whether underspends by departments can be made available for specific projects or carried forward to the subsequent financial year, or otherwise accounted for.

#### **v. Accuracy of Accounts**

It is the responsibility of Strategic Directors, having regard to any guidance which may be issued by the Chief Executive and Director of Finance, to ensure that all items are correctly accounted for, and that all expenditure 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 and Housing Act 1989 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

### **6 ANNUAL STATEMENT OF ACCOUNTS**

#### **a) Chief Executive**

The Chief Executive 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 1996. The Chief Executive and Director of Finance will make arrangements for the co-ordination 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 Chief Executive and 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 co-operate with the Council's external auditors during their audit of the accounts and grant claims.

## **7 PREPARATION OF THE CAPITAL PROGRAMME**

### **a) Capital Programme**

The Executive will, on consideration of an annual report from the Chief Executive, make recommendations to the Council regarding the capital programme. The report from the Chief Executive will consider the capital resources available to the Council, the revenue implications of the proposed capital expenditure, and any other relevant information.

### **b) Financing of Schemes**

Within the overall approved capital programme, the Chief Executive will decide the method by which any particular scheme will be financed.

### **c) Capital Schemes**

Approval to spend on individual capital schemes will only be given once issued procedural instructions have been complied with to the satisfaction of the Chief Executive.

## **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 Chief Executive.

### **b) Reporting Requirements**

- (i) Strategic Directors must report each month to the relevant Executive member and at least twice a year to the Executive as a whole on departmental capital expenditure incurred to date in the financial year and the projected outturn for the financial year compared to budget.
- (ii) Strategic Directors must report to the Executive annually on the actual capital expenditure incurred in the previous financial year compared to budget together with a comparison between the approved total cost and the projected total cost for each scheme.
- (iii) The Chief Executive 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.
- (iv) The Chief Executive will report to the Executive on the outturn position for capital expenditure for each financial year.
- (v) In addition Strategic Directors must report progress on those schemes designated as significant to each meeting of the Capital Working Group.

**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 Chief Executive. 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 25% 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 Chief Executive, 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 and Housing Act 1989 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**

The taking or granting of a lease on any asset will be subject to the consent of the Chief Executive. 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 Chief Executive and 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 Chief Executive.

## **11 TREASURY MANAGEMENT**

### **a) CIPFA Code of Practice**

The Chief Executive will ensure that all Council borrowings and investments are conducted in accordance with the CIPFA Code of Practice on Treasury Management in the Public Sector. To this end, all money in the hands of the Council (with the exception of money delegated to schools or under trust fund arrangements) will be aggregated for the purposes of treasury management and will be under the control of the Chief Executive, referred to in the Code as the "Chief Financial Officer".

### **b) Decisions on Borrowing**

Executive decisions on borrowing, investment or financing are delegated to the Chief Executive.

### **c) Treasury Policy Statement**

The proposed treasury strategy and borrowing limits for the coming financial year will be recommended to the Council by the Executive prior to or alongside its consideration of the revenue budget and council tax.

### **d) Reporting**

The Chief Executive will report to the Executive each financial year, on the activities of the Treasury Management operation and on the exercise of the Treasury Management powers.

### **e) Departure from the Code**

Should the Chief Executive wish to depart in any material aspect from the main principles of the Code, the reasons should be given in the report to the Executive.

## **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 Chief Executive 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.

### Schools Fair Funding

The Department for Education and Employment 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". The Council has adopted the CIPFA Code of Practice on Treasury Management in the Public Sector.

### Virements

A virement is an agreed re-allocation 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, Chief Finance Officer or the Borough Solicitor & Secretary 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 & Secretary**

- (a) The Appointments Committee will appoint the Borough Solicitor & Secretary.
- (b) An offer of employment as Borough Solicitor & Secretary shall only be made where no well-founded and material objection from any member of the executive has been received.

### **5. Appointment of the Chief Finance Officer**

This process is subject to the Local Authorities (Standing Orders) (England) Regulations 2001.

- a). The Appointments Committee will appoint the Chief Finance Officer.
- b). An offer of employment as Chief Finance Officer 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 chief finance officer 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, Chief Finance Officers, Monitoring Officer, deputy chief officers

- a). 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.

- b). 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.

<b><i>The Southwark Council Code Of Conduct For Members</i></b>
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**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**

1. 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.
2. 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.

3. 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.
4. 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.
5. (1) A member must when reaching decisions –
  - (a) have regard to any relevant advice provided to him or her by –
    - (i) the authority's chief finance officer 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.
6. 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***

- 7 (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) any body 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**

- 8 (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**

- 9 (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**

10 (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**

- 11(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.
12. 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***

13. 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.
14. 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.

15. 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**

16. 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.

# LONDON BOROUGH OF SOUTHWARK

## 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.

### 2. **Review**

In the first year after the adoption of the Protocol it will be reviewed before the end of 12 months by the Standards Committee on a report by the Borough Solicitor & Secretary. The Committee's recommendations will be referred to Council Assembly.

After that, the Standards Committee and the Borough Solicitor & Secretary will jointly keep the Protocol under review and make recommendations for changes as appropriate.

### 5. **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. Councillors are responsible to the electorate and serve only so long as their term of office lasts. 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.

Mutual respect between Councillors and officers is essential to good local government.

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. The Member Code of Conduct emphasises the need to avoid behaviour which could be viewed as conferring an advantage or disadvantage and close personal familiarity between Members and Officers could undermine public confidence in the Council. It is acknowledged that some close relationships will inevitably develop, but it is important

that they be openly declared and where possible Members and Officers who have close personal relationships should avoid working relationships where they would come into regular contact on projects and in day to day business of the Council.

#### **4. 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. 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.

Support may include a range of activities including briefings for Members related to their roles e.g. chairperson or spokesperson. Officers should be required to give information and advice to political groups on Council business only and not on matters which are purely of a party political nature. Such advice should be available to all party groups, not solely the majority group. It is important that the political neutrality of Officers is preserved and that group confidentiality is maintained by Officers. When engaging Council officers at group meetings, party members should seek to avoid involving them in any political debate.

Attendance at group meetings should normally be restricted to Chief Officers or Heads of Service who would be expected to have an understanding of both service and political perspective. If other officers are asked to attend group meetings they would be invited to attend with their Chief Officer or Head of Service.

#### **5. Political Assistants**

The Local Government and Housing Act 1989 gives councils a power to appoint political assistants to qualifying political groups.<sup>25</sup> 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.

#### **6. Support Services for Members**

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<sup>25</sup> The Act sets the criteria for determining which political groups are entitled to assistants. Generally, only groups whose membership comprises at least one-tenth of the total membership of the authority are entitled to an assistant (i.e. in Southwark's case, only groups with a minimum of 7 members). No group may have more than 1 assistant, and no more than 3 political assistants may be appointed in total.

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 that role.

Within these guidelines, all officers should endeavour to give every assistance to Councillors carrying out their various roles. Direct support, such as IT support, and administrative help is provided by Members Services and organised by the Head of Members Services and the Head of Administration. Comments on its quality and scope should be addressed in the first instance to them.

### **Members' Access to Information and Council Documents**

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, but 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.

For guidance, reference should be made to the provisions of the Council's procedure rules and the provisions relating to Members' access to documents contained in the Access to Information provisions inserted into the Local Government Act 1972, particularly the restrictions in S 100F(2), and to Guidance issued by the Head of Administration on the application of Data Protection controls to the work of Members.

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 & Secretary).

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.

## **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 (other than those which he or she would be entitled to refuse to answer in a court of law). The Council may consider that this requirement should only apply to Chief Officers, Heads of Service, Service Managers and not more junior staff (except with their agreement).

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 approach to questioning and may be firm and assertive, but should not be adversarial, rude or aggressive.

Officers should provide all 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.

## **Officer/Executive Member/Committee Chair Relationship**

Officers and Executive Members/Chairs of Committees will inevitably need to work closely together. However such relationships should never be allowed to become so close, or appear to be so close as to bring into question the Officers' ability to deal impartially with other Members and other party groups, nor to undermine public trust and confidence in the Council.

Officers' reports should contain clear, evidence-based advice as to why a course of action is being recommended. If the relevant Executive member does not agree, then he/she may suggest an alternative course of action to that proposed by the Officer, and in exceptional circumstances, he/she may write his or her own report in addition to the report submitted by the Chief Officer but should not use undue pressure to persuade the Chief Officer to withdraw or amend the original Officer report. In this situation, the Executive member should be equally clear about the reasons for making alternative recommendations.

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.

Finally, it must be remembered that Officers within a Department are accountable to their Chief Officer and that whilst Officers should always seek to assist an Executive Member/Chair (or indeed any Member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Chief Officer.

## **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. In the case of public meetings in a particular locality, the Ward Councillor will normally be invited to attend and could normally be expected to be consulted on any form of consultative exercise on local issues.

## **Correspondence**

Where an Officer copies correspondence addressed from one Member to another, it should be made clear to the original Member and should not be sent to any Member of another Group without the Member's consent. Where a Member has sought advice from an officer, that advice should not be copied to other Members, although points of general interest to all Members may be converted into general advice, and circulated.

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.

## **Press Releases**

The Borough Solicitor & Secretary has circulated advice to Members on publicity paid for by the authority. 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 & Secretary in those cases.

## **Ceremonial Events**

Civic ceremonial events would normally be led by the Mayor or the Deputy Mayor with the Leader informed or invited as appropriate. Events which involve Government Ministers or other political figures should be led by the Leader or Executive member with the Mayor informed or invited as appropriate.

In addition, local Members should be informed and, where possible and appropriate, invited to participate.



## Roles of Statutory Officers

The duties of both the Monitoring Officer and Chief Finance 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.

<b>Post</b>	<b>Designation</b>	<b>Deputy</b>
Chief Executive	Head of Paid Service	N/a
Borough Solicitor	Monitoring Officer	Appointed as required
Chief Finance Officer	Chief Finance Officer	Head of Corporate Finance

## When things go wrong:

### Procedure for officers

It is always preferable to resolve matters informally, through conciliation by an appropriate senior manager. Officers however do have recourse to the Grievance Procedure, or to the Council's Monitoring Officer. In some cases they may wish to utilise the Council's Whistleblowing procedure. In the event of a grievance or 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 Council's Standards Committee or, in the most serious cases, to the Standards Board, should be considered by all concerned, and in particular by the Council's Monitoring Officer.

### 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. 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 Personnel Management Services and to the Council's Monitoring Officer. If the matter cannot be resolved informally, the relevant Disciplinary Procedures will come into effect.

## Council Structure Chart

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