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21 November 2025

To: All Members of the Full Council

Dear Member,

Full Council - Monday, 24th November, 2025

I attach a copy of the following reports for the above-mentioned meeting which were not available at the time of collation of the agenda:

10. TO RECEIVE REPORTS FROM THE FOLLOWING BODIES (PAGES 1 - 214)

- a) Standards Committee – report to follow

Yours sincerely

Ayshe Simsek, Democratic Services and Scrutiny Manager
0208 489 2929

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REPORT OF STANDARDS COMMITTEE 02/2025/26

FULL COUNCIL 24 November 2025

Chair: Councillor Ibrahim Ali

1. INTRODUCTION

1.1 This report arises from the Standards Committee meetings held on the 13 November 2025 and asks Full Council to consider the following:

- 1.1.1 Consider the proposed changes to the Planning Protocol in Annex 1, Appendix 2.
- 1.1.2 Consider the proposed changes to the Financial Regulations in Annex1 Appendix 1.
- 1.1.3 Consider the proposed changes to Part Four of the Constitution, Section J Contract Standing Orders in Annex 3 , Appendix 3.

At the meeting of the Standards Committee on the 13 November 2025, the Committee were asked to consider proposed changes to the Planning Protocol which were put forward to ensure good practice was followed when Members determine planning applications, that processes would be transparent and would assist resident involvement in those determinations. It was noted that general changes to the Planning Protocol were outlined, which included a removal of duplications, clarified the Committee running order, stressed that decisions were not to be made on a party-political basis, rename the Development Management Forum to the Planning Forum for clarity, and other administrative changes. These changes had been previously endorsed by the Strategic Planning Committee and Constitution Working group

The Committee additionally considered changes Financial Regulations within the Council's Constitution, noting that the changes proposed would bring additional financial rigour. It was explained that the Council would look to undertake extensive engagement with budget holders to ensure that they align with the proposed new finance regulations and requirements within the Constitution. It was stressed that there was a requirement within the proposals to strengthen the accountability for budget managers, including a requirement for budget holders to remain within budget and for Corporate Directors to notify the Section 151 Officer of all underspends, over-recovery of income or windfall benefits arising within revenue and capital budgets. It was noted there were also some administrative changes which were included within the report.

The Committee additionally reviewed proposed changes to Contract Standing Orders (CSO's) were intended to address some minor omissions following the revised CSO's introduced in March 2025 and some audit recommendations. It was noted that the proosed changes would allow Directors to be able to vary or extend a contract, where the aggregated value of the award, variation or extension is less than £500,000. This would be consistent with Delegated powers afforded to Directors elsewhere in the Constitution. It was also noted that the provisions would

tighten rules around contract Letters of Intent and that the Chief Procurement Officer is advised of all contract novation's.

WE RECOMMEND FULL COUNCIL

- 1.1.4 Approve the proposed changes to the Planning Protocol in Annex 1, Appendix 2.
- 1.1.5 Approve the proposed changes to the Financial Regulations in Annex 2, Appendix 1.
- 1.1.6 Approve the proposed changes to Part Four of the Constitution, Section J Contract Standing Orders in Annex 3, Appendix 3.
- 1.1.7 Approve the following key amendments outlined in Annex 3, Appendix 3:
 - 1.1.7.1 Directors may approve extensions and variations of contracts with an aggregated value of less than £500,000;
 - 1.1.7.2 Letters of Intent would be restricted to 50% of the contract value, where the contract value is £100,000 or less.
 - 1.1.7.3 Directors would record decisions to novate contracts and notify the Chief Procurement Officer of such decisions.

Appendices

Standards Committee report Planning Protocol – Annex 1

Appendix 1 - Existing Planning Protocol 2017, 13/11/2025 Standards Committee

Appendix 2 - Proposed Planning Protocol 2025 tracked changes, 13/11/2025 Standards Committee

Appendix 3 - Proposed Planning Protocol 2025 clean, 13/11/2025 Standards Committee

Standards Committee Report Financial Regulations – Annex 2

Appendix 1: Part Four Financial Regs as 13/11/2025 Standards Committee

Standards Committee report Contract Standing orders – Annex 3

Appendix 1 - CSO Nov 2025 v1.1, 13/11/2025 Standards Committee

Appendix 2 - Summary of Proposed CSO Amendments Nov 2025 v1.1, 13/11/2025 Standards Committee

Appendix 3 - CSO March 2025 vs Nov 2025 v1.1 Comparison, 13/11/2025 Standards Committee

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Report for: Standards Committee 13 November 2025
/ Full Council 24 November 2025

Title: Updates to the Constitution - Part Five Section E – Planning Protocol

Report Authorised by: Fiona Alderman Director of Legal and Governance and Monitoring Officer

Lead Officer: Rob Krzyszowski, Director of Planning & Building Standards

Ward(s) affected: All

Report for Key/ Non Key Decision: Non Key Decision

1. Describe the issue under consideration

To consider changes to the Planning Protocol to ensure good practice is followed when members determine planning applications, processes followed are transparent and assist resident involvement in those determinations. These proposals are put forward following discussion and steer at the Constitution Working Group.

2. Cabinet Member Introduction

Not applicable.

3. Recommendation

3.1 To consider the proposed changes to the Planning Protocol shown in track changes in Appendix 2 attached to this report and recommend adoption of those changes in the clean version of the Planning Protocol in Appendix 3 by Full Council on 24 November 2025.

4. Reasons for decision

If the proposed changes are adopted this would ensure the Planning Protocol in the Constitution remains up to date and consistent with good governance.

5. Alternative options considered

The alternative would be to not update the Planning Protocol which is not considered appropriate as it will not ensure the Planning Protocol in the Constitution is up to date and fit for purpose.

6. Background information

- 6.1 The Planning Protocol at Part Five Section E of the Council's Constitution was last updated over 8 years ago in 2017.

Good practice guidance

- 6.2 Since 2017 there have been a number of good practice guidance documents which have been published, which have been considered when proposing the changes to the Planning Protocol in Appendix 2, including:

- Local Government Association (LGA) Planning Advisory Service (PAS) – Probity in Planning: Advice for councillors and officers making planning decisions (December 2019)¹
- Royal Town Planning Institute – Probity and the Professional Planner: Practice Advice (January 2020)²
- Lawyers in Local Government – The Members Planning Code of Good Practice (January 2024)³

Independent Planning Service Peer Challenge

- 6.3 In 2023 the Council invited LGA/PAS to undertake an independent Planning Service Peer Challenge, which included considering the Council's planning processes including those of the Strategic and Planning Sub Committees. The Peer Challenge report was received in November 2023 and the Council's Cabinet in March 2024 endorsed the report and approved an Action Plan in response to the report. Whilst the report and Action Plan did not have any recommendations or actions specifically regarding the Strategic and Planning Sub Committees, the report did state:

“Committee is a very good example of how public facing planning committees are run. The role of the planning committee Chair is recognised as a key role. The present Chair is well respected, well informed, clear in managing the process of decision making.”

“members of the committee work respectfully with each other, the Chair, and officers. The planning case officers are well respected and treated professionally by the committee members in the meetings and were considered helpful by planning committee members we spoke with. Officers are professional & responsive to questions that are raised by the committee members and the interactions between officers and members appear professional & courteous”

¹ www.local.gov.uk/publications/probity-planning-advice-councillors-and-officers-making-planning-decisions

² www.rtpi.org.uk/new-from-the-rtpi/probity-and-the-professional-planner/

³ <https://llg.org.uk/login/?RedirectUrl=/news/the-members-planning-code-of-good-practice-press-release-25th-january-2024/>

Consultation with Members

6.4 In preparing the proposed new Planning Protocol, Members of the following groups have been consulted:

- Constitution Working Group (informal)
 - February 2024
 - June 2025
 - October 2025
- Strategic Planning Committee
 - February 2024
 - October 2025 (informally via email)

Government reforms to planning

6.5 The government has an ongoing programme of reforms to the planning system, which are regularly reported to the Strategic Planning Committee as appropriate.

6.6 In particular, a strand of these reforms includes 'Modernising Planning Committees'. The government published a Working Paper⁴ on this in December 2024 and a Technical Consultation⁵ in May 2025. The government has also introduced the Planning and Infrastructure Bill⁶ in Parliament which is passing through the relevant parliamentary procedures and includes provisions relating to the modernisation of Planning Committees, and is expected to receive royal assent in late 2025 / early 2026. These reforms were reported to the Strategic Planning Committee at its meetings in February 2025 and July 2025.

6.7 Whilst these reforms are significant, Haringey has already been implementing many of the Government's proposals regarding Planning Committees for many years prior. As noted by the Planning Service Peer Challenge report Haringey's Committee "is a very good example of how public facing planning committees are run". Therefore, the government's reforms to planning are not considered a reason to delay making changes to the Planning Protocol. It is considered that the proposed new Planning Protocol will put the Council in a good position for upcoming reforms and ensure it continues to be at the forefront of best practice.

Key changes

6.8 The changes in the proposed new Planning Protocol include:

- General updates and 'tidying up'
- Removing duplication / inconsistency with the wider Constitution and Member Code of Conduct

⁴ www.gov.uk/government/publications/planning-reform-working-paper-planning-committees/planning-reform-working-paper-planning-committees

⁵ www.gov.uk/government/consultations/reform-of-planning-committees-technical-consultation/reform-of-planning-committees-technical-consultation

⁶ <https://bills.parliament.uk/bills/3946>

- Clarifying of the running order for determining planning applications at relevant Committee meetings
- Clarifying officers' ability to refer applications to Planning Sub Committee
- Clarifying that planning decisions cannot be made on a party-political basis
- Introducing a new 'Strategic Planning Briefing' as part of Member engagement at early stages of pre-application advice to improve the quality of applications, as encouraged by government and best practice guidance, with associated transparency measures
- Renaming 'Development Management Forum' to 'Planning Forum'
- Clarifying the process for petitions
- Clarifying a step-by-step process for motions, including those contrary to officer recommendation
- Clarifying the approach for deferrals

7. Contribution to strategic outcomes

The Planning Protocol and planning service supports the Council's Vision of being "A place where we can all belong and thrive", in particular by supporting the delivery of its "Calls to action" of "Safe and affordable housing" and "Thriving places". Updating the Planning Protocol supports the ambition of the Haringey Deal of "Getting the basics right".

8. Statutory Officers comments (Chief Finance Officer (including procurement), Director of Legal and Governance, Equalities)

Finance

- 8.1 There are no resources implications from these changes.

Legal

- 8.2 Section 9P of the Local Government Act 2000 requires local authorities to prepare and keep up to date constitutions containing their standing orders, code of conduct for members, any other information they considered appropriate, which Article 4.02 of the Constitution provides only Full Council can adopt and change.

The Constitution Working Group, which sits outside the Council's Constitution, is a discussion forum which considers changes to the Constitution before they are submitted to the Standards Committee for its consideration and recommendation to Full Council.

The decision to recommend the changes to the Planning Protocol in Appendix 3 is a decision that the Standards Committee can take pursuant to Article 9.03 of the Constitution.

Equality

- 8.3 8.4 The council has a Public Sector Equality Duty (PSED) under the Equality Act (2010) to have due regard to the need to:
- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
 - Advance equality of opportunity between people who share protected characteristics and people who do not
 - Foster good relations between people who share those characteristics and people who do not
- 8.5 The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/fait, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.
- 8.6 Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.
- 8.7 The decision to amend the Planning Protocol is likely to positively impact all users, including those that may find the process complex by making it easier and clearer regarding how residents can engage with the Planning Sub Committee processes e.g. through clarifying the Committee running order, clarifying the process for petitions, and renaming 'Development Management Forum' to 'Planning Forum' to avoid jargon and use more 'plain English' language. This decision does not change how people and communities are consulted on planning applications and this will continue as per existing procedures. Support will continue to be provided to ensure the process is accessible with mitigations (if needed) such as paper forms, support over telephone etc.

9. Use of Appendices

Appendix 1 – Existing Planning Protocol 2017

Appendix 2 – Proposed Planning Protocol 2025 – tracked changes version

Appendix 3 – Proposed Planning Protocol 2025 – clean version

10. Local Government (Access to Information) Act 1985

Council Constitution

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Planning Protocol 2017

1. PURPOSE OF THE PROTOCOL

- 1.01. This Protocol has been adopted by Haringey Council to ensure the highest standards of probity in the performance of its planning function.
- 1.02. Consistency, fairness and openness are important qualities for any regulatory function in the public eye and they are vital to the conduct of a planning committee. Adherence to the Protocol is intended to build public confidence in the Council's planning system.
- 1.03. The purpose of the Protocol is:
 - (a) to state how the Members of the Planning Sub-Committee will exercise those functions, including behaviour in relation to applicants, residents and other third parties;
 - (b) to ensure a consistent and proper approach by all Members to the exercise of planning functions;
 - (c) to ensure applicants and their agents, residents and other third parties are dealt with by Members consistently, openly and fairly;
 - (d) to ensure the probity of planning transactions and the high standards expected in public office; and
 - (e) to ensure planning decisions are made openly, fairly and in the public interest, in accordance with legislation and guidance.
- 1.04. This Protocol relating to planning matters is intended to be supplementary to The Members' Code of Conduct (Part Five Section A of the Council's Constitution). The Localism Act 2011 sets out a duty for each local authority to promote and maintain high standards of conduct by councillors and to adopt a local code of conduct. The Council adopted a Code of Corporate Governance in July 2008 which was updated in July 2013 and contains 6 key principles based on the Nolan Committee on Standards in Public Life. The provisions of the Code of Conduct continue to have full force and effect. The purpose of this Protocol is to provide more detailed guidance on the application of the guidance in relation to planning matters.
- 1.05. Copies of this Protocol will be made publicly available online and will be kept under review.

2. BACKGROUND TO THE COUNCIL'S PLANNING FUNCTIONS

Determination of Applications

- 2.01. The planning process is governed by legislation, both primary and secondary, and in particular the Town and Country Planning Act 1990 (as amended) ("the 1990 Act"), the Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act"), the Planning Act 2008 and the Localism Act 2011. The National Planning Policy Framework ("NPPF") together with Government guidance set out in the National Planning Practice Guidance provides a policy context for the preparation of statutory plans and the discharge of a Local Planning Authority's functions. In addition, the Courts have also provided a large body of "case law" in respect of planning matters.
- 2.02. Planning law requires the Local Planning Authority ("LPA") to determine all planning applications "in accordance with the development plan unless material planning considerations indicate otherwise" (Section 38(6) 2004 Act). The development plan in Haringey comprises the London Plan together with the Council's local plan and when adopted further local plan documents (e.g. area action plans) and if applicable neighbourhood development plans (together "the Development Plan"). In cases of development involving works within a conservation area, or where the development is likely to affect the setting of a listed building, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 contains a duty on the Council to the desirability of preserving the listed building or its setting and Section 72 of that Act requires LPAs to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. In accordance with paragraph 197 of the NPPF, in assessing and determining development proposals, LPAs should apply the presumption in favour of sustainable development.
- 2.03. The responsibilities of the LPA must be performed without undue influence or consideration of a personal interest. When determining planning applications Members must only take into account the Development Plan and any material planning considerations. The Members of the authority are elected to represent the interests of the whole community in planning matters. Views relating to material planning considerations expressed by neighbouring occupiers, local residents and any other third parties must be taken into account but local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission.
- 2.04. The planning system does not exist to protect the private interests of one person against the activities of another. The basic question is not whether owners and occupiers of neighbouring properties would experience financial or other impacts as a result of a particular development, but whether the proposal would unacceptably affect

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

amenities and the existing use of land and buildings which ought to be protected in the public interest.

Enforcement

- 2.05. The purpose of the planning enforcement provisions is to protect the integrity of the planning system and the development control process. Whether to take enforcement action in any particular case and what action to take in the circumstances are matters for the authority's discretion. The existence of a breach of planning control is not in itself grounds for the institution of enforcement action. Paragraph 207 of the NPPF provides that "Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and LPAs should act proportionately in responding to suspected breaches of planning control. LPAs should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so".
- 2.06. Haringey Council has published a guide to planning enforcement (July 2012) which sets out the Council's approach to the enforcement of breaches of planning control. This will be regularly reviewed and used to guide decisions in respect of planning enforcement by officers and, where required, Members.

Appeals to the Secretary of State

- 2.07. An applicant who has not received a determination within the requisite period of time; has been refused planning permission or other approval; or who is unhappy with conditions attached to a permission granted, and those responsible for developments the subject of enforcement action, have a right of appeal to the Secretary of State for Communities and Local Government ("the Secretary of State"). If it is shown that the Council's conduct in dealing with the matter was unreasonable, the appellant's costs may be awarded against the Council. The most frequent example of unreasonable behaviour is a failure to substantiate an authority's decision on the relevant planning grounds in the particular case.

Other Powers of the Secretary of State

- 2.08. The Secretary of State possesses a range of powers which could be exercised where a LPA appears to be making inconsistent decisions or decisions which are seriously in conflict with national and Development Plan policies. This could involve use of the power to "call in" applications, so the application would be determined by the Secretary of State following a public inquiry. A permission granted by the Council can in

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

special circumstances be revoked, modified or discontinued. Such decisions may be subject to compensation payable by the Council.

- 2.09. In addition, there is the power in Section 62A 1990 Act (inserted by Section 1 of the Growth and Infrastructure Act 2013) which allows certain applications to be made directly to the Secretary of State, where the LPA for the area has been designated for this purpose. Designation can occur in circumstances where the LPA's performance in terms of its decision making falls short of pre-determined criteria for the timeliness or quality of decisions in respect of major applications. These criteria will be kept under review by the Secretary of State and any changes thereto will be laid before Parliament.

Powers of the Mayor of London

- 2.10. The Mayor of London possesses a range of planning powers with regards to developments taking place in London. For strategic developments¹, the Mayor has the power to allow the LPA to determine the application itself, direct refusal of the planning application or to take over the application for determination. The London Plan sets out the Mayor's policies and guidance for development taking place within London, in particular major developments or those with London wide significance. The Mayor can in certain circumstances prevent developments going ahead that are inconsistent with the London Plan.

Administration of Planning Functions in Haringey

- 2.11. The performance of the Council's planning function is largely delegated to the Planning Sub-Committee, and to officers of the Council pursuant to arrangements made under Section 101 of the Local Government Act 1972. Approximately 9 out of 10 planning decisions in Haringey are made by officers, through authority delegated to them by the Council. This level of delegated decision making is consistent with other Councils across the Country and allows the majority of planning decisions to be determined promptly, allowing Members of the committee to focus on the most significant and controversial proposals.
- 2.12. Many decisions are made under delegated powers by the Assistant Director, Planning or Head of Development Management in accordance with a scheme of delegation. (See the Terms of Reference of the Planning Sub-Committee in the Constitution).

Planning Applications by Councillors or Officers of the Council

¹ The Town and Country Planning (Mayor of London) Order 2008 sets out the range of applications on which the Mayor should be consulted. These include development of more than 150 dwellings, development of more than 15,000 square metres and buildings over 30 metres high

PART FIVE – CODES AND PROTOCOLS

Section E – Planning Protocol

2.13. When a planning application is submitted by a serving councillor; or more senior officers (tier 3 or above); or officers within the planning directorate; or by a close relative or a close friend of either an officer or Councillor; or by a councillor acting as agent for the applicant, the councillor or officer concerned will:

- take no part in the processing and determination of the application; and
- advise the Monitoring Officer and the Assistant Director, Planning/Head of Development Management of the application.

2.14. All such applications will be reported to the Planning Sub-Committee and determined by the Sub-Committee and not by an officer under delegated powers.

2.15. The report of the Assistant Director, Planning/Head of Development Management will include confirmation from the Monitoring Officer that these requirements have been met.

Planning Applications by the Council

2.16. Subject to the provisions of the Town and Country Planning General Regulations 1992 planning applications made by or on behalf of the Council will be treated in the same way as those made by or on behalf of private applicants.

Delegation to Officers

2.17. All Planning applications can be decided under delegated powers save for those reserved in the Constitution for determination by Planning Sub-committee.

2.18. Where officers are determining applications under their delegated powers, an officer report will be completed which must record the material planning considerations that have been taken into account in the decision making process.

2.19. The Planning Sub-Committee will receive, for its information, a regular report identifying the planning applications which have been determined by officers under the scheme of delegation, and the decisions thereon.

Referring applications to the Planning Sub-Committee

2.20. All members of the Council receive copies of the weekly list detailing the applications that have been received.

2.21. If a Member wishes an application to go before the Planning Sub-Committee rather than be determined through officer delegation, he/she should make this request as soon as possible (and within the 21 day neighbour notification period) and ensure that any such request states

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

the planning grounds on which it is based. The Assistant Director, Planning/Head of Development Management in consultation with the Chair of the Sub-Committee will consider such requests and whether the application should be referred to the Sub-Committee. The criteria to be used for determining such requests will include:

- whether the proposal is a significant development which has caused substantial local interest;
- where the officer recommendation is for approval contrary to policy in the Development Plan or other adopted guidance; and
- whether the application is recommended for approval. Applications that are to be refused will not normally be determined at planning committee.

2.22. The Assistant Director, Planning is responsible and accountable to the Council for the Planning and Development Service which deals with the administration of all planning matters. The Head of Development Management is responsible and accountable to the Assistant Director, Planning for the immediate management of the Council's development management function.

3. APPLICATION OF THE PROTOCOL

3.01. The Protocol applies to the conduct of Members in relation to all applications for permission/approval under planning legislation. The Protocol also applies to decisions to take or not to take planning enforcement action. The principles (below) would also apply where consideration was to be given to the inclusion or otherwise of specific proposals within the statutory local plan even when the Sub-Committee was being consulted informally rather than making the final decision.

3.02. The Protocol also applies to any other item before the Sub-Committee. This can include the lists of major applications and delegated decisions. For these, as with all items, Members should ensure that all comments they make are appropriate for the Sub-Committee forum, and relate to a Council wide issue or concern that is not better dealt with by raising directly with officers outside of Sub-Committee.

3.03. In the following sections references to determination of planning applications should be taken as referring also to all these other matters.

4. THE MEMBERS' CODE OF CONDUCT

4.01. The Members' Code of Conduct ("the Code of Conduct") applies to Members of the Planning Sub-Committee as to all Members of the

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

Council. The parts of the Code of Conduct on personal and prejudicial interests, the register of those interests and receipt of gifts and hospitality are particularly relevant. Members of the Sub-Committee should also have regard to the general principles of conduct when exercising their planning functions.

5. CONDUCT OF MEMBERS OF PLANNING SUB-COMMITTEE

Training

- 5.01. The Council will ensure that all Members of the Planning Sub-Committee have undertaken appropriate training on planning legislation and relevant matters prior to their participation in the work of the Sub-Committee. The Council will make available regular updates/training for Planning Members, and will encourage all other Members of the Council to take part in planning training.
- 5.02. For Planning Sub-Committee Members and substitute Members of the Planning Sub-Committee there is a requirement to undertake training prior to sitting on the Committee. Ongoing training is required and each Member should undertake at least 5 hours of training per annum.

General Principles

- 5.03. This section of the protocol applies solely to Members of the Council's Planning Sub-Committee when determining planning applications or considering the inclusion of local plan proposals or resolving to take planning enforcement action. It is intended to ensure that the integrity of the decision making process is not impaired, either in reality or in perception, through a lack of openness in decision-making, or through the lobbying of those Members who will make decisions.
- 5.04. This part of the protocol is also designed to ensure that, wherever possible, representations made to Members form part of the public information leading to any decision.
- 5.05. The conduct of Members of the Council who are not Members of the Planning Sub-Committee is governed by the next section of the protocol, where greater flexibility is permitted, and where those Members are given greater freedom to discharge their role as representatives of the local community within a clear framework.
- 5.06. The Council (which unless otherwise stated means acting as LPA) has a responsibility to make decisions with knowledge of the relevant Development Plan policies, taking into account all other material considerations and any representations, applying the appropriate weight to each. In addition, it is important that elected Members receive open and impartial professional advice from their Planning Officers. Members should make planning decisions by reference to a written officers' report.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

- 5.07. This can only be done at the Sub-Committee. Conclusions reached in advance of the Sub-Committee risk being on partial facts, without the relevant advice, and without the ability to view all the material considerations before applying appropriate weight. They are therefore open to misunderstanding, and possibly, to legal challenge on the grounds that the right things have not been taken into account, or immaterial things have been taken into account, or that the Members concerned have been subject to “bias” or “pre-determination”.
- 5.08. For these reasons Members should not reach or express any firm conclusion on an application prior to the relevant Sub-Committee meeting. If, for any reason a Member decides, in advance of the Sub-Committee meeting, to express a firm and final view on the development, he or she shall not take part in the deliberations of the Sub-Committee but may exercise the rights below.
- 5.09. Where any Member makes representations to the ‘Planning Service’, in writing or orally, in relation to any application, those representations will be recorded for inclusion in the officers’ report. Where these representations constitute a firm and final view on the development, the Member will not take part in the deliberations of the Sub-Committee but may exercise the rights below.

Open and fair decisions

- 5.10 At the London Borough of Haringey decisions on controversial planning applications are taken in public by the Planning Sub-Committee.

For a decision to be open and fair:

- Those taking the decision should not be biased or have pre-determined how they will decide;
- Those taking the decision should not have a disclosable pecuniary interest or prejudicial interest (see below for further information about these) in the outcome;
- The decision should be consistent with others taken previously unless there are good reasons to decide otherwise; and
- The reasons for the decisions should be clearly set out.

Bias or predetermination

- 5.11 It is entirely permissible for Planning Sub-Committee Members, who are democratically accountable decision makers, to be predisposed towards a particular outcome. Nonetheless they must address the planning issues before them fairly and on their merits. That means they can have a view on the application or matter but must not make up their minds on how to vote before formally considering the application and any representations. Planning Sub-Committee Members must have an open mind to the merits of a proposal before it is formally considered at the

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

Sub-Committee meeting and they must be prepared to be persuaded by a different view in the light of any detailed arguments or representations concerning the particular matter under consideration.

- 5.12. If the Sub-Committee's decision on a planning application is challenged in the High Court by way of judicial review on the grounds that some of the Sub-Committee Members were biased, or had predetermined the application, the court will assess the case on the basis of what a fair-minded observer, knowing the relevant facts would think.
- 5.13. Section 25 of the Localism Act 2011 provides that a decision maker is not to be taken to have had, or appeared to have had, a closed mind when making the decision just because:
- the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take, in relation to a matter; and
 - the matter was relevant to the decision.
- 5.14. This provision does not change the law on bias and pre-determination which means that Sub-Committee Members must still take planning decisions with an open mind and having taken into account all relevant material planning considerations. What s.25 does provide is that statements made by Members cannot be used in court as evidence that the Member in question had or appeared to have a closed mind. Other evidence or any evidence that a Member has taken into account irrelevant considerations, however, is not so restricted by s.25.
- 5.15. Notwithstanding the s.25 provisions, the safest course is for Sub-Committee Members to avoid making public statements (including expressing views in emails) as to their support for or opposition to any application which would indicate they had made up their minds before the formal consideration of the application at the meeting. If a Sub-Committee Member has made such a statement they must be satisfied that they can still consider the application with an open mind and are prepared to take into account any new matters or any new arguments in favour of or against the proposed development until the decision is made otherwise they should not take part in any decision on the application in question. In which case it is to be treated the same as any other prejudicial interest, as will cases of perceived bias, and the Member shall declare this interest and leave the room for the item in question as set out below.

Declaring an interest

- 5.16. It is important that Sub-Committee Members should not be influenced or perceived to be influenced by any interests that they, their family or close associates may have in a particular application. To this end at the start of every Sub-Committee meeting Sub-Committee Members will be asked to declare any interests they may have in relation to the matters before

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

them. As outlined in the Code of Conduct, “disclosable pecuniary interests” are prescribed by law and are entered in the register of interests maintained by the Council’s Monitoring Officer. The Code of Conduct also provides for the disclosure of other interests at meetings in certain circumstances. It is not sufficient for a Member to only state they have ‘an interest’. When declaring an interest, the Member must describe what the interest in question actually entails.

Disclosable pecuniary interests

- 5.17. ‘Disclosable pecuniary interests’ are prescribed by the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and are set out in Appendix A to the Code of Conduct. The categories of disclosable pecuniary interests include employment or office, interests in land in the Borough and contracts with the Council.
- 5.18. An interest is a ‘disclosable pecuniary interest’ if it is of a type described above and it is an interest of the Member or of their spouse or civil partner, a person with whom they are living as husband and wife or a person with whom they are living as if they were civil partners and the Member is aware of the interest. Members should note the criminal sanctions for failure to comply with these requirements (as outlined in Appendix B of the Code of Conduct).

Other interests

- 5.19. A Sub-Committee Member may have other interests such as ‘Personal’ or ‘Prejudicial’ interests which, whilst not falling within the legal definition of disclosable pecuniary interests should, it is strongly advised, be declared in the public interest. For example, such an interest may arise where the Sub-Committee Member resides near a development which is the subject of the planning application under consideration. While it is for the Sub-Committee Member to judge, a useful rule of thumb is “will my enjoyment of my property be affected either positively or negatively by this application?”. If the answer is in the affirmative, it would be advisable for the Sub-Committee Member to declare such an interest.
- 5.20. A prejudicial interest would also arise, for example, if the affected property were to be owned by a company of which the Sub-Committee Member is a director.
- 5.21. Advice is given below regarding what Sub-Committee Members and non-Sub-Committee Members should do if they have a disclosable pecuniary interest or other interest in an application due to be considered at a Sub-Committee meeting.
- 5.22. It is important to note that the rules relating to declarations of interest apply equally to non-Sub-Committee Members who may from time to time wish to attend a Sub-Committee meeting and speak on a particular matter. Each Member who attends a meeting must make an assessment

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

of whether they have an interest in the matters under discussion, whether they intend to participate in proceedings or not.

Consistency

- 5.23. Decisions will not be seen as fair if they are different from those taken on previous similar cases without good reason. The Sub-Committee report will set out the relevant considerations and will draw attention to decisions on any other similar cases where appropriate.

Reasons

- 5.24. Fair and open decision making requires the reasons for the decision to be clear. This is particularly important when the Sub-Committee's decision differs from that recommended in the report.
- 5.25. Members will want to actively and positively engage with planning decisions. All Members can:
- advise objectors/applicants/others on planning processes and how to get involved;
 - give advice about adopted planning policies and local priorities
 - direct lobbyists, applicants or objectors to the relevant planning officer so that their opinions can be included in the officer's report;
 - lead on local discussions in the preparation of the development plan documents, area action plans and supplementary planning documents;
 - provide input into the preparation of planning briefs and guidance;
 - receive and pass on information, for example weekly lists and briefings from officers on key proposals;
 - attend Development Management Forum meetings, ask questions there; and
 - raise issues important to local people and to the developers.
- 5.26. To ensure that Members and the Council are not open to challenge Members should:
- preface relevant discussions with a disclaimer; the nature of this will depend on their role within the authority in the context of planning;
 - clearly indicate that any discussions with them are not binding on the Council;
 - be clear about the distinction between giving advice and engaging in negotiation so only engaging in the former;
 - involve officers where this will help to safeguard transparency and the appearance of bias;
 - be aware of relevant policies included in the Council's adopted plans but give consideration to other matters relevant to planning; and
 - seek the advice of the Monitoring Officer when they are unsure of what they are able to do and in relation to any potential "interest".

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

5.27. Members should not:

- expect to lobby and actively support or resist an application/decision and subsequently vote at committee or Cabinet; or
- seek to put undue pressure on officers or Members of a deciding committee to support a particular course of action in relation to a planning application or other planning decision.

This does not mean that a Councillor may not question robustly or argue forcefully for a particular course of action.

Pre-Committee procedures

Developer's briefings to Planning Sub-Committee

5.28. Enabling a Developer to brief and seek the views of elected Members about planning proposals at an early stage (usually pre-application or where this is not possible, very early in the formal application period) is important in ensuring that new development is responsive to and reflects local interests/concerns where possible. Early member engagement in the planning process is encouraged and supported by the NPPF. Haringey proposes to achieve this objective through formal briefings of the Planning Sub-Committee in accordance with procedures set out in this Protocol. No decision will be taken at such meetings and the final applications will be the subject of a report to a future meeting of the Sub-Committee. These meetings are held in public and are webcast although there are no public speaking rights.

5.29. The purpose of briefings are:

- To enable Members to provide feedback that supports the development of high quality development through the pre-application process, and avoid potential delays at later stages;
- To ensure Members are aware of significant applications prior to them being formally considered by the Planning Sub-Committee;
- To make subsequent Planning Sub-Committee consideration more informed and effective;
- To ensure issues are identified early in the application process, and improve the quality of applications; and
- To ensure Members are aware when applications raise issues of corporate or strategic importance.

5.30. What sort of presentations would be covered in the briefings?

- Presentations on proposed large-scale developments of more than 50 dwellings, or 5,000 sq m of commercial or other floorspace or which includes significant social, community, health or education facilities, or where the Assistant Director, Planning/Head of

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

Development Management considers early discussion of the issues would be useful; and

- Presentations on other significant applications, such as those critical to the Council's regeneration programmes, significant Council developments, or those requested by the Chair of the Sub-Committee.

5.31. Frequency and timings of meetings

Once a month or by agreement with the Chair and Assistant Director, Planning/Head of Development for all Members of the Planning Sub-Committee plus Cabinet Members and Ward Members – supported by Assistant Director, Planning/Head of Development Management and other relevant officers.

5.32. Format of the meetings

- The meeting will be chaired by the Chair of the Planning Sub-Committee who will ask Members attending to disclose any relevant interests; and
- The Developer will supply all presentation materials including any models, and these will be displayed in the meeting room;
- Officers to introduce the proposal and advise of issues arising from the Development Management Forum (where this has taken place):
 - The Developer and agents will be invited to make a presentation of up to 15 minutes;
 - Ward Members will have the opportunity to give their views for a maximum of three minutes each.
 - The Cabinet Members will have the opportunity to give their views for three minutes.
 - Members of the Planning Sub-Committee will be able to ask questions to the Developer and officers. These questions will be restricted to points of fact or clarification and must be structured in a way that would not lead to a member being perceived as taking a fixed position on the proposals;
 - Comments of Members of the Planning Sub-Committee; and
 - Summary of the comments raised.

5.33. A short note of the meeting summarising Members' comments would be made.

Other matters

5.34. Developer participation in the Developers' briefings would not normally happen prior to a Development Management Forum or other public meeting or public consultation being held relating to the site or prior to attendance at the Quality Review Panel subject to programming and scheduling pressures.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

- 5.35. Comments and questions can be raised, and this can also include positive engagement about the proposed development. However, Members should ensure that they are not seen to pre-determine or close their mind to any such proposal as otherwise they may then be precluded from participating in determining the application.

Development Management Forum

- 5.37. The Council has established a Development Management Forum to facilitate the discussion of large-scale or contentious planning proposals. The forum does not reach a decision about a proposal. Its purpose is to allow participants to raise issues of concern and obtain answers to questions about the particular application. The aim is to allow early discussion by Members and members of the public on planning issues related to these planning proposals and to explore the scope for agreement between all parties in a positive and constructive way prior to the later decision being made at the Planning Sub-Committee. Forum meetings will usually take place prior to the submission of an application but can take place at an early stage of the formal process before the Planning Sub-Committee meeting. They do not remove the opportunity for objectors, supporters and applicants to address the Planning Sub-Committee when an application is to be determined or the holding of exhibitions and or public meetings where these are considered appropriate.

What applications does the forum consider?

- 5.38. Applications that may be considered by the forum include major applications and those of significant local interest. It is not possible to prescribe the exact type of proposals but they may include the following:
- Applications which involve more than 10 residential units or over 1,000 sq m of floor space;
 - Those applications that involve a major departure from the Council's planning policy; or
 - Those applications that involve high buildings i.e. over 5 storeys.
- 5.39. Applications that will not generally be considered by the forum include:
- Minor planning applications to alter or extend houses;
 - Applications to confirm whether a use of land or buildings needs planning permission (a 'lawful development certificate');
 - Applications to put up advertisements;
 - Amendments to applications or those which have already been the subject of a forum discussion; or
 - Applications where there will be a recommendation for refusal.
- 5.40. A forum meeting will be held when:

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

The Assistant Director, Planning/Head of Development Management, in consultation with the Chair of the Planning Sub-Committee, considers that a forum would be beneficial in resolving issues on a particular planning proposal. For development management forum meetings held at the pre application stage site notices and emails to local groups and councillors will be sent advising them of a proposed meeting. For those meetings held following the submission of a planning application consultees will be advised in accordance with the Council's consultation policy as set out in the Council's SCI in force at the time as part of the consultation on the planning application.

Who can attend?

5.41. Meetings are open to all Members, local businesses and residents. Normally one application or proposal will be considered at each forum to allow for effective discussion. To assist the running of the meeting an agenda is prepared and a short briefing note on the proposal is available.

5.42. The format of the meeting is as follows:

- A senior planning officer chairs the forum. They ensure that all planning issues arising from the proposal are raised but that there is no discussion on the merits of the proposal. The applicant is invited to make a presentation of the proposal for a maximum of 15 minutes.
- Local residents and organisations have an opportunity to present their views either for or against the proposal.
- Planning officers provide information on the progress of the proposal.
- The applicant responds to questions from Members of the Planning Sub-Committee, ward councillors and local business and residents.

5.43. An attendance record is kept, the discussion is recorded and a note of the meeting is made which is reported to the Planning Sub-Committee when any subsequent proposal is submitted for determination.

All Members: Haringey's Development Management Forum

5.44. All Members can attend Development Management Forum meetings which are called to promote early exploration of issues relevant to a particular development. They do not seek to reach any decision about the likely outcome of an application.

5.45. The particular role that Members can play at the meetings is dependent on whether or not they have a formal role within the planning system of the authority, for example are a member of Planning Sub-Committee or the Cabinet, but all Members will need to take account of the generic guidelines for example, publicly clarifying their particular role.

5.46. All Members can:

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

- use the meeting to understand the development, the issues important to local people and to the developers, and how the relevant policies are being applied by asking questions;
- give advice about adopted planning policies and local priorities and clarify or seek clarification of policies and priorities;
- give advice about planning processes or direct those present to relevant officers or other sources of advice and information both present or outside the meeting;
- refer local objectors or supporters to ward colleagues who are in a position to take a wider role if theirs is limited and further Member assistance is required; and
- seek advice from officers as to the process to be followed, issues being reviewed and the likely policy position.

5.47. Members should not use the forum to undertake negotiations or appear to put undue pressure on the officers in relation to any future decision on the scheme. Members are however entitled to robustly question developers and officers in order to fully understand issues before the forum.

Ward Members: Development Management Forum

5.48. Ward Members who are not on the Planning Sub-Committee can greatly assist this process by taking an active part in the forum meeting, asking questions, commenting on planning policies and local priorities, and advising on the planning process. They can usefully draw attention to local circumstances and issues, and comment on the appropriate weight to be given to those. It will be important that Ward Members ensure that their remarks and advice are based on adopted Council planning policies as far as possible. This is important to avoid creating any confusion in the minds of developers or local people about who speaks for the Council in negotiations or about the Council's negotiating position.

Quality Review Panel

5.49. As part of the pre-application process for major and /or sensitive applications, the Council encourages applicants to present their proposals to the Quality Review Panel. The panel is a group of independent and objective experts, including experienced architects and other built environment professionals, who meet on a regular basis. The Panel's advice is provided for the benefit of the Planning Sub-Committee. The advice will also be used to help officers and the developer to improve upon the quality of the scheme as it evolves.

5.50. The best design outcomes generally occur when schemes are presented to the panel at the pre-application stage, as this allows applicants sufficient time to amend proposals following panel feedback.

PART FIVE – CODES AND PROTOCOLS

Section E – Planning Protocol

- 5.51. Discussions and negotiations while the application is current but prior to determination:
- 5.52. Once an application has been submitted, officers are working to strict deadlines to ensure that the application can be efficiently and properly determined. They may, during that period, enter into discussions, and sometimes negotiations, with the applicant or their agent in order to clarify aspects of the scheme or to ensure that the applicant is aware of the council's policy requirements. Sometimes such discussions will also convey to an applicant the views of third parties or consultees.
- 5.54. At this stage it is not appropriate for Members, whether or not they are on the Planning Sub-Committee, to enter into direct discussions and /or negotiations with applicants or consultees. Members should recognise the clear distinction between negotiation and listening without prejudice to views which may be expressed to them (see the section on Lobbying below). For Members to enter into negotiations whilst an application is current at best sends a confused message to applicants and consultees about who is officially speaking on behalf of the Council, and at worst will without doubt result in the Member appearing to show bias or pre-disposition. However, this does not prevent Members at this stage asking officers for information about an application, or from passing on the views of constituents or others, indeed this would be a proper area of Member activity. Members should at the same time ensure that any requests for advice or interpretation are passed to officers.

Briefings/interim reports

- 5.55. An effective way of building a degree of certainty into pre-application or post submission discussions is for officers to engage with Members at an appropriate stage in negotiations. Officers may prepare a committee report, briefing note or a site visit in order to identify the key issues that have emerged during discussion, and, where necessary, seek member endorsement to the approach that is being pursued, or simply to present the scheme as an information item to Members. This provides the opportunity for committee Members to raise questions of their own or seek further information regarding the proposed development.

Approaches by applicants

- 5.56. Members of the Planning Sub-Committee will discourage any applicant or agent, or other interested party such as a landowner from approaching them directly in any way in relation to planning proposals. If an approach is received, the Member will take care not to give any commitment, or the impression of a commitment that he or she holds any particular view on the matter.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

5.57. If an approach is received by a Member of the Planning Sub-Committee from an applicant or agent or other interested party in relation to a particular planning application, then the Member will:

- (a) Inform the applicant that such an approach should be made to Officers of the Council;
- (b) Keep an adequate written record so as to enable the Member to disclose the fact of such an approach if and when the application or proposals is considered by the Planning Sub-Committee; and
- (c) Disclose the fact and nature of such an approach at any relevant meeting of the Planning Sub-Committee.

In this context an approach should be noted where the discussion extends beyond simple information to the merits or demerits of the particular proposals.

5.58. Where a Member of the Planning Sub-Committee receives written representations directly in relation to a planning application, the Member will pass the correspondence to the Assistant Director, Planning/Head of Development Management in order that those representations may be taken into account in any report to the Planning Sub-Committee.

The Sub-Committee meeting

5.59. Planning sub-committee meetings generally start at 7.00pm and the Council's standing orders provide that they will end at 10.00pm except that discussion of the specific item or case in hand at 10.00pm may continue thereafter at the discretion of the Chair. There are 11 Members of the Sub-Committee. The quorum for making a decision as set out in the Council's constitution is at least one quarter of the whole number of voting Members are present. Where notified in advance to the Sub-Committee Clerk and subject to them having attended the mandatory training, substitute Members may attend in place of a Planning Sub-Committee member, pursuant to the Committee Procedure Rules. Substitutes will be from the same political party, to maintain the political balance at Sub-Committee and will be subject to clearance from the group's Chief Whip. The substitute will be for the duration of the entire agenda and will not be used for individual items.

Lobbying and representations

5.60. The proper place for objectors to raise their concerns is in writing in response to public consultation on a planning application or by making representations at a Sub-Committee meeting. Sub-Committee Members may nevertheless receive lobbying material through the post or by email from either the applicant or the objectors or be approached personally by interested parties. In dealing with such approaches, it is important for

PART FIVE – CODES AND PROTOCOLS

Section E – Planning Protocol

Sub-Committee Members not to do or say anything that could be construed as bias or pre-determination.

- 5.61. Where Sub-Committee Members receive lobby material through the post or by email they should forward it to the Assistant Director, Planning/Head of Development Management. If Sub-Committee Members feel it is necessary to acknowledge receipt of or comment on the correspondence, they should consider the advice on bias or predetermination in this Protocol and should send a copy of their response to the Assistant Director, Planning/Head of Development Management.
- 5.62. If a Sub-Committee Member is approached by an individual or an organisation in relation to a particular planning application, they may listen to what is said but they should explain that because they are a member of the Sub-Committee they must keep an open mind until they have seen all the material before the Sub-Committee. A Sub-Committee Member might suggest that the individual or organisation should:
- Where an application is not yet on a Sub-Committee agenda, write to the Planning Officer responsible for the particular case who will take into account any material planning considerations raised in the representations when preparing a report for the Sub-Committee; or
 - If the application is already on a Sub-Committee agenda, contact the Sub-Committee Clerk to make a request to speak at the Sub-Committee meeting.
- 5.63. In either case contact another Member who is not a Sub-Committee Member to seek their support. Generally speaking, this should be the Ward Councillor for the Ward within which the application is made.
- 5.64. If a Sub-Committee Member does decide to become involved in organising support for or opposition to a planning application or has offered an opinion on a planning application, then that Sub-Committee Member must take into account the advice on bias or predetermination in this Protocol. If after considering that advice the Sub-Committee Member comes to the view that on an objective assessment they cannot sit on the Sub-Committee and decide the application with an open mind, they should not be part of the Sub-Committee that decides the application. They can however attend the Sub-Committee meeting and speak on their constituent's behalf and adopt the role of local member rather than decision taker.

‘Decision Maker’ role

- 5.65. A Councillor who is a member of the Planning Sub-Committee or a suitably trained substitute and who takes part (or who intends to take part) at a meeting of the Planning Sub-Committee in the determination of particular Planning Application will for the purposes of this Protocol be a “Decision Maker” in relation to such Planning Application.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

5.66. A Councillor who is a Decision Maker shall comply with the provisions of the Code of Conduct generally.

‘Local Member’ role of a Planning Sub-Committee member

5.67. Where a Planning Sub-Committee member wishes to make representations on behalf of his/her constituent(s), for the purposes of this Protocol he/she will be a “Local Member” in relation to that planning application. He/she may attend a meeting of the Planning Sub-Committee to make representations about the planning application on behalf of their constituents

5.68. A Councillor who is a Local Member shall comply with the Public Speaking Provisions and the Code of Conduct generally. Further provisions relating to the “Local Members” role are also contained in the next following section.

Non Planning Sub-Committee /Local Ward Member role

5.69. Subject to the provisions of the Code of Conduct generally a Councillor who is not a Member of the Planning Sub-Committee (whether or not he/she plays or intends to play the role of “Local Member”) will be free to:

- discuss any planning application with the applicant / agent / objector / lobby group;
- attend any locally organised meeting concerning the application;
- attend any meeting concerning the application and speak about the application (including expressing a view either for or against the application relay relevant information about the application to a planning officer;
- seek information/clarification about the application from a planning officer; and
- should follow the rules on lobbying in accordance with this Protocol.

Effect of Prejudicial etc Interests

5.70. Where a Member of the Planning Sub-Committee has had any personal involvement with an applicant, agent or interested party, whether or not in connection with a particular application before the Planning Sub-Committee, or any other personal interest which an observer knowing the relevant facts would reasonably regard as so significant that it was likely to prejudice the member’s judgement of the public interest, then the Member will declare a prejudicial interest in accordance with the provisions of the Code of Conduct (Part 5 Section A of the Council’s Constitution). The Member must abstain from discussion and voting on the matter and leave the room while that application or other matter is under discussion except as provided below. The Member must also avoid any attempt to influence the decision improperly.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

- 5.71. A Member declaring a prejudicial or any other interest that precludes their determination of an item may attend during that item but only for the purposes of making representations about the matter, answering questions or giving evidence about it and then only when the meeting is open to the public. Otherwise the Member must leave the room while that application or other matter is under consideration.

Social Contacts

- 5.72. Members of the Planning Sub-Committee will minimise their social contacts with known developers and agents and refrain altogether from such contacts when developments are known to be contemplated or applications are being proposed, or where controversial decisions are likely to be needed.

Hospitality

- 5.73. Members of the Planning Sub-Committee will reject any offers of gifts, hospitality or future favours made personally or by way of deals for the Council or the community, from lobbyists. Any such improper approach will be reported immediately to the Chief Executive.

Residents/Local Groups/ Other Occupiers

- 5.74. If a Member of the Planning Sub-Committee is approached by local residents, business or other occupiers in relation to an application, which the residents or others wish to object to or support, the Member will listen to the views but will take care not to give any commitment, or the impression of a commitment that they hold any particular final view on the application.

- 5.75. Members of the Planning Sub-Committee will:

- (a) Encourage the interested party to contact another Ward Member or other elected Member who is not a Member of the Planning Sub-Committee;
- (b) In the case of significant meetings on planning matters keep an adequate written record so as to enable the Member to disclose the fact of such an approach if and when the application or proposals is considered by the Planning Sub-Committee; and
- (c) Disclose the fact and nature of significant discussions at and relevant meeting of the Planning Sub-Committee.

In this context "significant" would include any meetings or discussions which consider the merits or demerits of the particular proposals extended beyond simple information.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

- 5.76. Meetings and discussions with constituents are an important part of a Ward Member's functions, and this Protocol is not intended to harm those contacts unnecessarily. Members of the Planning Sub-Committee should avoid taking an active role in meetings to promote residents' objections to applications. Nothing in this Protocol prevents Members from listening to local concerns, giving factual information about an application or the planning process, or from directing residents to other sources of information or assistance.
- 5.77. Where a Member of the Planning Sub-Committee receives written representations directly in relation to a planning application, the Member will pass the correspondence to the Assistant Director, Planning/Head of Development Management in order that those representations may be taken into account in any report to the Planning Sub-Committee.

At Committee

- 5.78. The responsibilities of Members of the Planning Sub-Committee in considering planning matters are set out above. At the Sub-Committee, Members will, in particular, avoid expressing any view on the matters under consideration until the report has been presented, any other relevant advice is given, and all oral representations have been heard. In order to participate and determine an item, Members must be present for the entire duration and not miss any part of that item.

Decisions contrary to officer recommendation and/or the Plan

- 5.79. Decisions on planning proposals have to be taken in accordance with the development plan unless material considerations indicate otherwise. In determining planning and other applications the Committee is entitled to decide the weight to be attached to the various planning considerations which are relevant to the application. This can lead to a decision which is contrary to the recommendation of the Officers. The Committee can for example decide:
- to refuse planning permission where officers have recommended approval;
 - agree with officers that permission should be refused but for different reasons; or
 - grant permission subject to different conditions or legal requirements than those recommended.
- 5.80. Where any Members are proposing to put forward a motion contrary to the officer recommendation, the Committee Chair will ensure that the planning reasons are apparent before a vote is taken. In order to do this the Chair will ensure that:

PART FIVE – CODES AND PROTOCOLS

Section E – Planning Protocol

- The planning officer/legal officer is given an opportunity to explain to the Sub-Committee the implications of their decision; and
- Where the Sub-Committee wish to add or amend conditions the planning officer is given the opportunity to draft the condition(s) and refer to appropriate Members, for approval.

When the Planning Sub-Committee makes a decision which is contrary to the recommendation of the planning officers, whether the decision is one of approval or refusal, a detailed minute of the Sub-Committee's reasons for its decision will be made. A copy of the minute will be kept on the application file.

- 5.81. When a decision is made which is contrary to the Plan the material considerations which led to this decision and the reason(s) why they are considered to override the development plan will be clearly identified and minuted.

Council Owned Land

- 5.82. The Planning Sub-Committee from time to time considers applications involving land owned or recently owned by the Council. Members will consider carefully whether they should take part in the deliberations of the Sub-Committee on an application, involving that land, where they took part in any decision of the Cabinet or other Council body in relation to the land. They will take into account whether an observer with knowledge of all the relevant facts would suppose that there might be any possibility that the involvement in the decision on the land could amount to reaching prior conclusions on the planning issues, or other-wise adversely affect the Member's judgement in any way.
- 5.83. Any Member, whether or not a Member of the Cabinet, will take great care in the consideration of applications, or local plan proposals, affecting land owned or recently owned by the Council to ensure that the planning decision is made and seen to be made solely on planning grounds.

Legal Advice

- 5.84. The Assistant Director of Corporate Governance and Monitoring Officer will ensure that a suitably experienced legal officer is present at all Sub-Committee meetings to give legal, governance and procedural advice.
- 5.85. Members need to be mindful of the rules on declarations of interests and if Sub-Committee Members or other Members require advice about possible disclosable pecuniary interests or other interests or if Sub-Committee Members are in any doubt as to whether they have expressed a view that could give rise to the appearance of bias or that they have pre-determined a matter they may seek advice from the Monitoring Officer in advance of the Sub-Committee meeting. If that has not proved possible they should seek advice from the legal officer to the Sub-

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

Committee before the meeting starts. Once advice has been given, it is up to the Member to make their own decision on whether or not they have a declarable interest and whether or not they can participate in the decision.

6. MEMBERS NOT ON PLANNING SUB-COMMITTEE

- 6.01. The Code of Conduct applies to all Members of Council. The parts of the Protocol which will be particularly kept in mind as a general context for the exercise of planning functions are set out above.
- 6.02. Where any Member submits representations in writing or orally in relation to any matter before the Sub-Committee those representations will be recorded for inclusion in the officer's report.
- 6.03. Councillors who are not Members of the Planning Sub-Committee may attend meetings of the Sub-Committee, and may address the Sub-Committee, the Committee Procedure Rules (Part 4 Section B of the Council's Constitution) will apply. This requires the Member to give written notice to the Chair of the Sub-Committee of his/her attendance, preferably before the meeting but in any event as soon as the Member arrives at the meeting. In order to promote efficient business of the Sub-Committee, and in order to give certainty to the applicant of the time available for speaking, Members are asked to register their intentions to speak by midday on the working day prior to committee with the Committee Clerk.
- 6.04. Where a Councillor who is not a Member of the Planning Sub-Committee has had any personal involvement with an applicant, agent or interested party, whether or not in connection with a particular application before the Planning Sub-Committee, or has any other personal interest which an observer knowing the relevant facts would reasonably regard as so significant that it was likely to prejudice the Member's judgement of the public interest then the Member will declare a prejudicial interest in accordance with the provisions of the Code of Conduct. The Member may only attend the meeting as provided in paragraph 6.05 below. The Member must also avoid any attempt to influence the decision improperly.
- 6.05. A Member declaring a prejudicial interest may attend the meeting but only for the purposes of making representations for or against the relevant application, answering questions or giving evidence about it and only when the meeting is open to the public. Otherwise the Member must leave the room while that application or other matter is under consideration.
- 6.06. Where an approach has been received by an elected Member (not being a Member of Planning Sub-Committee) from an applicant, agent or other interested party in relation to a planning application, that Member will, in any informal discussions with any Member of the Planning Sub-

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

Committee, disclose the fact and nature of such an approach and have regard to the matters set out at paragraph 7.01 below.

7. OTHER CONDUCT OUTSIDE COMMITTEES

7.01. In discussions between Members generally and Members of the Planning Sub-Committee (at party group meetings or other informal occasions) Members will have regard to: -

- (a) the principles governing the conduct of Members set out in the Code of Conduct.
- (b) the principles governing the conduct of Members of Planning Sub-Committee set out in this Protocol.
- (c) the obligations placed on Members of the Planning Sub-Committee not to give commitments in relation to any planning application prior to consideration of the full officer report, advice and representations at the Sub-Committee meeting dealing therewith.

8. SANCTIONS

8.01. Please refer to the Complaints Against Members Protocol for the complaint procedure against Members and possible sanctions where there is an alleged breach of this Protocol and the Code of Conduct.

9. MEMBERS AND OFFICERS OF THE COUNCIL

The role of elected Members

9.01. In respect of any planning application Members will:

- declare any pecuniary or non-pecuniary interest and take no part or a restricted part, as appropriate, in the processing and determination of the planning application;
- act impartially and honestly;
- approach each application with an open mind;
- take into account and carefully weigh up all relevant issues;
- determine each application on its own merits and in accordance with the requirements of planning law and the guidance of planning policy;
- avoid inappropriate contact with interested parties (see also the section on lobbying); and
- ensure the reasons for their decision are recorded in writing.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

The role of officers

9.02. Officers in their role of advising and assisting elected Members in their determination of planning applications will provide:

- impartial and professional advice;
- consistency of interpretation of the planning policies; and
- complete written reports which will include:
 - a clear and accurate analysis of the issues in the context of the relevant development plan policies and all other material considerations;
 - the substance of the representations, objections, and views of all those who have been consulted;
 - a clear written recommendation of action and where that recommendation is contrary to the development plan, the material considerations which justify the departure; and
 - all necessary information for the decision to be made.

9.03. Members should not put any pressure on officers for a particular recommendation and, as required by the Code of Conduct or the Protocol on Member/ Officer Relations (Part Five Section B of the Council's Constitution), should not do anything which compromises, or is likely to compromise, their impartiality. Members should recognise that officers are part of a management structure and should address any concerns which they may have about the handling of a planning application to a departmental manager at the appropriate level of seniority. In general, however, officers and Members should adopt a team approach to the determination of planning proposals, and should recognise and respect each other's different roles

9.04. In common with Members generally, all Members of the Planning Sub-Committee may contact the relevant Planning Officer to seek information in relation to any planning application.

9.05. Members of Planning Sub-Committee will not attempt in any way to influence the contents of the Officer's report or the recommendation made on any matter. Representations made by Members whether or not in writing will be recorded by the relevant officer and included in the report.

9.06. Any criticism of Planning Officers by Members of the Planning Sub-Committee shall be made in writing, to the Director of Regeneration, Planning and Development or the Assistant Director, Planning and not to the Officer concerned. Members will endeavour to avoid any public criticism of officers but this does not prevent Members asking officers proper questions.

Contact between Members and officers

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

- 9.07. Involving Members early and throughout the application and determination process leads to better committee meetings, better decisions and better developments. Pre-committee meetings between officers and the Chair and other senior Members can enable strategic applications to be highlighted and procedural committee issues agreed. Other contact is described elsewhere in this protocol including planning committee briefings.

10. PROTOCOL FOR HEARING REPRESENTATIONS AT PLANNING SUB-COMMITTEE

General Principles

- 10.1. The Planning Sub-Committee will operate this Protocol with two particular aims regarding representations:
- (a) to allow those who have applied to make representations to be heard by the Sub-Committee on items on the agenda for the meeting; and
 - (b) to get through the agenda expeditiously to avoid delay to applications and wasted journeys by the public.
- 10.2. Objectors or supporters, including Ward or other Members where possible, should advise the Council by noon on the working day immediately prior to the Sub-Committee meeting (for a Monday meeting this would be by noon on the Friday prior to the Sub-Committee) in order to allow appropriate administrative arrangements to be put in place. The number of speakers will usually be limited to two speaking against the proposal with a time limit of 3 minutes each i.e. a maximum of 6 minutes. Members will have a time limit of 3 minutes each. Those supporting a proposal will be given the same time as those speaking against (including time taken by any Members objecting less any time by Members supporting).
- 10.3. Speaking should take place immediately before the Sub-Committee debates a particular application (see running order for the sub-committee) and after the planning officer has set the scene and updated the meeting on any late matters not dealt with in the published report.
- 10.4. The circulation of materials will not normally be accepted during the meeting. If new or further material is to be allowed following the publication of the Sub-Committee papers it should be received in advance of the meeting so that it can be circulated to Members of the Sub-Committee.
- 10.5. Speakers should not be allowed to engage in discussion with Members of the Sub-Committee during public speaking or the Sub-Committee deliberations, to avoid any risk of accusation of bias or personal interest.

The procedure for addressing the Sub-Committee

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

- 10.6. Although the Committee Procedure rules allow for Members not on the Planning Sub-Committee, or officers outside the Planning Service who wish to address the Sub-Committee, to give written notice of their attendance to the Chair of the Sub-Committee rather than inform the committee clerk by 12 noon on the working day prior to committee Members and Council Officers are asked to inform the committee clerk by 12 noon on the working day prior to committee where possible.
- 10.7. The Chair will allow those persons outside the Council completing the form to address the Sub-Committee except where there are several people applying to speak, in which case there will be a limit as shown below. The right to speak shall be on a first come first served basis.
- 10.8. For any issue which is within the Sub-Committee's terms of reference, but for which there is not a report on the agenda, members of the public may use the Deputations Procedure in accordance with the Committee Procedure Rules to make their representations to the Sub-Committee.
- 10.9. With respect to Petitions, for this Sub-Committee the requirement in the Council Procedure Rules for 5 days' notice will not apply so that members of the public may submit petitions (without addressing the meeting) on any issue which is within the Sub-Committee's terms of reference at any meeting without giving due notice.

Running order for planning applications

- 10.10. Declarations of interest will be taken at the start of the meeting (Members will be invited to *clearly state their interest in an item and whether they believe it to be personal, prejudicial (including bias and predetermination) or pecuniary. To include whether they will leave, stay, refrain from debate and whether they will vote*).

(a)	Announce application and give description.
(b)	Name the public speakers.
(c)	<i>Advise the meeting of the declarations of interest that have been made in relation to the item</i>
(d)	Local Member declaration to represent their constituents or vote (<i>Where a local Member sits on the Sub-Committee they should state whether they intend to vote on the application or instead to represent their constituents. If representing their constituents they should move to the area reserved for speakers and remain there as applicable e.g. until the end of their contribution subject to then leaving the room</i>).
(e)	Planning officer presents case including update of any late representations or new issues, with possible supplementary presentation from other officers.
(f)	Speaking arrangements Objectors - up to 2 speakers with a total time of 3 minutes each.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

(g)	Any interested Councillors who have informed the committee clerk or the Chair in advance of the meeting may address the Sub-Committee for up to 3 minutes each.
(h)	The Applicant and any supporters of the proposal will have the right to speak if there are any speakers against the proposal and then will be allowed to speak for an equivalent length of time as given to those objecting to the application i.e. maximum of 6 minutes (subject to any Members' speaking time) the total time to be divided between them. For each speaker clarification questions from Members should be made through the Chair and should be points of fact relating to material planning considerations only. Questions regarding policy or guidance or law and its interpretation should only be dealt with by Council officers. It is expected that most speakers will require no clarification.
(i)	Debate – Members through Chair with support from officers / legal providing clarification. Sub-Committee Members debate the case and consider the recommendation including conditions.
(j)	Summing up – Chair brings discussion to conclusion and seeks a decision on the recommendation/alternative recommendation proposed.
(k)	Vote and explicitly record decision s), taking vote(s) as necessary. Following the vote, there will be no further discussion of the item.
(For certain cases the procedure may be varied to allow for adjournments for confidential legal advice.)	
The Sub-Committee will be aware that some parties listed as "objectors" can be overall in support of a development but be looking, for example, for some amendment or condition to protect their amenity.	

For applications which are considered but deferred

10.11 Normally, the Sub-Committee will hear representations on both / all sides before they make a decision to defer for any reason. When the application is re-submitted to the Sub-Committee, further representations will normally only be allowed if some fresh matter has arisen since the first Sub-Committee meeting. If this further submission is exceptionally allowed, the number of people speaking will be limited to one objector for a further 3 minutes. The applicant/supporter will have a right to reply of 3 minutes.

For larger or more contentious applications

- 10.12. (a) In relation to larger and/or more controversial applications (as agreed by the Sub-Committee), the Chair may allow double the number of speakers, with double the total length of time to be divided between them).
- (b) For example: in relation to para. 10.2 above this would be four speakers with a total of 12 minutes divided between them.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

- (c) The applicant and any supporters will normally have a right to reply of the same length of time as taken by the objectors.

10.13. The Sub-Committee will aim to deal with all applications, except those of exceptional significance, within one hour, and the Chair will take active steps to keep to these time-scales in the interests of all participants. Members will also act to deal fairly and expeditiously and will therefore commit not to repeat questions. It is expected that there will be a maximum of 30 minutes of questions and comments for any one application.

Equal Opportunities

10.14. The adoption and publication of a Protocol giving clear information about planning procedures and getting involved in decisions would improve access to the system by all communities in the Borough, as well as potential investors. Arrangements will be put in place to make the policy principles within this protocol available in pamphlets in different languages and in larger print.

11. CODE OF CONDUCT FOR MEMBER SITE VISITS

Background

- 11.01. At the Sub-Committee meeting site maps, scheme drawings and sometimes photographs are on display and available. Officers' reports describe relevant site characteristics, following their own site visits. Officer visits are not routinely made to the homes / premises of objectors, as adequate technical assessments can usually be made from maps, drawings and by visiting the application site.
- 11.02. This site knowledge and information will usually be sufficient for the Sub-Committee to reach a decision on applications and accompanied Committee site visits will not automatically be required for all items. .
- 11.03. The Assistant Director, Planning/Head of Development Management, in consultation with the Chair of the Sub-Committee, will decide which cases require a site visit according to the criteria set out below: Examples where a site visit would not normally be appropriate include where:
1. purely policy matters or issues of principle are at issue;
 2. the report, together with drawings, photographs and other material is sufficient to provide the context; or
 3. where Councillors have already visited the site within the last 12 months.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

11.04. Site visits where required will be normally be scheduled during daylight hours for the week before the Sub-Committee meeting at which the application is to be discussed.

The purpose of site visits

11.05. The purpose of such site visits is for the Members of the Sub-Committee to see the site in order to reach an informed decision. It is not intended to provide a separate opportunity for objectors, supporters, applicants or others to lobby the Members, to argue their case or discuss the merits of the application.

11.06. It is essential that fairness and probity are safeguarded in all the proceedings of the Planning Sub-Committee. This means preventing even the appearance of undue or unfair influence, or biased behaviour.

11.07. In accordance with the Protocol, Members must avoid being involved in lobbying for or against an application, or reaching a firm view on an application before final determination at Sub-Committee. The proper place for discussion and presentation of views is therefore at the Sub-Committee meeting itself.

11.08. On site, without some safeguards, there is a serious risk of breaching the principles of fair hearings. Individual Members can hear different arguments from different people, and all sides are not heard equally.

11.09. To ensure fairness and probity, therefore the Sub-Committee will observe the following Protocol for site visits. The on-site procedures are based on those followed by the national Planning Inspectorate.

Site Visit Protocol

11.10. Access to the site will be arranged with the site owners or their agent. In some cases arrangements will also have to be made with adjoining properties which have to be entered.

11.11. Procedure on Site: The planning officer(s) will show the Members round the site(s) / area, showing relevant scheme drawings, and pointing out significant features. Some practical assistance from the owner / agent may be necessary. Members may ask officers or others factual questions, but will not otherwise discuss the application. An attendance list of the site visit should be recorded.

11.12. In a few cases the Assistant Director, Planning/Head of Development Management, in consultation with the Chair of the Sub-Committee, may decide to invite particular local residents or objectors / supporters to attend a site visit for the purpose of ensuring access, pointing out specific matters or answering factual questions. Normally, neither objectors nor supporters will be invited to site visits.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

- 11.13. If a site visit becomes the occasion for lobbying by numbers of people or for demonstrations, the visit may have to be adjourned and rearranged as a more private visit.
- 11.14. As a result of the visit, the Members of the Sub-Committee may ask the officers to address some specific issue in the presentation to the Sub-Committee.
- 11.15. Any Member of the Sub-Committee who is unable to attend the official site visit should endeavour to visit the site him / herself before the meeting and will avoid any discussion of the merits of the application while at the site.
- 11.16. Members of the Sub-Committee have to come to an independent view on an application, taking into account all relevant facts and views. If a Member of the Sub-Committee is unable to attend the site visit, this does not disqualify him / her from taking part in the final decision. The Member will, however, listen very carefully to the views of those Members who benefited from the visit. In some cases the Member may decide it would be better not to take part in the decision.

Site visits by individual Members of the Planning Sub Committee

- 11.17. Many Members will already be familiar with sites which are subject to applications but not in all cases. It is normal and proper for Members in these circumstances to visit a site themselves before the committee meeting. Where individual Members of the committee wish to undertake their own site inspection, prior to the committee meeting, these should be conducted unannounced and from a public vantage point. Members of the committee should not arrange to meet applicants/agents or third parties for the purpose of a site inspection
- 11.18. If a committee member is approached on site by any applicant/agent, objector or other third party interest they should seek to avoid discussion of the application and should ensure they do not give any indication of their views or the likely decision of committee. Where it is not practical to avoid some discussion the member should note that it took place and pass the information to the officers, so that it can be recorded at Sub-Committee.

12.0 REVIEW OF THE PROTOCOL

12.01. The protocol will be regularly reviewed to take account of:

- new planning legislation;
- changes to national codes of conduct; and
- emerging examples of good practice.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

Planning Protocol ~~2017~~2025

ADD CONTENTS PAGE TO CLEAN VERSION

1. PURPOSE OF THE PROTOCOL

- 1.01. This Protocol has been adopted by Haringey Council to explain and supplement the Members' Code of Conduct in relation to planning matters ~~ensure the highest standards of probity in the performance of its planning function.~~
- 1.02. Consistency, fairness and openness are important qualities for any regulatory function in the public eye and ~~they~~ are vital to the conduct of a planning committee. A discharge of the Council's planning functions, which adherence to the Protocol is intended to build public confidence in the Council's planning system.
- 1.03. The purpose of the Protocol is:
- (a) to ~~state~~explain how ~~the~~ Members of the Planning Sub-Committee ~~will~~should exercise the ~~these~~ discharge of the Council's functions, including behaviour in relation to applicants, residents and other third parties;
 - (b) to ensure a consistent and proper approach by all Members to the exercise of planning functions;
 - (c) to ensure applicants and their agents, residents and other third parties are dealt with by Members consistently, openly and fairly;
 - (d) to ensure the probity of planning ~~matters~~transactions and the high standards expected in public office; and
 - (e) to ensure planning decisions are made openly, fairly and in the public interest, in accordance with legislation and guidance.
- 1.04. This Protocol ~~relating to planning matters~~ is ~~intended to be~~ supplementary to The Members' Code of Conduct ~~in~~ (Part Five Section A of the Council's Constitution, which shall all continue to have full force and effect). ~~The Localism Act 2011 sets out a duty for each local authority to promote and maintain high standards of conduct by councillors and to adopt a local code of conduct. The Council adopted a Code of Corporate Governance in July 2008 which was updated in July 2013 and contains 6 key principles based on the Nolan Committee on Standards in Public Life. The provisions of the Code of Conduct continue to have full force and effect. The purpose of this Protocol is to~~

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

~~provide more detailed guidance on the application of the guidance in relation to planning matters.~~

1.05. Copies of this Protocol will be made publicly available online and will be kept under review.

2. **BACKGROUND TO THE COUNCIL'S PLANNING FUNCTIONS**

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Determination of Applications

~~2.01. The planning process is governed by legislation, both primary and secondary, and in particular the Town and Country Planning Act 1990 (as amended) ("the 1990 Act"), the Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act"), the Planning Act 2008 and, the Localism Act 2011, the Growth & Infrastructure Act 2013, the Housing & Planning Act 2016, the Environment Act 2021 and the Levelling Up & Regeneration Act 2023, amongst other legislation. The National Planning Policy Framework ("NPPF") together with Government guidance set out in the National Planning Practice Guidance provides a policy context for the preparation of statutory plans and the discharge of a Local Planning Authority's functions. In addition, the Courts have also provided a large body of "case law" in respect of planning matters.~~

2.02. Planning law requires the Local Planning Authority ("LPA") to determine all planning applications "in accordance with the development plan unless material planning considerations indicate otherwise" (Section 38(6) 2004 Act). The development plan in Haringey comprises the London Plan together with the Council's local plan and when adopted further local plan documents (e.g. area action plans) and if applicable neighbourhood development plans (together "the Development Plan"). In cases of development involving works within a conservation area, or where the development is likely to affect the setting of a listed building, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 contains a duty on the Council to the desirability of preserving the listed building or its setting and Section 72 of that Act requires LPAs to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. In accordance with ~~paragraph 197 of~~ the NPPF, in assessing and determining development proposals, LPAs should apply the presumption in favour of sustainable development.

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2.03. The responsibilities of the LPA must be performed without undue influence or consideration of a personal interest. When determining planning applications Members must only take into account the Development Plan and any material planning considerations. The Members of the authority are elected to represent the interests of the whole community in planning matters. Views relating to material planning considerations expressed by neighbouring occupiers, local

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

residents and any other third parties must be taken into account but local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission.

- 2.04. The planning system does not exist to protect the ~~private~~ interests of one person against the activities of another. The ~~basic question~~issue is not whether owners and occupiers of neighbouring properties would experience financial or other impacts as a result of a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.

Enforcement

~~2.05. The purpose of the planning enforcement provisions is to protect the integrity of the planning system and the development control process. Whether to take enforcement action in any particular case and what action to take in the circumstances are matters for the authority's discretion. The existence of a breach of planning control is not in itself grounds for the institution of enforcement action. Paragraph 207 of tThe NPPF provides that "Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and LPAs should act proportionately in responding to suspected breaches of planning control. LPAs They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so".~~

~~2.06. Haringey Council has published a guide to planning enforcement (July 2012) which sets out the Council's approach to the enforcement of breaches of planning control. This will be regularly reviewed and used to guide decisions in respect of planning enforcement by officers and, where required, Members.~~

Appeals to the Secretary of State

~~2.07. An applicant who has not received a determination within the requisite period of time; has been refused planning permission or other approval; or who is unhappy with conditions attached to a permission granted; and those responsible for developments the subject of enforcement action, have a right of appeal to the Secretary of State for Communities and Local Government Levelling Up, Housing and Communities ("the Secretary of State"). If it is shown that the Council's conduct in dealing with the matter was unreasonable, the appellant's costs may be awarded against the Council. The most frequent example of unreasonable behaviour is a failure to substantiate an authority's decision on the relevant planning grounds in the particular case.~~

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

Other Powers of the Secretary of State

~~2.08. The Secretary of State possesses a range of powers which could be exercised where a LPA appears to be making inconsistent decisions or decisions which are seriously in conflict with national and Development Plan policies. This could involve use of the power to "call in" applications, so the application would be determined by the Secretary of State following a public inquiry. A permission granted by the Council can in special circumstances be revoked, modified or discontinued. Such decisions may be subject to compensation payable by the Council.~~

~~2.09. In addition, there is the power in Section 62A 1990 Act (inserted by Section 1 of the Growth and Infrastructure Act 2013) which allows certain applications to be made directly to the Secretary of State, where the LPA for the area has been designated for this purpose. Designation can occur in circumstances where the LPA's performance in terms of its decision-making falls short of pre-determined criteria for the timeliness or quality of decisions in respect of major applications. These criteria will be kept under review by the Secretary of State and any changes thereto will be laid before Parliament.~~

Powers of the Mayor of London

~~2.10. The Mayor of London possesses a range of planning powers with regards to developments taking place in London. For strategic developments, the Mayor has the power to allow the LPA to determine the application itself, direct refusal of the planning application or to take over the application for determination. The London Plan sets out the Mayor's policies and guidance for development taking place within London, in particular major developments or those with London wide significance. The Mayor can in certain circumstances prevent developments going ahead that are inconsistent with the London Plan.~~

Administration of Planning Functions in Haringey

2.11. The performance of the Council's planning function is largely delegated to the Planning Sub-Committee, and to officers of the Council pursuant to arrangements made under Section 101 of the Local Government Act 1972. Approximately 9 out of 10 planning decisions in Haringey are made by officers, through authority delegated to them by the Council. This level of delegated decision making is consistent with other Councils across the Country and allows the majority of planning decisions to be determined promptly, allowing Members of the eCommittee to focus on the most significant and controversial proposals.

~~2.12. Many decisions are made under delegated powers by the Assistant Director, Planning, Building Standards & Sustainability ("the Assistant Director") or Head of Development Management & Enforcement ("the~~

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

~~Head of Service”) in accordance with a scheme of delegation. (See the Terms of Reference of the Planning Sub-Committee in the Constitution).
XX The Planning Sub-Committee will receive, for its information, a regular report identifying the planning applications which have been determined by officers under the scheme of delegation, and the decisions thereon.~~

Planning Applications by Councillors or Officers of the Council

2.013. When a planning application is submitted by a serving ~~member~~councillor; or ~~more~~ senior officers (~~tier 3 or above~~Senior Leadership Structure); or officers within the ~~Planning & Building Standards~~ directorate; or by a close relative or a close friend of either an officer or ~~member~~Councillor; or by a ~~member~~councillor acting as agent for the applicant, the ~~member~~councillor or officer concerned will:

- take no part in the processing and determination of the application; and
- advise the Monitoring Officer and the ~~Assistant~~Director; ~~Planning/Head of Development Management~~Service of the application.

~~2.14. All such applications will be reported to the Planning Sub-Committee and determined by the Sub-Committee and not by an officer under delegated powers.~~

2.0215. The report of the ~~Assistant~~Director; ~~Planning/Head of Development Management Service~~ will include confirmation from the Monitoring Officer that these requirements have been met.

Planning Applications by the Council

2.16. Subject to the provisions of the Town and Country Planning General Regulations 1992 planning applications made by or on behalf of the Council will be treated in the same way as those made by or on behalf of private applicants.

~~Delegation to Officers~~

~~2.17. All Planning applications can be decided under delegated powers save for those reserved in the Constitution for determination by Planning Sub-committee.~~

~~2.18. Where officers are determining applications under their delegated powers; an officer report will be completed which must record the Development Plan policies and material planning considerations that have been taken into account in the decision-making process.~~

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

~~2.19. The Planning Sub-Committee will receive, for its information, a regular report identifying the planning applications which have been determined by officers under the scheme of delegation, and the decisions thereon.~~

Referring applications to the Planning Sub-Committee

2.20. All ~~m~~Members of the Council receive copies of the weekly list detailing the applications that have been received.

~~2.0321. If a~~Any Member ~~and/or a local community body and/or a local residents association may request that~~wishes an application ~~is determined by to go before~~ the Planning Sub-Committee ~~instead of rather than be determined through officers under delegated authority by notifying in writing~~on, he/she should make this request as soon as possible (and within the ~~21 day neighbour notification~~statutory consultation period for the application,) and ensure that any such request states the planning grounds on which it is based. ~~The Assistant Director of Planning & Building Standards/Head of Development Management and Planning Enforcement Service stating the planning reasons for such request.~~

2.04 The Director of Planning & Building Standards or the Head of Development Management and Planning Enforcement Service shall, in consultation with the Chair of the Planning Sub-Committee, will consider such requests and determine whether the request should be granted and the application should be referred to the Planning Sub-Committee to determine. The criteria to be used for determining such requests will include In determining whether to grant a request, officers and the Chair of the Planning Sub-committee shall have regard to whether the:

- ~~whether the~~ proposal is a significant development which has caused substantial local interest;
- ~~where the~~ officer recommendation is for approval contrary to policy in the Development Plan or other adopted guidance; and
- ~~whether the~~ application is recommended for approval¹. ~~Applications that are to be refused will not normally be determined at planning committee.~~

2.XX The Director/Head of Service may also exercise their judgement, in consultation with the Chair of the Planning Sub Committee, to refer a matter to the Planning Sub-Committee rather than be determined through officer delegation, even if a Member has not requested this, pursuant to paragraph 2.07 of Section 1 of Section E (Scheme of Delegation) of Part Three of the Council's Constitution.

¹ ~~Applications that are to be refused by officers under delegated authority will not normally be determined at Planning Sub-Committee~~

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

Key staff

~~2.22. The Assistant Director, Planning is responsible and accountable to the Council for the Planning and Development Service which deals with the administration of all planning matters. The Head of Development Management Service is responsible and accountable to the Assistant Director, Planning for the immediate management of the Council's development management and enforcement function.~~

~~3. APPLICATION OF THE PROTOCOL~~

~~3.01. The Protocol applies to the conduct of Members in relation to all applications for permission/approval under planning legislation. The Protocol also applies to decisions to take or not to take planning enforcement action. The principles (below) would also apply where consideration was to be given to the inclusion or otherwise of specific proposals within the statutory local plan even when the Sub Committee was being consulted informally rather than making the final decision.~~

~~3.02. The Protocol also applies to any other item before the Sub Committee. This can include the lists of major applications and delegated decisions. For these, as with all items, Members should ensure that all comments they make are appropriate for the Sub Committee forum, and relate to a Council wide issue or concern that is not better dealt with by raising directly with officers outside of Sub Committee.~~

~~3.03. In the following sections references to determination of planning applications should be taken as referring also to all these other matters.~~

4. THE MEMBERS' CODE OF CONDUCT

4.01. The Members' Code of Conduct ("the Code of Conduct" [Part 5 Section A](#)) applies to Members of the Planning Sub-Committee as to all Members of the Council. The parts of the Code of Conduct on personal and prejudicial interests, the register of those interests and receipt of gifts and hospitality are particularly relevant. Members of the Sub-Committee should also have regard to the general principles of conduct when exercising their planning functions.

5. CONDUCT OF MEMBERS OF PLANNING SUB-COMMITTEE

Training

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PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

~~5.01. The Council will ensure that all Members of the Planning Sub-Committee have undertaken appropriate training on planning legislation and relevant matters prior to their participation in the work of the Sub-Committee. The Council will make available regular updates/training for Planning Members, and will encourage all other Members of the Council to take part in planning training.~~

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~~5.01. 3.01 For Planning Sub-Committee No Member of the Planning Sub-Committee nor any substitute Members of the Planning Sub-Committee there is a requirement to undertake shall attend a meeting of the Sub-committee as a voting member unless training regarding the planning system has been undertaken and thereafter prior to sitting on the Committee. Ongoing training is required and each Member should undertake at least 5 hours of training is undertaken per municipal year per annum.~~

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General Principles including Bias and Predetermination

~~5.02. This section of the protocol applies solely to Members of the Council's Planning Sub-Committee when determining planning applications or considering the inclusion of local plan proposals or resolving to take planning enforcement action. It is intended to ensure that the integrity of the decision-making process is not impaired, either in reality or in perception, through a lack of openness in decision-making, or through the lobbying of those Members who will make decisions.~~

~~5.03. This part of the protocol is also designed to ensure that, wherever possible, representations made to Members form part of the public information leading to any decision.~~

~~5.04. The conduct of Members of the Council who are not Members of the Planning Sub-Committee is governed by the next section of the protocol, where greater flexibility is permitted, and where those Members are given greater freedom to discharge their role as representatives of the local community within a clear framework.~~

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With regard to decision making:

~~5.01. The Council (which unless otherwise stated means acting as LPA) has a responsibility to make decisions with knowledge of the relevant Do comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan policies, taking into account all other unless material considerations indicate otherwise and any representations, applying the appropriate weight to each. In addition, it is important that elected Members~~

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~~5.05.5.02. Do receive consider~~ open and impartial professional advice from their Planning Officers. ~~Members should Do~~ make planning decisions ~~by reference to a having considered the~~ written officers' report ~~and their advice at the Sub-committee.~~

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

~~XX~~ Do come to your decision only after due consideration of all of the information reasonably required upon which to base a decision.

~~5.06.5.03.~~ This can only be done at the Sub Committee. Conclusions reached in advance of the Sub Committee risk being on partial facts, without the relevant advice, and without the ability to view all the material considerations before applying appropriate weight. They are therefore open to misunderstanding, and possibly, to legal challenge on the grounds that the right things have not been taken into account, or immaterial things have been taken into account, or that the Members concerned have been subject to "bias" or "pre-determination". Don't take a decision regarding a planning application with a closed mind or inclination or prejudice for or against a party or interest to avoid legal challenges on the ground that a Member had pre-determined their decision or where perceived to be or where biased.

~~5.07.~~ For these reasons Members should not reach or express any firm conclusion on an application prior to the relevant Sub Committee meeting. If, for any reason a Member decides, in advance of the Sub Committee meeting, to express a firm and final view on the development, he or she shall not take part in the deliberations of the Sub Committee but may exercise the rights below. Do be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the law. Your prior observations, apparent favouring or objections in respect of a particular outcome will not on their own normally suffice to make a decision unlawful and have it quashed, but you must never come to make a decision with a closed mind.

~~5.08.~~ Where any Member makes representations in support or objection to the 'Planning Service', in writing or orally, in relation to any application, those representations will be recorded for inclusion in the officers' report. Where these representations constitute a firm and final view on the development, the Member will not take part in the deliberations of the Sub Committee but may exercise the rights below of a Ward Member. Where you do:

- advise the proper officer or Chair that you wish to speak in this capacity before commencement of the item;
- remove yourself from the seating area for members of the Committee for the duration of that item;
- remove yourself from the room when you are not exercising your speaking rights or answering questions from Committee members;
- and
- ensure that your actions are recorded in accordance with the Authority's committee procedures.

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PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

Open and fair decisions

[Move this section upwards, to after Training section, and then merge General / Bias & Predetermination sections to keep logical flow]

~~5.10 At the London Borough of Haringey decisions on significant controversial planning applications that are not delegated to officers are taken in public by the Planning Sub Committee.~~

For a decision to be open and fair:

- Those taking the decision should not be biased or have pre-determined how they will decide;
- Those taking the decision should not have a disclosable pecuniary interest or prejudicial interest (see below for further information about these) in the outcome;
- ~~Previous The decisions should may be consistent with others taken previously unless there are good reasons to decide otherwise a material consideration;~~ and
- The reasons for the decisions should be clearly set out.

Bias or predetermination

~~5.11 It is entirely permissible for Planning Sub Committee Members, who are democratically accountable decision makers, to be predisposed towards a particular outcome. Nonetheless they must address the planning issues before them fairly and on their merits. That means they can have a view on the application or matter but must not make up their minds on how to vote before formally considering the application and any representations. Planning Sub Committee Members must have an open mind to the merits of a proposal before it is formally considered at the Sub Committee meeting and they must be prepared to be persuaded by a different view in the light of any detailed arguments or representations concerning the particular matter under consideration. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies provided that you have considered all material considerations and have given fair consideration to relevant points raised.~~

~~5.12 If the Sub Committee's decision on a planning application is challenged in the High Court by way of judicial review on the grounds that some of the Sub Committee Members were biased, or had predetermined the application, the court will assess the case on the basis of what a fair-minded observer, knowing the relevant facts would think.~~

5.13. Section 25 of the Localism Act 2011 provides that a decision maker is not to be taken to have had, or appeared to have had, a closed mind when making the decision just because:

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

- the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take, in relation to a matter; and
- the matter was relevant to the decision.

5.14. This provision does not change the law on bias and pre-determination which means that Sub-Committee Members must still take planning decisions with an open mind and having taken into account all relevant material planning considerations. What s.25 does provide is that statements made by Members cannot be used in court as evidence that the Member in question had or appeared to have a closed mind. Other evidence or any evidence that a Member has taken into account irrelevant considerations, however, is not so restricted by s.25.

5.15. Notwithstanding the s.25 provisions, the safest course is for Sub-Committee Members to avoid making public statements (including expressing views in emails) as to their support for or opposition to any application which would indicate they had made up their minds before the formal consideration of the application at the meeting. If a Sub-Committee Member has made such a statement they must be satisfied that they can still consider the application with an open mind and are prepared to take into account any new matters or any new arguments in favour of or against the proposed development until the decision is made otherwise they should not take part in any decision on the application in question. In which case it is to be treated the same as any other prejudicial interest, as will cases of perceived bias, and the Member shall declare this interest and leave the room for the item in question as set out below.

Declaring an interest

~~3.025-16. It is important that Sub-Committee Members should not be influenced or perceived to be influenced by any interests that they, their family or close associates may have in a particular application. To this end at the start of every Sub-Committee meeting Sub-Committee Members shall declare any disclosable pecuniary interest or prejudicial interest in any application on the agenda for a Planning Sub-committee meeting before any application is considered at a meeting like at other Council committee meetings and shall withdraw from the meeting room as it is not possible to participate in any discussion or vote on an application if a Member has such interest will be asked to declare any interests they may have in relation to the matters before them. As outlined set out in the Code of Conduct paragraphs 9.3 and 10.1 of the code, "disclosable pecuniary interests" are prescribed by law and are entered in the register of interests maintained by the Council's Monitoring Officer. The Code of Conduct also provides for the disclosure of other interests at meetings in certain circumstances.~~

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

~~3.03 It is not sufficient for a Member to only state they have ‘an interest’.~~
When declaring an interest, ~~the a~~ Member must describe ~~the nature of that interest and how it relates to an application as outlined in See paragraphs 4, 6, 7 and 8 of the code, what the interest in question actually entails.~~

Disclosable pecuniary interests

5.17. ‘Disclosable pecuniary interests’ are prescribed by the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and are set out in Appendix A to the Code of Conduct. The categories of disclosable pecuniary interests include employment or office, interests in land in the Borough and contracts with the Council.

5.18. An interest is a ‘disclosable pecuniary interest’ if it is of a type described above and it is an interest of the Member or of their spouse or civil partner, a person with whom they are living as husband and wife or a person with whom they are living as if they were civil partners and the Member is aware of the interest. Members should note the criminal sanctions for failure to comply with these requirements (as outlined in Appendix B of the Code of Conduct).

Other interests

~~3.04 5.19. A Sub-Committee A~~ Member may have other interests such as ‘Personal’ or ‘Prejudicial’ interests which, ~~whilst not falling within the legal definition of disclosable pecuniary interests should,~~ it is strongly advised, be declared in the public interest. For example, such an interest may arise where the Sub-Committee Member resides near a development which is the subject of the planning application under consideration. ~~While it is for the Sub-Committee Member to judge, a useful rule of thumb is “will my enjoyment of my property be affected either positively or negatively by this application?”. If the answer is in the affirmative, it would be advisable for the Sub-Committee Member to declare such an interest.~~

~~5.20. A prejudicial interest would also arise, for example, if the affected property were to be owned by a company of which the Sub-Committee Member is a director.~~

~~5.21. Advice is given below regarding what Sub-Committee Members and non-Sub-Committee Members should do if they have a disclosable pecuniary interest or other interest in an application due to be considered at a Sub-Committee meeting.~~

~~3.045.22. It is important to note that the rules relating to declarations of interest apply equally to non-Sub-Committee Members who may from time to time wish to attend a Sub-Committee meeting and speak on a particular matter. EachAll Members who are not members of the Planning Sub-committee shall, if in attendance at a meeting of the Planning Sub-~~

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

~~committee, declare any disclosable pecuniary interest or prejudicial interest in an application on the agenda for a meeting attends a meeting must make an assessment of whether they have an interest in the matters under discussion, whether they intend to participate in proceedings or not.~~

3.05 Members should seek advice from the Monitoring Officer in advance of a Planning Sub-Committee meeting if they are not clear whether a declaration of interest should be made at a meeting of the Sub-committee or where that is not possible, advice should be sought from the legal officer in attendance at the Planning Sub-committee meeting so that they can decide whether or not they have an interest which means they cannot participate in the consideration of a planning application which the interest relates to.

Consistency

5.23. ~~Previous Decisions will not be seen as fair if they are different from these taken on previous similar cases without good reason may be a material consideration.~~ –The Sub-Committee report will set out the relevant considerations and will draw attention to decisions on any other similar cases where appropriate.

Reasons

5.24. ~~Fair and open decision making requires the reasons for the decision to be clear. This is particularly important when the Sub-Committee's decision differs from that recommended in the report.~~

Party political whips

~~XXX. Planning decisions cannot be made on a party political basis. The use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration. Political Meetings can never dictate how Members vote on a planning issue.~~

Members' engagement with planning decisions

5.25. Members will want to actively and positively engage with planning decisions. All Members can:

- advise objectors/applicants/others on planning processes and how to get involved;
- give advice about adopted planning policies and local priorities
- direct lobbyists, applicants or objectors to the relevant planning officer so that their opinions can be included in the officer's report;
- lead on local discussions in the preparation of the development plan documents, area action plans and supplementary planning documents;

PART FIVE – CODES AND PROTOCOLS

Section E – Planning Protocol

- provide input into the preparation of planning briefs and guidance;
- receive and pass on information, for example weekly lists and briefings from officers on key proposals;
- attend ~~Development Management~~Planning Forum meetings, ask questions there; and
- raise issues important to local people and to the ~~developers~~applicants.

5.26. To ensure that Members and the Council are not open to challenge Members should:

- preface relevant discussions with a disclaimer; the nature of this will depend on their role within the authority in the context of planning;
- clearly indicate that any discussions with them are not binding on the Council;
- be clear about the distinction between giving advice and engaging in negotiation so only engaging in the former;
- involve officers where this will help to safeguard transparency and the appearance of bias;
- be aware of relevant policies included in the Council's adopted plans but give consideration to other matters relevant to planning; and
- seek the advice of the Monitoring Officer when they are unsure of what they are able to do and in relation to any potential "interest".

5.27. Members should not:

- expect to lobby and actively support or resist an application/decision and subsequently vote at ~~e~~Committee or Cabinet; or
- seek to put undue pressure on officers or Members of a deciding ~~e~~Committee to support a particular course of action in relation to a planning application or other planning decision and should not do anything which compromises, or is likely to compromise, the officers' impartiality or professional integrity.

This does not mean that a Councillor may not question robustly or argue forcefully for a particular course of action.

NEW. MEETINGS AND BRIEFINGS

~~Pre-Committee procedures~~Briefings to Planning Sub-Committee~~Members from applicants~~

~~Developer's briefings to Planning Sub-Committee~~

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

5.28. Enabling an ~~Developer applicant~~ to brief and seek the views of elected Members about planning proposals at an early stage (usually pre-application or where this is not possible, very early in the formal application period) is important in ensuring that new development is responsive to and reflects local interests/concerns where possible. Early ~~m~~Member engagement in the planning process is encouraged and supported by the NPPF, the Local Government Association Planning Advisory Service guidance on Probity in Planning (2019) and the Royal Town Planning Institute Practice Advice on Probity and the Professional Planner (2020).

~~XXX.~~ Haringey proposes to achieve this objective through formal briefings of relevant Cabinet Members and the Planning Sub-Committee in accordance with procedures set out in this Protocol. Cabinet and Sub-Committee Members taking part in such briefings should do so in their strategic borough-wide capacity rather than in their local 'ward' capacity. No decision will be taken at such meetings and the final applications will be the subject of a report to a future meeting of the Sub-Committee. ~~These meetings are held in public and are webcast although there are no public speaking rights.~~

5.29. The purpose of briefings are:

- To enable Members to provide ~~feedback—observations~~ that supports the development of high quality development through the pre-application process, and avoid potential delays at later stages;
- To enable Members to highlight strategic Council and Local Plan objectives and requirements set out in planning policy or guidance that are particularly relevant to an application;
- To ensure Members are aware of significant applications prior to them being formally considered by the Planning Sub-Committee;
- To make subsequent Planning Sub-Committee consideration more informed and effective;
- To ensure issues are identified early in the application process, and improve the quality of applications; and
- To ensure Members are aware when applications raise issues of corporate or strategic importance.

5.30. What sort of presentations would be covered in the briefings?

- Presentations on proposed large-scale developments of more than 50 ~~dwellings~~homes, or 5,000 sq m of commercial or other floorspace or which includes significant social, community, health or education facilities, or where the ~~Assistant—~~Director, ~~Planning/Head of Development Management Service~~ considers early discussion of the issues would be useful; and
- Presentations on other significant applications, such as those critical to the Council's ~~regeneration—placemaking~~ programmes,

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

significant Council developments, or those requested by the Chair of the Sub-Committee.

Applicant's briefings to relevant Cabinet Members and the Chair "Strategic Planning Briefings"

5.xx Frequency and timings of meetings

As required by agreement with the Leader of the Council / Cabinet Member with responsibility for Planning and Director/Head of Service.

5.xx Invitees to meetings

- Relevant Cabinet Members which could include:
 - The Leader of the Council;
 - The Cabinet Member with responsibility for Planning;
 - The Cabinet Member with responsibility for Placemaking;
 - Other relevant Cabinet Members;
- Chair of the Planning Sub-Committee;
- Director of Planning & Building Standards;
- Head of Service;
- Other relevant officers.

5.xx. Format of the meetings

- The meeting will be chaired by either the Leader of the Council or the Cabinet Member with responsibility for Planning who will ask Members attending to disclose any relevant interests; and
- The applicant will supply presentation materials including any models;
- Officers to introduce the proposal and advise of issues arising from the Planning Forum (where this has taken place);
- The applicant will be invited to make a presentation of up to 15 minutes;
- Members will be able to highlight strategic objectives of the Local Plan and ask questions to the applicant and officers. These questions will be restricted to points of fact or clarification and must be structured in a way that would not lead to a Member being perceived as taking a fixed position on the proposals;
- Summary of the comments raised.

5.xx These meetings would not be held in public to respect the confidentiality of the pre-application process and protect applicants' commercial interests but a short note of the meeting summarising Members' comments would be made. If and when a planning application relating to the proposal discussed is submitted, the note of the meeting would be published as part of the publicly-accessible planning application file and reported to the Planning Sub-Committee when any subsequent

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

proposal is submitted for determination. This is to ensure transparency and full consideration of the facts when a decision is made.

Developer/Applicant's briefings to Planning Sub-Committee "Pre-application briefings to Committee"

5.31. Frequency and timings of meetings

Once a month or by agreement with the Chair and ~~Assistant~~Director; ~~Planning~~/Head of ~~Development Service~~.

5.xx Invitees to meetings

- ~~for a~~All Members of the Planning Sub-Committee ~~plus~~;
- ~~Relevant~~ Cabinet Members ~~and~~;
- ~~Ward Members—supported by~~;
- ~~Local amenity groups~~;
- ~~Assistant~~Director; ~~Planning~~;
- Head of ~~Development Management Service~~ ~~and~~;
- ~~e~~Other relevant officers.

5.32. Format of the meetings

- The meeting will be chaired by the Chair of the Planning Sub-Committee who will ask Members attending to disclose any relevant interests; and
- The ~~Developer—applicant~~ will supply ~~all~~—presentation materials including any models, ~~and these will be displayed in the meeting room~~;
- Officers to introduce ~~a report~~, the proposal and advise of issues arising from the ~~Development Management~~Planning Forum (where this has taken place):
- The ~~Developer and agents—applicant~~ will be invited to make a presentation of up to 15 minutes ~~or longer if agreed by the Chair due to the scale or complexity of the proposal~~;
- Ward Members will have the opportunity to give their views for a maximum of three minutes each.
- The Cabinet Members will have the opportunity to give their views for ~~a maximum of~~ three minutes ~~each~~.
- Members of the Planning Sub-Committee will be able to ~~highlight strategic objectives of the Local Plan and~~ ask questions to the ~~Developer—applicant~~ and officers.— These questions will be restricted to points of fact or clarification and must be structured in a way that would not lead to a ~~m~~Member being perceived as taking a fixed position on the proposals;
- Comments of Members of the Planning Sub-Committee; and
- Summary of the comments raised.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

5.xx These meetings are held in public and are webcast although there are no public speaking rights including amenity groups.

5.33. A short note of the meeting summarising Members' comments would be made. If and when a planning application relating to the proposal discussed is submitted, the note of the meeting would be published as part of the publicly-accessible planning application file and reported to the Planning Sub-Committee when any subsequent proposal is submitted for determination. This is to ensure transparency and full consideration of the facts when a decision is made.

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Other matters

5.34. Developer–Applicant participation in the Developers'–Applicants' briefings to Planning Sub-Committee would not normally happen prior to a Development ManagementPlanning Forum or other public meeting or public consultation being held relating to the site or prior to attendance at the Quality Review Panel subject to programming and scheduling pressures.

5.35. Comments and questions can be raised, and this can also include positive engagement about the proposed development. However, Members should ensure that they are not seen to pre-determine or close their mind to any such proposal as otherwise they may then be precluded from participating in determining the application.

Development ManagementPlanning Forum

5.37. The Council has established a Development–ManagementPlanning Forum to facilitate the discussion of large-scale or contentious planning proposals. The forum does not reach a decision about a proposal. Its purpose is to allow participants to raise issues of concern and obtain answers to questions about the particular application. The aim is to allow early discussion by Members and members of the public on planning issues related to these planning proposals and to explore the scope for agreement between all parties in a positive and constructive way prior to the later decision being made at the Planning Sub-Committee. Forum meetings will usually take place prior to the submission of an application but can take place at an early stage of the formal process before the Planning Sub-Committee meeting. They do not remove the opportunity for objectors, supporters and applicants to address the Planning Sub-Committee when an application is to be determined or the holding of exhibitions and or public meetings where these are considered appropriate.

What applications does the forum consider?

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PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

5.38. Applications that may be considered by the forum include major applications and those of significant local interest. It is not possible to prescribe the exact type of proposals but they may include the following:

- Applications which involve more than ~~150 residential units~~ homes or over ~~54,000~~ 50,000 sq m of floor space;
- Those that do not meet the threshold above but are likely to generate significant local interest
- Those applications that involve a major departure from the Council's planning policy; or
- Those applications that involve ~~high~~ tall buildings i.e. over ~~56~~ storeys.

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5.39. Applications that will not generally be considered by the forum include:

- Minor planning applications to alter or extend houses;
- Applications to confirm whether a use of land or buildings needs planning permission (a 'lawful development certificate');
- Applications to put up advertisements;
- Amendments to applications or those which have already been the subject of a forum discussion; or
- Applications where there will be a recommendation for refusal.

5.40. A forum meeting will be held when:

The ~~Assistant~~ Director, ~~Planning~~ Head of ~~Development Management Service~~, in consultation with the Chair of the Planning Sub-Committee, considers that a forum would be beneficial in resolving issues on a particular planning proposal. For ~~development management~~ forum meetings held at the pre application stage site notices and emails to local groups and councillors will be sent advising them of a proposed meeting. For those meetings held following the submission of a planning application consultees will be advised in accordance with the Council's consultation policy as set out in the Council's Statement of Community Involvement (SCI) in force at the time as part of the consultation on the planning application.

Who can attend?

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5.41. Meetings are open to all Members, local businesses and residents. Normally one application or proposal will be considered at each forum to allow for effective discussion. To assist the running of the meeting an agenda is prepared and a short briefing note on the proposal is available.

5.42. The format of the meeting is as follows:

- A senior planning officer chairs the forum. They ensure that all planning issues arising from the proposal are raised ~~but that there~~

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

~~is no discussion on the merits of the proposal. Planning officers provide information on the progress of the proposal.~~

- The applicant is invited to make a presentation of the proposal for a maximum of 15 minutes.
- Local residents and organisations have an opportunity to present their views either for or against the proposal.
- ~~Planning officers provide information on the progress of the proposal.~~
- The applicant responds to questions from Members of the Planning Sub-Committee, ward councillors and local business and residents.

5.43. An attendance record is kept, ~~the discussion is recorded~~ and a note of the meeting is made. ~~If and when a planning application relating to the proposal considered by a Planning Forum is submitted the note of the meeting would be published as part of the publicly-accessible planning application file and which~~ is reported to the Planning Sub-Committee when any subsequent proposal is submitted for determination. ~~This is to ensure transparency and full consideration of the facts when a decision is made.~~

All Members: Haringey's Development Management Forum

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5.44. All Members can attend ~~Development Management~~ Planning Forum meetings which are called to promote early exploration of issues relevant to a particular development. They do not seek to reach any decision about the likely outcome of an application.

5.45. The particular role that Members can play at the meetings is dependent on whether or not they have a formal role within the planning system of the authority, for example are a ~~m~~Member of Planning Sub-Committee or the Cabinet, but all Members will need to take account of the generic guidelines for example, publicly clarifying their particular role.

5.46. All Members can:

- use the meeting to understand the development, the issues important to local people and to the ~~developers~~ applicant, and how the relevant policies are being applied by asking questions;
- give advice about adopted planning policies and local priorities and clarify or seek clarification of policies and priorities;
- give advice about planning processes or direct those present to relevant officers or other sources of advice and information both present or outside the meeting;
- refer local objectors or supporters to ward colleagues who are in a position to take a wider role if theirs is limited and further Member assistance is required; and
- seek advice from officers as to the process to be followed, issues being reviewed and the likely policy position.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

5.47. Members should not use the forum to undertake negotiations or appear to put undue pressure on the officers in relation to any future decision on the scheme. Members are however entitled to robustly question ~~developers-applicants~~ and officers in order to fully understand issues before the forum.

~~Ward Members: Development Management Forum~~

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5.48. Ward Members who are not on the Planning Sub-Committee can greatly assist this process by taking an active part in the forum meeting, asking questions, commenting on planning policies and local priorities, and advising on the planning process. They can usefully draw attention to local circumstances and issues, and comment on the appropriate weight to be given to those. It will be important that Ward Members ensure that their remarks and advice are based on adopted Council planning policies as far as possible. This is important to avoid creating any confusion in the minds of ~~developers-applicants~~ or local people about who speaks for the Council in negotiations or about the Council's negotiating position.

Quality Review Panel

5.49. As part of the pre-application process for major and /or sensitive applications, the Council encourages applicants to present their proposals to the Quality Review Panel. The panel is a group of independent and objective experts, including experienced architects and other built environment professionals, who meet on a regular basis. The Panel's advice is provided for the benefit of the Planning Sub-Committee. The advice will also be used to help officers and the ~~developer-applicant~~ to improve upon the quality of the scheme as it evolves.

5.50. The best design outcomes generally occur when schemes are presented to the panel at the pre-application stage, as this allows applicants sufficient time to amend proposals following panel feedback.

~~XX If and when a planning application relating to the proposal presented to the Quality Review Panel is submitted, the note of the meeting would be published as part of the publicly-accessible planning application file and reported to the Planning Sub-Committee when any subsequent proposal is submitted for determination. This is to ensure transparency and full consideration of the facts when a decision is made.~~

~~5.51. Discussions and negotiations while the application is current but prior to determination:~~

~~[Move up to end of the "Conduct of Members of Planning Sub Committee" section. Above the "Meetings and Briefings" section]~~

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

- 5.52. Once an application has been submitted, officers are working to strict deadlines to ensure that the application can be efficiently and properly determined. They may, during that period, enter into discussions, and sometimes negotiations, with the applicant or their agent in order to clarify aspects of the scheme or to ensure that the applicant is aware of the council's policy requirements. Sometimes such discussions will also convey to an applicant the views of third parties or consultees.
- 5.54. At this stage it is not appropriate for Members, whether or not they are on the Planning Sub-Committee, to enter into direct discussions and /or negotiations with applicants or consultees. Members should recognise the clear distinction between negotiation and listening without prejudice to views which may be expressed to them (see the section on Lobbying below). For Members to enter into negotiations whilst an application is current at best sends a confused message to applicants and consultees about who is officially speaking on behalf of the Council, and at worst will without doubt result in the Member appearing to show bias or pre-disposition. However, this does not prevent Members at this stage asking officers for information about an application, or from passing on the views of constituents or others, indeed this would be a proper area of Member activity. Members should at the same time ensure that any requests for advice or interpretation are passed to officers.

Briefings/interim reports

~~5.55. An effective way of building a degree of certainty into pre-application or post-submission discussions is for officers to engage with Members at an appropriate stage in negotiations. Officers may prepare a committee report, briefing note or a site visit in order to identify the key issues that have emerged during discussion, and, where necessary, seek member endorsement to the approach that is being pursued, or simply to present the scheme as an information item to Members. This provides the opportunity for committee Members to raise questions of their own or seek further information regarding the proposed development.~~

Approaches by applicants to Members

[Move up to end of the "Conduct of Members of Planning Sub Committee" section. Above the "Meetings and Briefings" section]

- 5.56. Members of the Planning Sub-Committee will discourage any applicant or agent, or other interested party such as a landowner from approaching them directly in any way in relation to planning proposals. If an approach is received, the Member will take care not to give any commitment, or the impression of a commitment that he or she holds any particular view on the matter.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

5.57. If an approach is received by a Member of the Planning Sub-Committee from an applicant or agent or other interested party in relation to a particular planning application, then the Member will:

- (a) Inform the applicant that such an approach should be made to Officers of the Council;
- (b) Keep an adequate written record so as to enable the Member to disclose the fact of such an approach if and when the application or proposals is considered by the Planning Sub-Committee; and
- (c) Disclose the fact and nature of such an approach at any relevant meeting of the Planning Sub-Committee.

In this context an approach should be noted where the discussion extends beyond simple information to the merits or demerits of the particular proposals.

5.58. Where a Member of the Planning Sub-Committee receives written representations directly in relation to a planning application, the Member will pass the correspondence to the ~~Assistant~~ Director, ~~Planning~~/Head of ~~Development Management Service~~ in order that those representations may be taken into account in any report to the Planning Sub-Committee.

The Sub-Committee meeting

[Move to later section "Protocol for Planning Sub-Committee meetings" so all together]

5.59. Planning ~~s~~Sub-~~e~~CCommittee meetings generally start at 7.00pm and the Council's standing orders provide that they will end at 10.00pm except that discussion of the specific item or case in hand at 10.00pm may continue thereafter at the discretion of the Chair.

5.X There are 11 Members of the Sub-Committee. The quorum for making a decision as set out in the Council's constitution is at least one quarter of the whole number of voting Members are present i.e. at least 3.

5.X Where notified in advance to the Sub-Committee Clerk and subject to them having attended the mandatory training, substitute Members may attend in place of a Planning Sub-Committee ~~m~~Member, pursuant to the Committee Procedure Rules. Substitutes will be from the same political party, to maintain the political balance at Sub-Committee and will be subject to clearance from the group's Chief Whip. The substitute will be for the duration of the entire agenda and will not be used for individual items.

Lobbying and representations

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

[Move this and subsequent subsections up to end of the “Conduct of Members of Planning Sub Committee” section, above the “Meetings and Briefings” section]

- 5.60. The proper place for supporters to make comments or objectors to raise their concerns is in writing in response to public consultation on a planning application or by making representations at a Sub-Committee meeting. Sub-Committee Members may nevertheless receive lobbying material through the post or by email from either the applicant or the objectors or be approached personally by interested parties. In dealing with such approaches, it is important for Sub-Committee Members not to do or say anything that could be construed as bias or predetermination.
- 5.61. Where Sub-Committee Members receive lobby material through the post or by email they should forward it to the ~~Assistant Director; Planning~~/Head of ~~Development Management Service~~. If Sub-Committee Members feel it is necessary to acknowledge receipt of or comment on the correspondence, they should consider the advice on bias or predetermination in this Protocol and should send a copy of their response to the ~~Assistant Director; Planning~~/Head of ~~Development Management Service~~.
- 5.62. If a Sub-Committee Member is approached by an individual or an organisation in relation to a particular planning application, they may listen to what is said but they should explain that because they are a ~~member~~ Member of the Sub-Committee they must keep an open mind until they have seen all the material before the Sub-Committee. A Sub-Committee Member might suggest that the individual or organisation should:
- Where an application is not yet on a Sub-Committee agenda, write to the Planning Officer responsible for the particular case who will take into account any material planning considerations raised in the representations when preparing a report for the Sub-Committee; or
 - If the application is already on a Sub-Committee agenda, contact the Sub-Committee Clerk to make a request to speak at the Sub-Committee meeting.
- 5.63. In either case contact another Member who is not a Sub-Committee Member to seek their support. Generally speaking, this should be the Ward Councillor for the Ward within which the application is made.
- 5.64. If a Sub-Committee Member does decide to become involved in organising support for or opposition to a planning application or has offered an opinion on a planning application, then that Sub-Committee Member must take into account the advice on bias or predetermination

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

in this Protocol. If after considering that advice the Sub-Committee Member comes to the view that on an objective assessment they cannot sit on the Sub-Committee and decide the application with an open mind, they should not be part of the Sub-Committee that decides the application. They can however attend the Sub-Committee meeting and speak on their constituent's behalf and adopt the role of local ~~m~~Member rather than decision ~~m~~maker.

‘Decision Maker’ role

5.65. A Councillor who is a ~~m~~Member of the Planning Sub-Committee or a suitably trained substitute and who takes part (or who intends to take part) at a meeting of the Planning Sub-Committee in the determination of particular Planning Application will for the purposes of this Protocol be a “Decision Maker” in relation to such Planning Application.

5.66. A Councillor who is a Decision Maker shall comply with the provisions of the Code of Conduct generally.

‘Local Member’ role of a Planning Sub-Committee ~~m~~Member

5.67. Where a Planning Sub-Committee ~~m~~Member wishes to make representations on behalf of his/her constituent(s), for the purposes of this Protocol he/she will be a “Local Member” in relation to that planning application. He/she may attend a meeting of the Planning Sub-Committee to make representations about the planning application on behalf of their constituents

5.68. A Councillor who is a Local Member shall comply with the Public Speaking Provisions and the Code of Conduct generally. Further provisions relating to the “Local Members” role are also contained in the next following section.

Non Planning Sub-Committee /Local Ward Member role

5.69. Subject to the provisions of the Code of Conduct generally a Councillor who is not a Member of the Planning Sub-Committee (whether or not he/she plays or intends to play the role of “Local Member”) will be free to:

- discuss any planning application with the applicant / agent / objector / lobby group;
- attend any locally organised meeting concerning the application;
- ~~attend any meeting concerning the application and speak about the application (including expressing a view either for or against the application);~~
- relay relevant information about the application to a planning officer;

PART FIVE – CODES AND PROTOCOLS

Section E – Planning Protocol

- seek information/clarification about the application from a planning officer; and
- should follow the rules on lobbying in accordance with this Protocol.

Effect of Prejudicial etc Interests

5.70. Where a Member of the Planning Sub-Committee has had any personal involvement with an applicant, agent or interested party, whether or not in connection with a particular application before the Planning Sub-Committee, or any other personal interest which an observer knowing the relevant facts would reasonably regard as so significant that it was likely to prejudice the Member's judgement of the public interest, then the Member will declare a prejudicial interest in accordance with the provisions of the Code of Conduct (Part 5 Section A of the Council's Constitution). The Member must abstain from discussion and voting on the matter and leave the room while that application or other matter is under discussion except as provided below. The Member must also avoid any attempt to influence the decision improperly.

5.71. A Member declaring a prejudicial or any other interest that precludes their determination of an item may attend during that item but only for the purposes of making representations about the matter, answering questions or giving evidence about it and then only when the meeting is open to the public. Otherwise the Member must leave the room while that application or other matter is under consideration.

Social Contacts

5.72. Members of the Planning Sub-Committee will minimise their social contacts with known ~~developers and agents applicants~~ and refrain altogether from such contacts when developments are known to be contemplated or applications are being proposed, or where controversial decisions are likely to be needed.

Hospitality

5.73. Members of the Planning Sub-Committee will reject any offers of gifts, hospitality or future favours made personally or by way of deals for the Council or the community, from lobbyists. Any such improper approach will be reported immediately to the Chief Executive.

Residents/Local Groups/ Other Occupiers

Very similar to "Lobbying and representations" section. merge]

5.74. If a Member of the Planning Sub-Committee is approached by local residents, business or other occupiers in relation to an application, which the residents or others wish to object to or support, the Member will listen to the views but will take care not to give any commitment, or

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

the impression of a commitment that they hold any particular final view on the application.

5.75. Members of the Planning Sub-Committee will:

- (a) Encourage the interested party to contact another Ward Member or other elected Member who is not a Member of the Planning Sub-Committee;
- (b) In the case of significant meetings on planning matters keep an adequate written record so as to enable the Member to disclose the fact of such an approach if and when the application or proposals is considered by the Planning Sub-Committee; and
- (c) Disclose the fact and nature of significant discussions at and relevant meeting of the Planning Sub-Committee.

In this context "significant" would include any meetings or discussions which consider the merits or demerits of the particular proposals extended beyond simple information.

5.76. Meetings and discussions with constituents are an important part of a Ward Member's functions, and this Protocol is not intended to harm those contacts unnecessarily. Members of the Planning Sub-Committee should avoid taking an active role in meetings to promote residents' objections to applications. Nothing in this Protocol prevents Members from listening to local concerns, giving factual information about an application or the planning process, or from directing residents to other sources of information or assistance.

5.77. Where a Member of the Planning Sub-Committee receives written representations directly in relation to a planning application, the Member will pass the correspondence to the ~~Assistant Director, Planning~~/Head of ~~Development Management Service~~ in order that those representations may be taken into account in any report to the Planning Sub-Committee.

At Committee

[Move to later section "Protocol for Planning Sub-Committee meetings" so all together]

5.78. The responsibilities of Members of the Planning Sub-Committee in considering planning matters are set out above. At the Sub-Committee, Members will, in particular, avoid expressing any view on the matters under consideration until the report has been presented, any other relevant advice is given, and all oral representations have been heard. In order to participate and determine an item, Members must be present for the entire duration and not miss any part of that item.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

Decisions contrary to officer recommendation and/or the Plan

[Moved to Section 10 Protocol for Planning Sub Committee Meetings]

~~5.79. Decisions on planning proposals have to be taken in accordance with the development plan unless material considerations indicate otherwise. In determining planning and other applications the Committee is entitled to decide the weight to be attached to the various planning considerations which are relevant to the application. This can lead to a decision which is contrary to the recommendation of the Officers. The Committee can for example decide:~~

- ~~• to refuse planning permission where officers have recommended approval;~~
- ~~• agree with officers that permission should be refused but for different reasons; or~~
- ~~• grant permission subject to different conditions or legal requirements than those recommended.~~

~~5.80. Where any Members are proposing to put forward a motion contrary to the officer recommendation, the Committee Chair will ensure that the planning reasons are apparent before a vote is taken. In order to do this the Chair will ensure that:~~

- ~~• The planning officer/legal officer is given an opportunity to explain to the Sub Committee the implications of their decision; and~~
- ~~• Where the Sub Committee wish to add or amend conditions the planning officer is given the opportunity to draft the condition(s) and refer to appropriate Members, for approval.~~

~~— When the Planning Sub Committee makes a decision which is contrary to the recommendation of the planning officers, whether the decision is one of approval or refusal, a detailed minute of the Sub Committee's reasons for its decision will be made. A copy of the minute will be kept on the application file.~~

~~5.81. When a decision is made which is contrary to the Plan the material considerations which led to this decision and the reason(s) why they are considered to override the development plan will be clearly identified and minuted.~~

Council Owned Land

[Move to Conduct of Members of Planning Sub-Committee section]

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

- 5.82. The Planning Sub-Committee from time to time considers applications involving land owned or recently owned by the Council. Members will consider carefully whether they should take part in the deliberations of the Sub-Committee on an application, involving that land, where they took part in any decision of the Cabinet or other Council body in relation to the land. They will take into account whether an observer with knowledge of all the relevant facts would suppose that there might be any possibility that the involvement in the decision on the land could amount to reaching prior conclusions on the planning issues, or otherwise adversely affect the Member's judgement in any way.
- 5.83. Any Member, whether or not a Member of the Cabinet, will take great care in the consideration of applications, or local plan proposals, affecting land owned or recently owned by the Council to ensure that the planning decision is made and seen to be made solely on planning grounds.

Legal Advice

Move to later section "Protocol for Planning Sub-Committee meetings" so all together

- 5.84. The ~~Assistant~~ Director of ~~Corporate Legal and~~ Governance and/ Monitoring Officer will ensure that a suitably experienced legal officer is present at all Sub-Committee meetings to give legal, governance and procedural advice.
- 5.85. Members need to be mindful of the rules on declarations of interests and if Sub-Committee Members or other Members require advice about possible disclosable pecuniary interests or other interests or if Sub-Committee Members are in any doubt as to whether they have expressed a view that could give rise to the appearance of bias or that they have pre-determined a matter they may seek advice from the Monitoring Officer in advance of the Sub-Committee meeting. If that has not proved possible they should seek advice from the legal officer to the Sub-Committee before the meeting starts. Once advice has been given, it is up to the Member to make their own decision on whether or not they have a declarable interest and whether or not they can participate in the decision.

6. MEMBERS NOT ON PLANNING SUB-COMMITTEE

- 6.01. The Code of Conduct applies to all Members of Council. The parts of the Protocol which will be particularly kept in mind as a general context for the exercise of planning functions are set out above.
- 6.02. Where any Member submits representations in writing or orally in relation to any matter before the Sub-Committee those representations will be recorded for inclusion in the officer's report.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

- 6.03. Councillors who are not Members of the Planning Sub-Committee may attend meetings of the Sub-Committee, and may address the Sub-Committee, the Committee Procedure Rules (Part 4 Section B of the Council's Constitution) will apply. This requires the Member to give written notice to the Chair of the Sub-Committee of his/her attendance, preferably before the meeting but in any event as soon as the Member arrives at the meeting. In order to promote efficient business of the Sub-Committee, and in order to give certainty to the applicant of the time available for speaking, Members are asked to register their intentions to speak by midday on the working day prior to ~~Sub-e~~Committee with the ~~Sub~~-Committee Clerk.
- 6.04. Where a Councillor who is not a Member of the Planning Sub-Committee has had any personal involvement with an applicant, agent or interested party, whether or not in connection with a particular application before the Planning Sub-Committee, or has any other personal interest which an observer knowing the relevant facts would reasonably regard as so significant that it was likely to prejudice the Member's judgement of the public interest then the Member will declare a prejudicial interest in accordance with the provisions of the Code of Conduct. The Member may only attend the meeting as provided in paragraph 6.05 below. The Member must also avoid any attempt to influence the decision improperly.
- 6.05. A Member declaring a prejudicial interest may attend the meeting but only for the purposes of making representations for or against the relevant application, answering questions or giving evidence about it and only when the meeting is open to the public. Otherwise the Member must leave the room while that application or other matter is under consideration.
- 6.06. Where an approach has been received by an elected Member (not being a Member of Planning Sub-Committee) from an applicant, agent or other interested party in relation to a planning application, that Member will, in any informal discussions with any Member of the Planning Sub-Committee, disclose the fact and nature of such an approach and have regard to the matters set out at paragraph 7.01 below.

7. OTHER CONDUCT OUTSIDE COMMITTEES

- 7.01. In discussions between Members generally and Members of the Planning Sub-Committee (at party group meetings or other informal occasions) Members will have regard to: -
- (a) the principles governing the conduct of Members set out in the Code of Conduct.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

- (b) the principles governing the conduct of Members of Planning Sub-Committee set out in this Protocol.
- (c) the obligations placed on Members of the Planning Sub-Committee not to give commitments in relation to any planning application prior to consideration of the full officer report, advice and representations at the Sub-Committee meeting dealing therewith.

8. SANCTIONS

8.01. Please refer to the Complaints Against Members Protocol for the complaint procedure against Members and possible sanctions where there is an alleged breach of this Protocol and the Code of Conduct.

9. MEMBERS AND OFFICERS OF THE COUNCIL

The role of elected Members

9.01. In respect of any planning application Members will:

- declare any pecuniary or non-pecuniary interest and take no part or a restricted part, as appropriate, in the processing and determination of the planning application;
- act impartially and honestly;
- approach each application with an open mind;
- take into account and carefully weigh up all relevant issues;
- determine each application on its own merits and in accordance with the requirements of planning law and the guidance of planning policy;
- avoid inappropriate contact with interested parties (see also the section on lobbying); and
- ensure the reasons for their decision are recorded in writing.

The role of officers

9.02. Officers in their role of advising and assisting elected Members in their determination of planning applications will provide:

- impartial and professional advice;
- consistency of interpretation of the planning policies; and
- complete written reports which will include:
 - a clear and accurate analysis of the issues in the context of the relevant development plan policies and all other material considerations;

PART FIVE – CODES AND PROTOCOLS

Section E – Planning Protocol

- the substance of the representations, objections, and views of all those who have been consulted;
- a clear written recommendation of action and where that recommendation is contrary to the development plan, the material considerations which justify the departure; and
- all necessary information for the decision to be made.

9.03. Members should not put any pressure on officers for a particular recommendation and, as required by the Code of Conduct or the Protocol on Member/ Officer Relations (Part Five Section B of the Council's Constitution), should not do anything which compromises, or is likely to compromise, their impartiality. Members should recognise that officers are part of a management structure and should address any concerns which they may have about the handling of a planning application to a departmental manager at the appropriate level of seniority. In general, however, officers and Members should adopt a team approach to the determination of planning proposals, and should recognise and respect each other's different roles.

9.04. In common with Members generally, all Members of the Planning Sub-Committee may contact the relevant Planning Officer to seek information in relation to any planning application.

9.05. Members of Planning Sub-Committee will not attempt in any way to influence the contents of the Officer's report or the recommendation made on any matter. Representations made by Members whether or not in writing will be recorded by the relevant officer and included in the report.

9.06. Any criticism of Planning Officers by Members of the Planning Sub-Committee shall be made in writing, to the Director ~~of Regeneration, Planning and Development or the Assistant Director, Planning or the Head of Service~~ and not to the Officer concerned. Members will endeavour to avoid any public criticism of officers but this does not prevent Members asking officers proper questions.

Contact between Members and officers

9.07. Involving Members early and throughout the application and determination process leads to better ~~e~~Committee meetings, better decisions and better developments. Pre-~~e~~Committee meetings between officers and the Chair and other senior Members can enable strategic applications to be highlighted and procedural ~~e~~Committee issues agreed. Other contact is described elsewhere in this protocol including ~~p~~Planning ~~e~~Committee briefings.

10. PROTOCOL FOR ~~HEARING REPRESENTATIONS AT~~ PLANNING SUB-COMMITTEE ~~MEETINGS~~

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PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

General Principles for hearing representations and petitions

10.1. The Planning Sub-Committee will operate this Protocol with two particular aims regarding representations:

- (a) to allow those who have applied to make representations to be heard by the Sub-Committee on items on the agenda for the meeting; and
- (b) to get through the agenda expeditiously to avoid delay to applications and wasted journeys by the public.

10.2. Objectors or supporters, including Ward or other Members where possible, should advise the Council by noon on the working day immediately prior to the Sub-Committee meeting (for a Monday meeting this would be by noon on the Friday prior to the Sub-Committee) in order to allow appropriate administrative arrangements to be put in place. The number of speakers will usually be limited to two speaking against the proposal with a time limit of 3 minutes each i.e. a maximum of 6 minutes. Members will have a time limit of 3 minutes each. Those supporting a proposal will be given the same time as those speaking against (including time taken by any Members objecting less any time by Members supporting).

10.3. Speaking should take place immediately before the Sub-Committee debates a particular application (see running order for the ~~s~~Sub-~~e~~Committee) and after the planning officer has set the scene and updated the meeting on any late matters not dealt with in the published report.

10.4. The circulation of materials will not normally be accepted during the meeting. If new or further material is to be allowed following the publication of the Sub-Committee papers it should be received in advance of the meeting so that it can be circulated to Members of the Sub-Committee and the detail considered by officers and members.

XX For petitions, as per the Committee Procedure Rules, the Democratic Services Manager or Committee Clerk should be notified of any petitions by 10 a.m. five clear days² in advance of the Committee meeting. The petition will be handed to the Chair, and recorded as received by the Democratic Services Manager or Committee Clerk. If the petition is accepted, the Chair shall invite officers to advise the Planning Sub-Committee regarding planning policies and material considerations raised in the petition which may be debated by Members. If the petition is not considered at the meeting, the Chair shall report the response to the petition at the next ordinary meeting of the Committee.

² Five clear days does not include weekends or national holidays and excludes both the day of the meeting and the day on which notice of the meeting is given

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

- 10.5. Speakers should not be allowed to engage in discussion with Members of the Sub-Committee during public speaking or the Sub-Committee deliberations, to avoid any risk of accusation of bias or personal interest.

The procedure for addressing the Sub-Committee

- 10.6. Although the Committee Procedure rules allow for Members not on the Planning Sub-Committee, or officers outside the Planning Service who wish to address the Sub-Committee, to give written notice of their attendance to the Chair of the Sub-Committee rather than inform the Sub-Committee Clerk by 12 noon on the working day prior to Committee Members and Council Officers are asked to inform the Sub-Committee Clerk by 12 noon on the working day prior to Committee where possible.
- 10.7. The Chair will allow those persons outside the Council completing the form to address the Sub-Committee except where there are several people applying to speak, in which case there will be a limit as shown below. The right to speak shall be on a first come first served basis.
- 10.8. For any issue which is within the Sub-Committee's terms of reference, but for which there is not a report on the agenda, members of the public may use the Deputations Procedure in accordance with the Committee Procedure Rules to make their representations to the Sub-Committee.

~~10.9. With respect to Petitions, for this Sub-Committee the requirement in the Council Procedure Rules for 5 days' notice will not apply so that members of the public may submit petitions (without addressing the meeting) on any issue which is within the Sub-Committee's terms of reference at any meeting without giving due notice.~~

Running order for planning applications

- 10.10. Declarations of interest will be taken at the start of the meeting (Members will be invited to *clearly state their interest in an item and whether they believe it to be personal, prejudicial (including bias and predetermination) or pecuniary. To include whether they will leave, stay, refrain from debate and whether they will vote*).

(a)	Announce application and give <u>a summary of the description and recommendation</u> .
(b)	Name the public speakers.
(c)	Advise the meeting of the declarations of interest that have been made in relation to the item
(d)	Local Member declaration to represent their constituents or vote (<i>Where a local Member sits on the Sub-Committee they should state whether they</i>

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

	<i>intend to vote on the application or instead to represent their constituents. If representing their constituents they should move to the area reserved for speakers and remain there as applicable e.g. until the end of their contribution subject to then leaving the room).</i>
(e)	Planning officer presents case including update of any late representations or new issues, with possible supplementary presentation from other officers.
(f)	<u>Members ask any clarification questions of the planning officer</u> <u>This should be through the Chair, relating to points of fact relating to material planning considerations only</u>
(f) (g)	Speaking arrangements Objectors - up to 2 speakers with a total time of 3 minutes each.
(h)	<u>Members ask any clarification questions of the objectors</u> <u>This should be through the Chair, relating to points of fact relating to material planning considerations only</u>
(g) (i)	Any interested Councillors who have informed the <u>Sub-e</u> Committee <u>e</u> Clerk or the Chair in advance of the meeting may address the Sub-Committee for up to 3 minutes each.
(j)	<u>Members ask any clarification questions of the Councillors</u> <u>This should be through the Chair, relating to points of fact relating to material planning considerations only</u>
(h) (k)	The Applicant and any supporters of the proposal will have the right to speak if there are any speakers against the proposal and then will be allowed to speak for an equivalent length of time as given to those objecting to the application i.e. maximum of 6 minutes (subject to any Members' speaking time) the total time to be divided between them. —For each speaker clarification questions from Members should be made through the Chair and should be points of fact relating to material planning considerations only. Questions regarding policy or guidance or law and its interpretation should only be dealt with by Council officers. It is expected that most speakers will require no clarification.
(h) (l)	Debate – Members through Chair with support from officers / legal providing clarification. Sub-Committee Members debate the case and consider the recommendation including conditions.
(h) (m)	Summing up – Chair brings discussion to conclusion and seeks a decision on the recommendation/alternative recommendation proposed.
(h) (n)	Vote and explicitly record decision —(s) , taking vote(s) as necessary. Following the vote, there will be no further discussion of the item.
(For certain cases the procedure may be varied to allow for adjournments for confidential legal advice.)	
The Sub-Committee will be aware that some parties listed as "objectors" can be overall in support of a development but be looking, for example, for some amendment or condition to protect their amenity.	

Motions and Decisions contrary to officer recommendation and/or the Plan

Moved down to here from section 5]

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

~~5.79X. Decisions on planning proposals have to be taken in accordance with the development plan³ unless material considerations indicate otherwise. In determining planning and other applications the Committee is entitled to decide the weight to be attached to the various planning considerations which are relevant to the application. This can lead to a decision which is contrary to the recommendation of the Officers. The Committee can for example decide to:~~

- ~~• refuse planning permission where officers have recommended approval;~~
- ~~• agree with officers that permission should be refused⁴ but for different reasons; or~~
- ~~• grant permission subject to different conditions or legal requirements than those recommended.~~

~~5.80X. Where any Committee Member puts forward a motion, the Committee Chair will ensure that the following process is to be followed:~~

- ~~• Members, through the Chair, at any time, may ask planning & legal officers for clarification on planning policies, material considerations & implications of their reasons and decisions, to inform a potential motion~~
- ~~• The Chair may ask Members if there are any other issues or reasons which may be relevant to inform a potential motion, and ask for officer clarification regarding these too~~
- ~~• The Member proposing a motion should state and explain their reasons and relevant planning policies and material considerations. Reasons are apparent before a vote is taken. In order to do this~~
- ~~• the that: Explain to and Another Member must second the motion, otherwise the motion falls away~~
- ~~• The Chair will restate the motion and reasons to Sub-Committee~~
- ~~• The Chair shall invite the planning and legal officers to advise the Sub-Committee regarding the relevant planning policies, material considerations and implications (if any) of approving the motion~~
- ~~• The Chair may adjourn the meeting so that reasons for approving the motion can be considered and/or drafted by officers~~
- ~~• The Chair will restate the motion and reasons to Sub-Committee~~
- ~~• The Members will debate the motion~~
- ~~• Following the debate, the Chair will ask for the affirmative votes, the negative votes, then abstentions~~

³ And National Development Management Policies when the relevant provisions come into force

⁴ Although noting that applications that are to be refused by officers under delegated authority will not normally be determined at Planning Sub-Committee

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

- The Chair will announce the result of the voting, instruct the relevant officers to take the necessary action and introduce the next item of business
- ~~— Where the Sub-Committee wish to add or amend conditions the planning officer is given the opportunity to draft the condition(s) and refer to appropriate Members, for approval.~~

5.X When the Planning Sub-Committee makes a decision which is contrary to the recommendation of the planning officers, whether the decision is one of approval or refusal, a detailed minute of the Sub-Committee's reasons for its decision and any changes to conditions of obligations will be made. A copy of the minute will be kept on the application file.

5-84X. When a decision is made which is contrary to the Plan the material considerations which led to this decision and the reason(s) why they are considered to override the development plan will be clearly identified and minuted.

For applications which are considered but deferred

XXX It should only be in exceptional circumstances that an item is deferred to a future meeting. It is Committee's role to make decisions on items presented to it. It should not be expected that there will be changes made to a proposal during a deferment, as Committee must make a decision on the item presented to it and not any other hypothetical proposal. The NPPF states that there is a presumption in favour of sustainable development and that for decision-making this means "approving development proposals that accord with an up-to-date development plan without delay" (emphasis added).

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10.11 Once an item is published as part of an agenda for a Sub-Committee meeting it must be heard and can only be deferred at the meeting itself. Normally, the Sub-Committee will hear representations on both / all sides before they make a motion and decision to defer for any reason. Where any Committee Member puts forward a motion, the process to be followed is the same as that set out earlier on in paragraph XXX of this Protocol.

to justify~~for~~ to justify~~for~~

XXX In order to take part in the discussion regarding, and be able to vote upon, an application, a Councillor must be present throughout the whole of the Committee's consideration of an application including the officer introduction to the matter. If an application has previously been deferred then the same Councillors will be asked to reconsider the application when it is returned to Committee. Where an application is deferred and its consideration recommences at a subsequent meeting only Members who were present at the previous meeting will be able to vote. If this

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

renders the Committee inquorate then the item will have to be reconsidered afresh.

XXX Officers may also change the recommendation from a recommendation to approve to a recommendation to defer if there are exceptional circumstances that occur between a Sub-Committee agenda and reports being published and the meeting taking place.

XXX When ~~the a deferred~~ application is re-submitted to the Sub-Committee, further representations will normally only be allowed if some fresh matter has arisen since the first Sub-Committee meeting. If this further submission is exceptionally allowed, the number of people speaking will be limited to one objector for a further 3 minutes. The applicant/supporter will have a right to reply of 3 minutes.

For larger or more contentious applications

10.12. (a) In relation to larger and/or more controversial applications (as agreed by the Sub-Committee), the Chair may allow ~~double the number of more~~ speakers, with ~~double the equivalent of~~ the total length of time to be divided between them) if they consider it necessary to hear a wider range of views.

(b) For example: in relation to para. 10.2 above this would be four speakers with a total of 12 minutes divided between them.

(c) The applicant and any supporters will normally have a right to reply of the same length of time as taken by the objectors.

10.13. The Sub-Committee will aim to deal with all applications, except those of exceptional significance, within one hour, and the Chair will take active steps to keep to these time-scales in the interests of all participants. Members will also act to deal fairly and expeditiously and will therefore commit not to repeat questions. It is expected that there will be a maximum of 30 minutes of questions and comments for any one application.

Equal Opportunities

10.14. The adoption and publication of a Protocol giving clear information about planning procedures and getting involved in decisions would improve access to the system by all communities in the Borough, as well as potential investors. Arrangements will be put in place to make the policy principles within this protocol available in pamphlets in different languages and in larger print.

11. CODE OF CONDUCT FOR MEMBER SITE VISITS

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

Background

11.01. ~~At the Sub-Committee meeting site maps, scheme drawings and sometimes photographs are on display and available. Officers' reports describe relevant site characteristics, following their own site visits. Officer visits are not routinely made to the homes / premises of objectors, as adequate technical assessments can usually be made from maps, drawings and by visiting the application site.~~

11.02. ~~This site knowledge and information will usually be sufficient for the Sub-Committee to reach a decision on applications and accompanied Committee site visits will not automatically be required for all items.~~

11.03. The ~~Assistant~~ Director, ~~Planning~~/Head of ~~Development Management Service~~, in consultation with the Chair of the Sub-Committee, will decide which ~~cases~~ planning applications require a site visit which will be scheduled during daylight hours for the week before the Sub-Committee meeting at which an application will be determined, according to the criteria set out below: Examples ~~of where~~ a site visit would not normally be appropriate for a planning application include where:

1. purely policy matters or issues of principle are to be determined at issue;
2. the report, together with drawings, photographs and other material is sufficient to provide the necessary information regarding a proposed development in context; or
3. ~~where~~ Councillors have already visited the site within the last 12 months.

11.04. ~~Site visits where required will be normally be scheduled during daylight hours for the week before the Sub-Committee meeting at which the application is to be discussed.~~

The purpose of site visits

11.05. ~~The purpose of such site visits is for the Members of the Sub-Committee to see the site in order to reach an informed decision. It is not intended to provide a separate opportunity for objectors, supporters, applicants or others to lobby the Members, to argue their case or discuss the merits of the application.~~

11.06. ~~It is essential that fairness and probity are safeguarded in all the proceedings of the Planning Sub-Committee. This means preventing even the appearance of undue or unfair influence, or biased behaviour.~~

11.07. ~~In accordance with the Protocol, Members must avoid being involved in lobbying for or against an application, or reaching a firm view on an~~

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

~~application before final determination at Sub-Committee. The proper place for discussion and presentation of views is therefore at the Sub-Committee meeting itself.~~

~~11.08. On site, without some safeguards, there is a serious risk of breaching the principles of fair hearings. Individual Members ~~can~~ could hear different arguments from different people, and all sides ~~are~~ may not heard equally.~~

11.09. To ensure Members of the Sub-Committee are able to see a site in order to reach an informed decision whilst maintaining fairness and probity, the following procedures ~~therefore the Sub-Committee will observe the following Protocol for site visits. The on site procedures are based on these followed by the national Planning Inspectorate will be followed.~~

~~Site Visit Protocol~~Procedure

11.10. Access to the site will be arranged with the site owners or their agent ~~and. In some cases arrangements will also have to be made with adjoining owners where necessary by planning officers~~ properties which have to be entered.

11.11. ~~Procedure on Site: The p~~Planning officer(s) will show the Members around the site(s) / area / adjoining properties, showing relevant scheme drawings, or any other material and pointing out significant features attached to/identified in the Sub-committee report. ~~Some practical assistance from the owner / agent / adjoining owner may be necessary. Members may ask officers or others factual questions, but will not otherwise discuss the application. If the applicant's or agent's presence is required at the site, it will be solely to provide access to the site.~~ An attendance list of the Members attending a site visit should be recorded.

~~11.12. In a few cases the Assistant Director, Planning/Head of Development Management Service, in consultation with the Chair of the Sub-Committee, may decide to invite particular local residents or objectors / supporters to attend a site visit for the purpose of ensuring access, pointing out specific matters or answering factual questions. Normally, neither objectors nor supporters will be invited to site visits.~~

11.13. ~~If a~~ site visit ~~becomes the occasion for lobbying by numbers of people or for demonstrations, the visit may have to~~will be adjourned and rearranged where the Director and/or Head of Development Management and Enforcement Service consider that Members of the Sub-committee are being lobbied/Members safety is at risk due to demonstrations at a site ~~as a more private visit.~~

11.14. ~~As a result of the visit, the~~ Members of the Sub-Committee may ask ~~the~~planning officers to provide further information regarding a planning

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

~~application address some specific issue in as part of~~ the presentation ~~for that application~~ to the Sub-Committee.

- 11.15. ~~Any Member of the Sub-Committee who is unable to attend the official site visit should endeavour to visit the site him / herself before the meeting and will avoid any discussion of the merits of the application while at the site.~~
- 11.16. ~~Members of the Sub-Committee have to come to an independent view on an application, taking into account all relevant facts and views. If a Member of the Sub-Committee is unable to attend a the site visit organised by planning officers, they may determine a planning application at the Sub-committee meeting if they consider they have all relevant information regarding the site, because it is a site they are familiar with/they have viewed the site from a public vantage point this does not disqualify him / her from taking part in the final decision. The Member will, however, listen very carefully to the views of those Members who benefited from the visit. In some cases the Member may decide it would be better not to take part in the decision.~~

~~Site visits by~~ Procedure for individual Members ~~of the Planning Sub Committee~~

- 11.17. ~~Many Members will already be familiar with sites which are subject to applications but not in all cases. It is normal and proper for Where a Member is unable to attend a site visit organised by planning officers in these circumstances to they may wish to undertake visit a site visit on their own from a public vantage point themselves before the eSub-Committee meeting. Where individual Members of the eCommittee wish to undertake their own site inspection, prior to the eCommittee meeting, these should be conducted unannounced and from a public vantage point. A Members of the eSub-Committee should not arrange to meet applicants site owners or their agents or neighbouring owners at the site visit third parties for the purpose of a site inspection.~~
- 11.18. If a ~~eSub-Committee m~~Member is approached ~~at their on-site visit~~ by any ~~applicant/agent, objector or other third party interest~~ they should seek to avoid discussion of the planning application for the site and ~~should ensure they do not~~ give any indication of their views or the likely decision of ~~eSub-Committee~~ regarding the application. Where it is not practical to avoid some discussion the ~~m~~Member should make a note of what was discussed and with whom that it took place and pass ~~that~~ information to ~~the~~planning officers, so that it can be made available recorded at the Sub-Committee meeting.

12.0 REVIEW OF THE PROTOCOL

12.01. The protocol will be regularly reviewed to take account of:

PART FIVE – CODES AND PROTOCOLS

Section E – Planning Protocol

- [amended/new planning](#) legislation;
- changes to national codes of conduct; and
- emerging examples of good practice.

Planning Protocol 2025

Section	Title	Page
1	PURPOSE OF THE PROTOCOL	3
2	PLANNING FUNCTIONS	3
	Administration of Planning Functions in Haringey	4
	Planning Applications by Councillors or Officers of the Council	4
	Planning Applications by the Council	5
	Referring applications to the Planning Sub-Committee	5
3	THE MEMBERS' CODE OF CONDUCT	6
4	CONDUCT OF MEMBERS OF PLANNING SUB-COMMITTEE	6
	Training	6
	Open and fair decisions	6
	General Principles including Bias and Predetermination	6
	Declaring an interest	8
	Disclosable pecuniary interests	8
	Other interests	9
	Council Owned Land	9
	Consistency	10
	Party political whips	10
	Members' engagement with planning decisions	10
	Discussions and negotiations while the application is current but prior to determination	11
	Approaches by applicants to Members	11
	Lobbying and representations	12
	Residents/Local Groups/Other Occupiers	13
	'Decision Maker' role	14
	'Local Member' role of a Planning Sub-Committee Member	14
	Non Planning Sub-Committee /Local Ward Member role	14
	Effect of Prejudicial etc Interests	15
	Social Contacts	15
	Hospitality	15

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

Section	Title	Page
5	MEETINGS AND BRIEFINGS	16
	Briefings to Members from applicants	16
	Planning Forum	19
	Quality Review Panel	22
6	MEMBERS NOT ON PLANNING SUB-COMMITTEE	22
7	OTHER CONDUCT OUTSIDE COMMITTEES	23
8	SANCTIONS	23
9	MEMBERS AND OFFICERS OF THE COUNCIL	24
	The role of elected Members	24
	The role of officers	24
	Contact between Members and officers	25
10	PROTOCOL FOR PLANNING SUB-COMMITTEE MEETINGS	25
	At Committee	25
	Legal Advice	25
	The Sub-Committee meeting	26
	General Principles for hearing representations and petitions	26
	The procedure for addressing the Sub-Committee	27
	Running order for planning applications	28
	Motions and decisions contrary to officer recommendation	29
	Deferrals	30
	For larger or more contentious applications	31
	Equal Opportunities	31
11	SITE VISITS	32
	Procedure	32
	Procedure for individual Members	32
12	REVIEW OF THE PROTOCOL	33

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

1. PURPOSE OF THE PROTOCOL

- 1.01. This Protocol has been adopted by Haringey Council to explain and supplement the Members' Code of Conduct in relation to planning matters.
- 1.02. Consistency, fairness and openness are important qualities for any regulatory function in the public eye and are vital to the discharge of the Council's planning functions, which adherence to the Protocol is intended to build public confidence in.
- 1.03. The purpose of the Protocol is:
- (a) to explain how Members of the Planning Sub-Committee should exercise the discharge of the Council's functions, including behaviour in relation to applicants, residents and other third parties;
 - (b) to ensure a consistent and proper approach by all Members to the exercise of planning functions;
 - (c) to ensure applicants and their agents, residents and other third parties are dealt with by Members consistently, openly and fairly;
 - (d) to ensure the probity of planning matters and the high standards expected in public office; and
 - (e) to ensure planning decisions are made openly, fairly and in the public interest, in accordance with legislation and guidance.
- 1.04. This Protocol is supplementary to The Members' Code of Conduct in Part Five Section A of the Council's Constitution, which shall all continue to have full force and effect.
- 1.05. Copies of this Protocol will be made publicly available online and will be kept under review.

2. PLANNING FUNCTIONS

- 2.01. Planning law requires the Local Planning Authority ("LPA") to determine all planning applications "in accordance with the development plan unless material planning considerations indicate otherwise" (Section 38(6) 2004 Act). The development plan in Haringey comprises the London Plan together with the Council's local plan and when adopted further local plan documents (e.g. area action plans) and if applicable neighbourhood development plans (together "the Development Plan"). In cases of development involving works within a conservation area, or where the development is likely to affect the setting of a listed building, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

1990 contains a duty on the Council to the desirability of preserving the listed building or its setting and Section 72 of that Act requires LPAs to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. In accordance with the NPPF, in assessing and determining development proposals, LPAs should apply the presumption in favour of sustainable development.

- 2.02. The responsibilities of the LPA must be performed without undue influence or consideration of a personal interest. When determining planning applications Members must only take into account the Development Plan and any material planning considerations. The Members of the authority are elected to represent the interests of the whole community in planning matters. Views relating to material planning considerations expressed by neighbouring occupiers, local residents and any other third parties must be taken into account but local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission.
- 2.03. The planning system does not exist to protect the interests of one person against the activities of another. The issue is not whether owners and occupiers of neighbouring properties would experience financial or other impacts as a result of a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.

Administration of Planning Functions in Haringey

- 2.04. The performance of the Council's planning function is largely delegated to the Planning Sub-Committee, and to officers of the Council pursuant to arrangements made under Section 101 of the Local Government Act 1972. Approximately 9 out of 10 planning decisions in Haringey are made by officers, through authority delegated to them by the Council. This level of delegated decision making is consistent with other Councils across the Country and allows the majority of planning decisions to be determined promptly, allowing Members of the Committee to focus on the most significant and controversial proposals.
- 2.05. The Planning Sub-Committee will receive, for its information, a regular report identifying the planning applications which have been determined by officers under the scheme of delegation, and the decisions thereon.

Planning Applications by Councillors or Officers of the Council

- 2.06. When a planning application is submitted by a serving member; or senior officers (Senior Leadership Structure); or officers within the Planning & Building Standards directorate; or by a close relative or a close friend of either an officer or member; or by a member acting as agent for the applicant, the member or officer concerned will:

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

- take no part in the processing and determination of the application; and
- advise the Monitoring Officer and the Director/Head of Service of the application.

2.07. The report of the Director/Head of Service will include confirmation from the Monitoring Officer that these requirements have been met.

Planning Applications by the Council

2.08. Subject to the provisions of the Town and Country Planning General Regulations 1992 planning applications made by or on behalf of the Council will be treated in the same way as those made by or on behalf of private applicants.

Referring applications to the Planning Sub-Committee

2.09. All Members of the Council receive copies of the weekly list detailing the applications that have been received.

2.10. Any Member and/or a local community body and/or a local residents association may request that an application is determined by the Planning Sub-Committee instead of officers under delegated authority by notifying in writing, within the statutory consultation period for the application, the Director of Planning & Building Standards/Head of Service stating the planning reasons for such request.

2.11. The Director of Planning & Building Standards or the Head of Service shall, in consultation with the Chair of the Planning Sub-Committee, determine whether the request should be granted and the application referred to the Planning Sub-Committee to determine. In determining whether to grant a request, officers and the Chair of the Planning Sub-committee shall have regard to whether the:

- proposal is a significant development which has caused substantial local interest;
- officer recommendation is for approval contrary to policy in the Development Plan or other adopted guidance; and
- application is recommended for approval¹.

2.12. The Director/Head of Service may also exercise their judgement, in consultation with the Chair of the Planning Sub Committee, to refer a matter to the Planning Sub-Committee rather than be determined through officer delegation, even if a Member has not requested this,

¹ Applications that are to be refused by officers under delegated authority will not normally be determined at Planning Sub-Committee

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

pursuant to paragraph 2.07 of Section 1 of Section E (Scheme of Delegation) of Part Three of the Council's Constitution.

3. THE MEMBERS' CODE OF CONDUCT

3.01. The Members' Code of Conduct ("the Code of Conduct" Part 5 Section A) applies to Members of the Planning Sub-Committee as to all Members of the Council. The parts of the Code of Conduct on personal and prejudicial interests, the register of those interests and receipt of gifts and hospitality are particularly relevant. Members of the Sub-Committee should also have regard to the general principles of conduct when exercising their planning functions.

4. CONDUCT OF MEMBERS OF PLANNING SUB-COMMITTEE

Training

4.01. No Member of the Planning Sub-Committee nor any substitute Member shall attend a meeting of the Sub-committee as a voting member unless training regarding the planning system has been undertaken and thereafter at least 5 hours of training is undertaken per municipal year.

Open and fair decisions

4.02. For a decision to be open and fair:

- Those taking the decision should not be biased or have pre-determined how they will decide;
- Those taking the decision should not have a disclosable pecuniary interest or prejudicial interest (see below for further information about these) in the outcome;
- Previous decisions may be a material consideration; and
- The reasons for the decisions should be clearly set out.

General Principles including Bias and Predetermination

4.03. With regard to decision making:

4.04. Do comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.

4.05. Do consider open and impartial professional advice from their Planning Officers. Do make planning decisions having considered the written officers' report and their advice at the Sub-committee.

PART FIVE – CODES AND PROTOCOLS

Section E – Planning Protocol

- 4.06. Do come to your decision only after due consideration of all of the information reasonably required upon which to base a decision.
- 4.07. Don't take a decision regarding a planning application with a closed mind or inclination or prejudice for or against a party or interest to avoid legal challenges on the ground that a Member had pre-determined their decision or where perceived to be or where biased.
- 4.08. Do be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the law. Your prior observations, apparent favouring or objections in respect of a particular outcome will not on their own normally suffice to make a decision unlawful and have it quashed, but you must never come to make a decision with a closed mind.
- 4.09. Where any Member makes representations in support or objection to the 'Planning Service', in writing or orally, in relation to any application, those representations will be recorded for inclusion in the officers' report. Where these representations constitute a closed mind on the development, the Member will not take part in the deliberations of the Sub-Committee but may exercise the rights of a Ward Member. Where you do:
- advise the proper officer or Chair that you wish to speak in this capacity before commencement of the item;
 - remove yourself from the seating area for members of the Committee for the duration of that item;
 - remove yourself from the room when you are not exercising your speaking rights or answering questions from Committee members; and
 - ensure that your actions are recorded in accordance with the Authority's committee procedures.
- 4.10. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies provided that you have considered all material considerations and have given fair consideration to relevant points raised.
- 4.11. Section 25 of the Localism Act 2011 provides that a decision maker is not to be taken to have had, or appeared to have had, a closed mind when making the decision just because:
- the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take, in relation to a matter; and
 - the matter was relevant to the decision.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

- 4.12. This provision does not change the law on bias and pre-determination which means that Sub-Committee Members must still take planning decisions with an open mind and having taken into account all relevant material planning considerations. What s.25 does provide is that statements made by Members cannot be used in court as evidence that the Member in question had or appeared to have a closed mind. Other evidence or any evidence that a Member has taken into account irrelevant considerations, however, is not so restricted by s.25.
- 4.13. Notwithstanding the s.25 provisions, the safest course is for Sub-Committee Members to avoid making public statements (including expressing views in emails) as to their support for or opposition to any application which would indicate they had made up their minds before the formal consideration of the application at the meeting. If a Sub-Committee Member has made such a statement they must be satisfied that they can still consider the application with an open mind and are prepared to take into account any new matters or any new arguments in favour of or against the proposed development until the decision is made otherwise they should not take part in any decision on the application in question. In which case it is to be treated the same as any other prejudicial interest, as will cases of perceived bias, and the Member shall declare this interest and leave the room for the item in question as set out below.

Declaring an interest

- 4.14 Members shall declare any disclosable pecuniary interest or prejudicial interest in any application on the agenda for a Planning Sub-committee meeting before any application is considered at a meeting like at other Council committee meetings and shall withdraw from the meeting room as it is not possible to participate in any discussion or vote on an application if a Member has such interest as set out in paragraphs 9.3 and 10.1 of the code.
- 4.15. When declaring an interest a Member must describe the nature of that interest and how it relates to an application as outlined in See paragraphs 4, 6, 7 and 8 of the code.

Disclosable pecuniary interests

- 4.16. ‘Disclosable pecuniary interests’ are prescribed by the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and are set out in Appendix A to the Code of Conduct. The categories of disclosable pecuniary interests include employment or office, interests in land in the Borough and contracts with the Council.
- 4.17. An interest is a ‘disclosable pecuniary interest’ if it is of a type described above and it is an interest of the Member or of their spouse or civil partner, a person with whom they are living as husband and wife or a

PART FIVE – CODES AND PROTOCOLS

Section E – Planning Protocol

person with whom they are living as if they were civil partners and the Member is aware of the interest. Members should note the criminal sanctions for failure to comply with these requirements (as outlined in Appendix B of the Code of Conduct).

Other interests

- 4.18. A Member may have other interests such as ‘Personal’ interests which it is advised, be declared in the public interest. For example, such an interest may arise where the Sub-Committee Member resides near a development which is the subject of the planning application under consideration.
- 4.19. All Members who are not members of the Planning Sub-committee shall, if in attendance at a meeting of the Planning Sub-committee, declare any disclosable pecuniary interest or prejudicial interest in an application on the agenda for a meeting.
- 4.20. Members should seek advice from the Monitoring Officer in advance of a Planning Sub-Committee meeting if they are not clear whether a declaration of interest should be made at a meeting of the Sub-committee or where that is not possible, advice should be sought from the legal officer in attendance at the Planning Sub-committee meeting so that they can decide whether or not they have an interest which means they cannot participate in the consideration of a planning application which the interest relates to.

Council Owned Land

- 4.21. The Planning Sub-Committee from time to time considers applications involving land owned or recently owned by the Council. Members will consider carefully whether they should take part in the deliberations of the Sub-Committee on an application, involving that land, where they took part in any decision of the Cabinet or other Council body in relation to the land. They will take into account whether an observer with knowledge of all the relevant facts would suppose that there might be any possibility that the involvement in the decision on the land could amount to reaching prior conclusions on the planning issues, or otherwise adversely affect the Member's judgement in any way.
- 4.22. Any Member, whether or not a Member of the Cabinet, will take great care in the consideration of applications, or local plan proposals, affecting land owned or recently owned by the Council to ensure that the planning decision is made and seen to be made solely on planning grounds.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

Consistency

- 4.23. Previous decisions may be a material consideration. The Sub-Committee report will set out the relevant considerations and will draw attention to decisions on any other similar cases where appropriate.

Party political whips

- 4.24. Planning decisions cannot be made on a party political basis. The use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration. Political Meetings can never dictate how Members vote on a planning issue.

Members' engagement with planning decisions

- 4.25. Members will want to actively and positively engage with planning decisions. All Members can:

- advise objectors/applicants/others on planning processes and how to get involved;
- give advice about adopted planning policies and local priorities
- direct lobbyists, applicants or objectors to the relevant planning officer so that their opinions can be included in the officer's report;
- lead on local discussions in the preparation of the development plan documents, area action plans and supplementary planning documents;
- provide input into the preparation of planning briefs and guidance;
- receive and pass on information, for example weekly lists and briefings from officers on key proposals;
- attend Planning Forum meetings, ask questions there; and
- raise issues important to local people and to the applicants.

- 4.26. To ensure that Members and the Council are not open to challenge Members should:

- preface relevant discussions with a disclaimer; the nature of this will depend on their role within the authority in the context of planning;
- clearly indicate that any discussions with them are not binding on the Council;
- be clear about the distinction between giving advice and engaging in negotiation so only engaging in the former;
- involve officers where this will help to safeguard transparency and the appearance of bias;
- be aware of relevant policies included in the Council's adopted plans but give consideration to other matters relevant to planning; and
- seek the advice of the Monitoring Officer when they are unsure of what they are able to do and in relation to any potential "interest".

PART FIVE – CODES AND PROTOCOLS

Section E – Planning Protocol

4.27. Members should not:

- expect to lobby and actively support or resist an application/decision and subsequently vote at Committee or Cabinet; or
- seek to put undue pressure on officers or Members of a deciding Committee to support a particular course of action in relation to a planning application or other planning decision and should not do anything which compromises, or is likely to compromise, the officers' impartiality or professional integrity.

4.28 This does not mean that a Councillor may not question robustly or argue forcefully for a particular course of action.

Discussions and negotiations while the application is current but prior to determination

4.29. Once an application has been submitted, officers are working to strict deadlines to ensure that the application can be efficiently and properly determined. They may, during that period, enter into discussions, and sometimes negotiations, with the applicant or their agent in order to clarify aspects of the scheme or to ensure that the applicant is aware of the council's policy requirements. Sometimes such discussions will also convey to an applicant the views of third parties or consultees.

4.30. At this stage it is not appropriate for Members, whether or not they are on the Planning Sub-Committee, to enter into direct discussions and /or negotiations with applicants or consultees. Members should recognise the clear distinction between negotiation and listening without prejudice to views which may be expressed to them (see the section on Lobbying below). For Members to enter into negotiations whilst an application is current at best sends a confused message to applicants and consultees about who is officially speaking on behalf of the Council, and at worst will without doubt result in the Member appearing to show bias or pre-disposition. However, this does not prevent Members at this stage asking officers for information about an application, or from passing on the views of constituents or others, indeed this would be a proper area of Member activity. Members should at the same time ensure that any requests for advice or interpretation are passed to officers.

Approaches by applicants to Members

4.31. Members of the Planning Sub-Committee will discourage any applicant or agent, or other interested party such as a landowner from approaching them directly in any way in relation to planning proposals. If an approach is received, the Member will take care not to give any commitment, or the impression of a commitment that he or she holds any particular view on the matter.

PART FIVE – CODES AND PROTOCOLS

Section E – Planning Protocol

4.32. If an approach is received by a Member of the Planning Sub-Committee from an applicant or agent or other interested party in relation to a particular planning application, then the Member will:

- (a) Inform the applicant that such an approach should be made to Officers of the Council;
- (b) Keep an adequate written record so as to enable the Member to disclose the fact of such an approach if and when the application or proposals is considered by the Planning Sub-Committee; and
- (c) Disclose the fact and nature of such an approach at any relevant meeting of the Planning Sub-Committee.

In this context an approach should be noted where the discussion extends beyond simple information to the merits or demerits of the particular proposals.

4.33. Where a Member of the Planning Sub-Committee receives written representations directly in relation to a planning application, the Member will pass the correspondence to the Director/Head of Service in order that those representations may be taken into account in any report to the Planning Sub-Committee.

Lobbying and representations

4.34. The proper place for supporters to make comments or objectors to raise their concerns is in writing in response to public consultation on a planning application or by making representations at a Sub-Committee meeting. Sub-Committee Members may nevertheless receive lobbying material through the post or by email from either the applicant or the objectors or be approached personally by interested parties. In dealing with such approaches, it is important for Sub-Committee Members not to do or say anything that could be construed as bias or pre-determination.

4.35. Where Sub-Committee Members receive lobby material through the post or by email they should forward it to the Director/Head of Service. If Sub-Committee Members feel it is necessary to acknowledge receipt of or comment on the correspondence, they should consider the advice on bias or predetermination in this Protocol and should send a copy of their response to the Director/Head of Service.

4.36. If a Sub-Committee Member is approached by an individual or an organisation in relation to a particular planning application, they may listen to what is said but they should explain that because they are a Member of the Sub-Committee they must keep an open mind until they have seen all the material before the Sub-Committee. A Sub-Committee Member might suggest that the individual or organisation should:

PART FIVE – CODES AND PROTOCOLS

Section E – Planning Protocol

- Where an application is not yet on a Sub-Committee agenda, write to the Planning Officer responsible for the particular case who will take into account any material planning considerations raised in the representations when preparing a report for the Sub-Committee; or
 - If the application is already on a Sub-Committee agenda, contact the Sub-Committee Clerk to make a request to speak at the Sub-Committee meeting.
- 4.37. In either case contact another Member who is not a Sub-Committee Member to seek their support. Generally speaking, this should be the Ward Councillor for the Ward within which the application is made.
- 4.38. If a Sub-Committee Member does decide to become involved in organising support for or opposition to a planning application or has offered an opinion on a planning application, then that Sub-Committee Member must take into account the advice on bias or predetermination in this Protocol. If after considering that advice the Sub-Committee Member comes to the view that on an objective assessment they cannot sit on the Sub-Committee and decide the application with an open mind, they should not be part of the Sub-Committee that decides the application. They can however attend the Sub-Committee meeting and speak on their constituent's behalf and adopt the role of local Member rather than decision maker.

Residents/Local Groups/Other Occupiers

- 4.39. If a Member of the Planning Sub-Committee is approached by local residents, business or other occupiers in relation to an application, which the residents or others wish to object to or support, the Member will listen to the views but will take care not to give any commitment, or the impression of a commitment that they hold any particular final view on the application.
- 4.40. Members of the Planning Sub-Committee will:
- (a) Encourage the interested party to contact another Ward Member or other elected Member who is not a Member of the Planning Sub-Committee;
 - (b) In the case of significant meetings on planning matters keep an adequate written record so as to enable the Member to disclose the fact of such an approach if and when the application or proposals is considered by the Planning Sub-Committee; and
 - (c) Disclose the fact and nature of significant discussions at and relevant meeting of the Planning Sub-Committee.

In this context "significant" would include any meetings or discussions which consider the merits or demerits of the particular proposals extended beyond simple information.

PART FIVE – CODES AND PROTOCOLS

Section E – Planning Protocol

- 4.41. Meetings and discussions with constituents are an important part of a Ward Member's functions, and this Protocol is not intended to harm those contacts unnecessarily. Members of the Planning Sub-Committee should avoid taking an active role in meetings to promote residents' objections to applications. Nothing in this Protocol prevents Members from listening to local concerns, giving factual information about an application or the planning process, or from directing residents to other sources of information or assistance.
- 4.42. Where a Member of the Planning Sub-Committee receives written representations directly in relation to a planning application, the Member will pass the correspondence to the Director/Head of Service in order that those representations may be taken into account in any report to the Planning Sub-Committee.

'Decision Maker' role

- 4.43. A Councillor who is a Member of the Planning Sub-Committee or a suitably trained substitute and who takes part (or who intends to take part) at a meeting of the Planning Sub-Committee in the determination of particular Planning Application will for the purposes of this Protocol be a "Decision Maker" in relation to such Planning Application.
- 4.44. A Councillor who is a Decision Maker shall comply with the provisions of the Code of Conduct generally.

'Local Member' role of a Planning Sub-Committee Member

- 4.45. Where a Planning Sub-Committee Member wishes to make representations on behalf of his/her constituent(s), for the purposes of this Protocol he/she will be a "Local Member" in relation to that planning application. He/she may attend a meeting of the Planning Sub-Committee to make representations about the planning application on behalf of their constituents
- 4.46. A Councillor who is a Local Member shall comply with the Public Speaking Provisions and the Code of Conduct generally. Further provisions relating to the "Local Members" role are also contained in the next following section.

Non Planning Sub-Committee /Local Ward Member role

- 4.47. Subject to the provisions of the Code of Conduct generally a Councillor who is not a Member of the Planning Sub-Committee (whether or not he/she plays or intends to play the role of "Local Member") will be free to:
- discuss any planning application with the applicant / agent / objector / lobby group;

PART FIVE – CODES AND PROTOCOLS

Section E – Planning Protocol

- attend any locally organised meeting concerning the application;
- attend any meeting concerning the application and speak about the application (including expressing a view either for or against the application);
- relay relevant information about the application to a planning officer;
- seek information/clarification about the application from a planning officer; and
- should follow the rules on lobbying in accordance with this Protocol.

Effect of Prejudicial etc Interests

4.48. Where a Member of the Planning Sub-Committee has had any personal involvement with an applicant, agent or interested party, whether or not in connection with a particular application before the Planning Sub-Committee, or any other personal interest which an observer knowing the relevant facts would reasonably regard as so significant that it was likely to prejudice the Member's judgement of the public interest, then the Member will declare a prejudicial interest in accordance with the provisions of the Code of Conduct (Part 5 Section A of the Council's Constitution). The Member must abstain from discussion and voting on the matter and leave the room while that application or other matter is under discussion except as provided below. The Member must also avoid any attempt to influence the decision improperly.

4.49. A Member declaring a prejudicial or any other interest that precludes their determination of an item may attend during that item but only for the purposes of making representations about the matter, answering questions or giving evidence about it and then only when the meeting is open to the public. Otherwise the Member must leave the room while that application or other matter is under consideration.

Social Contacts

4.50. Members of the Planning Sub-Committee will minimise their social contacts with known applicants and refrain altogether from such contacts when developments are known to be contemplated or applications are being proposed, or where controversial decisions are likely to be needed.

Hospitality

4.51. Members of the Planning Sub-Committee will reject any offers of gifts, hospitality or future favours made personally or by way of deals for the Council or the community, from lobbyists. Any such improper approach will be reported immediately to the Chief Executive.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

5. MEETINGS AND BRIEFINGS

Briefings to Members from applicants

- 5.01. Enabling an applicant to brief and seek the views of elected Members about planning proposals at an early stage (usually pre-application or where this is not possible, very early in the formal application period) is important in ensuring that new development is responsive to and reflects local interests/concerns where possible. Early Member engagement in the planning process is encouraged and supported by the NPPF, the Local Government Association Planning Advisory Service guidance on Probity in Planning (2019) and the Royal Town Planning Institute Practice Advice on Probity and the Professional Planner (2020).
- 5.02. Haringey proposes to achieve this objective through formal briefings of relevant Cabinet Members and the Planning Sub-Committee in accordance with procedures set out in this Protocol. Cabinet and Sub-Committee Members taking part in such briefings should do so in their strategic borough-wide capacity rather than in their local ‘ward’ capacity. No decision will be taken at such meetings and the final applications will be the subject of a report to a future meeting of the Sub-Committee.
- 5.03. The purpose of briefings are:
- To enable Members to provide observations that support the development of high quality development through the pre-application process, and avoid potential delays at later stages;
 - To enable Members to highlight strategic Council and Local Plan objectives and requirements set out in planning policy or guidance that are particularly relevant to an application;
 - To ensure Members are aware of significant applications prior to them being formally considered by the Planning Sub-Committee;
 - To make subsequent Planning Sub-Committee consideration more informed and effective;
 - To ensure issues are identified early in the application process, and improve the quality of applications; and
 - To ensure Members are aware when applications raise issues of corporate or strategic importance.
- 5.04. What sort of presentations would be covered in the briefings?
- Presentations on proposed large-scale developments of more than 50 homes, or 5,000 sq m of commercial or other floorspace or which includes significant social, community, health or education facilities, or where the Director/Head of Service considers early discussion of the issues would be useful; and
 - Presentations on other significant applications, such as those critical to the Council’s placemaking programmes, significant Council

PART FIVE – CODES AND PROTOCOLS

Section E – Planning Protocol

developments, or those requested by the Chair of the Sub-Committee.

Applicant's briefings to relevant Cabinet Members and the Chair "Strategic Planning Briefings"

5.05. Frequency and timings of meetings

As required by agreement with the Leader of the Council / Cabinet Member with responsibility for Planning and Director/Head of Service.

5.06. Invitees to meetings

- Relevant Cabinet Members which could include:
 - The Leader of the Council;
 - The Cabinet Member with responsibility for Planning;
 - The Cabinet Member with responsibility for Placemaking;
 - Other relevant Cabinet Members;
- Chair of the Planning Sub-Committee;
- Director of Planning & Building Standards;
- Head of Service;
- Other relevant officers.

5.07. Format of the meetings

- The meeting will be chaired by either the Leader of the Council or the Cabinet Member with responsibility for Planning who will ask Members attending to disclose any relevant interests; and
- The applicant will supply presentation materials including any models;
- Officers to introduce the proposal and advise of issues arising from the Planning Forum (where this has taken place):
- The applicant will be invited to make a presentation of up to 15 minutes;
- Members will be able to highlight strategic objectives of the Local Plan and ask questions to the applicant and officers. These questions will be restricted to points of fact or clarification and must be structured in a way that would not lead to a Member being perceived as taking a fixed position on the proposals;
- Summary of the comments raised.

5.08. These meetings would not be held in public to respect the confidentiality of the pre-application process and protect applicants' commercial interests but a short note of the meeting summarising Members' comments would be made. If and when a planning application relating to the proposal discussed is submitted, the note of the meeting would be published as part of the publicly-accessible planning application file and reported to the Planning Sub-Committee when any subsequent proposal is submitted for determination. This is to ensure transparency and full consideration of the facts when a decision is made.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

Applicant's briefings to Planning Sub-Committee "Pre-application briefings to Committee"

5.09. Frequency and timings of meetings

Once a month or by agreement with the Chair and Director/Head of Service.

5.10. Invitees to meetings

- All Members of the Planning Sub-Committee;
- Relevant Cabinet Members;
- Ward Members;
- Local amenity groups;
- Director;
- Head of Service;
- Other relevant officers.

5.11. Format of the meetings

- The meeting will be chaired by the Chair of the Planning Sub-Committee who will ask Members attending to disclose any relevant interests; and
- The applicant will supply presentation materials including any models;
- Officers to introduce a report, the proposal and advise of issues arising from the Planning Forum (where this has taken place);
- The applicant will be invited to make a presentation of up to 15 minutes or longer if agreed by the Chair due to the scale or complexity of the proposal;
- Ward Members will have the opportunity to give their views for a maximum of three minutes each.
- The Cabinet Members will have the opportunity to give their views for a maximum of three minutes each.
- Members of the Planning Sub-Committee will be able to highlight strategic objectives of the Local Plan and ask questions to the applicant and officers. These questions will be restricted to points of fact or clarification and must be structured in a way that would not lead to a Member being perceived as taking a fixed position on the proposals;
- Comments of Members of the Planning Sub-Committee; and
- Summary of the comments raised.

5.12. These meetings are held in public and are webcast although there are no public speaking rights including amenity groups.

5.13. A short note of the meeting summarising Members' comments would be made. If and when a planning application relating to the proposal discussed is submitted, the note of the meeting would be published as

PART FIVE – CODES AND PROTOCOLS

Section E – Planning Protocol

part of the publicly-accessible planning application file and reported to the Planning Sub-Committee when any subsequent proposal is submitted for determination. This is to ensure transparency and full consideration of the facts when a decision is made.

- 5.14. Applicant participation in the Applicants' briefings to Planning Sub-Committee would not normally happen prior to a Planning Forum or other public meeting or public consultation being held relating to the site or prior to attendance at the Quality Review Panel subject to programming and scheduling pressures.
- 5.15. Comments and questions can be raised, and this can also include positive engagement about the proposed development. However, Members should ensure that they are not seen to pre-determine or close their mind to any such proposal as otherwise they may then be precluded from participating in determining the application.

Planning Forum

- 5.16. The Council has established a Planning Forum to facilitate the discussion of large-scale or contentious planning proposals. The forum does not reach a decision about a proposal. Its purpose is to allow participants to raise issues of concern and obtain answers to questions about the particular application. The aim is to allow early discussion by Members and members of the public on planning issues related to these planning proposals and to explore the scope for agreement between all parties in a positive and constructive way prior to the later decision being made at the Planning Sub-Committee. Forum meetings will usually take place prior to the submission of an application but can take place at an early stage of the formal process before the Planning Sub-Committee meeting. They do not remove the opportunity for objectors, supporters and applicants to address the Planning Sub-Committee when an application is to be determined or the holding of exhibitions and or public meetings where these are considered appropriate.

What applications does the forum consider?

- 5.17. Applications that may be considered by the forum include major applications and those of significant local interest. It is not possible to prescribe the exact type of proposals but they may include the following:
 - Applications which involve more than 50 homes or over 5,000 sq m of floor space;
 - Those that do not meet the threshold above but are likely to generate significant local interest
 - Those applications that involve a major departure from the Council's planning policy; or
 - Those applications that involve tall buildings i.e. over 6 storeys.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

5.18. Applications that will not generally be considered by the forum include:

- Minor planning applications to alter or extend houses;
- Applications to confirm whether a use of land or buildings needs planning permission (a 'lawful development certificate');
- Applications to put up advertisements;
- Amendments to applications or those which have already been the subject of a forum discussion; or
- Applications where there will be a recommendation for refusal.

5.19. A forum meeting will be held when the Director/Head of Service, in consultation with the Chair of the Planning Sub-Committee, considers that a forum would be beneficial in resolving issues on a particular planning proposal. For forum meetings held at the pre application stage site notices and emails to local groups and councillors will be sent advising them of a proposed meeting. For those meetings held following the submission of a planning application consultees will be advised in accordance with the Council's consultation policy as set out in the Council's Statement of Community Involvement (SCI) in force at the time as part of the consultation on the planning application.

Who can attend?

5.20. Meetings are open to all Members, local businesses and residents. Normally one application or proposal will be considered at each forum to allow for effective discussion. To assist the running of the meeting an agenda is prepared and a short briefing note on the proposal is available.

5.21. The format of the meeting is as follows:

- A senior planning officer chairs the forum. They ensure that all planning issues arising from the proposal are raised. Planning officers provide information on the progress of the proposal.
- The applicant is invited to make a presentation of the proposal for a maximum of 15 minutes.
- Local residents and organisations have an opportunity to present their views either for or against the proposal.
- The applicant responds to questions from Members of the Planning Sub-Committee, ward councillors and local business and residents.

5.22. An attendance record is kept and a note of the meeting is made. If and when a planning application relating to the proposal considered by a Planning Forum is submitted the note of the meeting would be published as part of the publicly-accessible planning application file and is reported to the Planning Sub-Committee when any subsequent proposal is submitted for determination. This is to ensure transparency and full consideration of the facts when a decision is made.

PART FIVE – CODES AND PROTOCOLS

Section E – Planning Protocol

All Members

- 5.23. All Members can attend Planning Forum meetings which are called to promote early exploration of issues relevant to a particular development. They do not seek to reach any decision about the likely outcome of an application.
- 5.24. The particular role that Members can play at the meetings is dependent on whether or not they have a formal role within the planning system of the authority, for example are a Member of Planning Sub-Committee or the Cabinet, but all Members will need to take account of the generic guidelines for example, publicly clarifying their particular role.
- 5.25. All Members can:
- use the meeting to understand the development, the issues important to local people and to the applicant, and how the relevant policies are being applied by asking questions;
 - give advice about adopted planning policies and local priorities and clarify or seek clarification of policies and priorities;
 - give advice about planning processes or direct those present to relevant officers or other sources of advice and information both present or outside the meeting;
 - refer local objectors or supporters to ward colleagues who are in a position to take a wider role if theirs is limited and further Member assistance is required; and
 - seek advice from officers as to the process to be followed, issues being reviewed and the likely policy position.
- 5.26. Members should not use the forum to undertake negotiations or appear to put undue pressure on the officers in relation to any future decision on the scheme. Members are however entitled to robustly question applicants and officers in order to fully understand issues before the forum.

Ward Members

- 5.27. Ward Members who are not on the Planning Sub-Committee can greatly assist this process by taking an active part in the forum meeting, asking questions, commenting on planning policies and local priorities, and advising on the planning process. They can usefully draw attention to local circumstances and issues, and comment on the appropriate weight to be given to those. It will be important that Ward Members ensure that their remarks and advice are based on adopted Council planning policies as far as possible. This is important to avoid creating any confusion in the minds of applicants or local people about who speaks for the Council in negotiations or about the Council's negotiating position.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

Quality Review Panel

- 5.28. As part of the pre-application process for major and /or sensitive applications, the Council encourages applicants to present their proposals to the Quality Review Panel. The panel is a group of independent and objective experts, including experienced architects and other built environment professionals, who meet on a regular basis. The Panel's advice is provided for the benefit of the Planning Sub-Committee. The advice will also be used to help officers and the applicant to improve upon the quality of the scheme as it evolves.
- 5.29. The best design outcomes generally occur when schemes are presented to the panel at the pre-application stage, as this allows applicants sufficient time to amend proposals following panel feedback.
- 5.30. If and when a planning application relating to the proposal presented to the Quality Review Panel is submitted, the note of the meeting would be published as part of the publicly-accessible planning application file and reported to the Planning Sub-Committee when any subsequent proposal is submitted for determination. This is to ensure transparency and full consideration of the facts when a decision is made.

6. MEMBERS NOT ON PLANNING SUB-COMMITTEE

- 6.01. The Code of Conduct applies to all Members of Council. The parts of the Protocol which will be particularly kept in mind as a general context for the exercise of planning functions are set out above.
- 6.02. Where any Member submits representations in writing or orally in relation to any matter before the Sub-Committee those representations will be recorded for inclusion in the officer's report.
- 6.03. Councillors who are not Members of the Planning Sub-Committee may attend meetings of the Sub-Committee, and may address the Sub-Committee, the Committee Procedure Rules (Part 4 Section B of the Council's Constitution) will apply. This requires the Member to give written notice to the Chair of the Sub-Committee of his/her attendance, preferably before the meeting but in any event as soon as the Member arrives at the meeting. In order to promote efficient business of the Sub-Committee, and in order to give certainty to the applicant of the time available for speaking, Members are asked to register their intentions to speak by midday on the working day prior to Sub-Committee with the Sub-Committee Clerk.
- 6.04. Where a Councillor who is not a Member of the Planning Sub-Committee has had any personal involvement with an applicant, agent or interested party, whether or not in connection with a particular application before the Planning Sub-Committee, or has any other personal interest which an observer knowing the relevant facts would reasonably regard as so

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

significant that it was likely to prejudice the Member's judgement of the public interest then the Member will declare a prejudicial interest in accordance with the provisions of the Code of Conduct. The Member may only attend the meeting as provided in paragraph 6.05 below. The Member must also avoid any attempt to influence the decision improperly.

- 6.05. A Member declaring a prejudicial interest may attend the meeting but only for the purposes of making representations for or against the relevant application, answering questions or giving evidence about it and only when the meeting is open to the public. Otherwise the Member must leave the room while that application or other matter is under consideration.
- 6.06. Where an approach has been received by an elected Member (not being a Member of Planning Sub-Committee) from an applicant, agent or other interested party in relation to a planning application, that Member will, in any informal discussions with any Member of the Planning Sub-Committee, disclose the fact and nature of such an approach and have regard to the matters set out at paragraph 7.01 below.

7. OTHER CONDUCT OUTSIDE COMMITTEES

- 7.01. In discussions between Members generally and Members of the Planning Sub-Committee (at party group meetings or other informal occasions) Members will have regard to: -
- (a) the principles governing the conduct of Members set out in the Code of Conduct.
 - (b) the principles governing the conduct of Members of Planning Sub-Committee set out in this Protocol.
 - (c) the obligations placed on Members of the Planning Sub-Committee not to give commitments in relation to any planning application prior to consideration of the full officer report, advice and representations at the Sub-Committee meeting dealing therewith.

8. SANCTIONS

- 8.01. Please refer to the Complaints Against Members Protocol for the complaint procedure against Members and possible sanctions where there is an alleged breach of this Protocol and the Code of Conduct.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

9. MEMBERS AND OFFICERS OF THE COUNCIL

The role of elected Members

9.01. In respect of any planning application Members will:

- declare any pecuniary or non-pecuniary interest and take no part or a restricted part, as appropriate, in the processing and determination of the planning application;
- act impartially and honestly;
- approach each application with an open mind;
- take into account and carefully weigh up all relevant issues;
- determine each application on its own merits and in accordance with the requirements of planning law and the guidance of planning policy;
- avoid inappropriate contact with interested parties (see also the section on lobbying); and
- ensure the reasons for their decision are recorded in writing.

The role of officers

9.02. Officers in their role of advising and assisting elected Members in their determination of planning applications will provide:

- impartial and professional advice;
- consistency of interpretation of the planning policies; and
- complete written reports which will include:
 - a clear and accurate analysis of the issues in the context of the relevant development plan policies and all other material considerations;
 - the substance of the representations, objections, and views of all those who have been consulted;
 - a clear written recommendation of action and where that recommendation is contrary to the development plan, the material considerations which justify the departure; and
 - all necessary information for the decision to be made.

9.03. Members should not put any pressure on officers for a particular recommendation and, as required by the Code of Conduct or the Protocol on Member/ Officer Relations (Part Five Section B of the Council's Constitution), should not do anything which compromises, or is likely to compromise, their impartiality. Members should recognise that officers are part of a management structure and should address any concerns which they may have about the handling of a planning application to a departmental manager at the appropriate level of seniority. In general, however, officers and Members should adopt a team approach to the determination of planning proposals, and should recognise and respect each other's different roles.

PART FIVE – CODES AND PROTOCOLS

Section E – Planning Protocol

- 9.04. In common with Members generally, all Members of the Planning Sub-Committee may contact the relevant Planning Officer to seek information in relation to any planning application.
- 9.05. Members of Planning Sub-Committee will not attempt in any way to influence the contents of the Officer's report or the recommendation made on any matter. Representations made by Members whether or not in writing will be recorded by the relevant officer and included in the report.
- 9.06. Any criticism of Planning Officers by Members of the Planning Sub-Committee shall be made in writing, to the Director or the Head of Service and not to the Officer concerned. Members will endeavour to avoid any public criticism of officers but this does not prevent Members asking officers proper questions.

Contact between Members and officers

- 9.07. Involving Members early and throughout the application and determination process leads to better Committee meetings, better decisions and better developments. Pre-Committee meetings between officers and the Chair and other senior Members can enable strategic applications to be highlighted and procedural Committee issues agreed. Other contact is described elsewhere in this protocol including Planning Committee briefings.

10. PROTOCOL FOR PLANNING SUB-COMMITTEE MEETINGS

At Committee

- 10.01. The responsibilities of Members of the Planning Sub-Committee in considering planning matters are set out above. At the Sub-Committee, Members will, in particular, avoid expressing any view on the matters under consideration until the report has been presented, any other relevant advice is given, and all oral representations have been heard. In order to participate and determine an item, Members must be present for the entire duration and not miss any part of that item.

Legal Advice

- 10.02. The Director of Legal and Governance / Monitoring Officer will ensure that a suitably experienced legal officer is present at all Sub-Committee meetings to give legal, governance and procedural advice.
- 10.03. Members need to be mindful of the rules on declarations of interests and if Sub-Committee Members or other Members require advice about possible disclosable pecuniary interests or other interests or if Sub-Committee Members are in any doubt as to whether they have

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

expressed a view that could give rise to the appearance of bias or that they have pre-determined a matter they may seek advice from the Monitoring Officer in advance of the Sub-Committee meeting. If that has not proved possible they should seek advice from the legal officer to the Sub-Committee before the meeting starts. Once advice has been given, it is up to the Member to make their own decision on whether or not they have a declarable interest and whether or not they can participate in the decision.

The Sub-Committee meeting

10.04. Planning Sub-Committee meetings generally start at 7.00pm and the Council's standing orders provide that they will end at 10.00pm except that discussion of the specific item or case in hand at 10.00pm may continue thereafter at the discretion of the Chair.

10.05. There are 11 Members of the Sub-Committee. The quorum for making a decision as set out in the Council's constitution is at least one quarter of the whole number of voting Members are present i.e. at least 3.

10.06. Where notified in advance to the Sub-Committee Clerk and subject to them having attended the mandatory training, substitute Members may attend in place of a Planning Sub-Committee Member, pursuant to the Committee Procedure Rules. Substitutes will be from the same political party, to maintain the political balance at Sub-Committee and will be subject to clearance from the group's Chief Whip. The substitute will be for the duration of the entire agenda and will not be used for individual items.

General Principles for hearing representations and petitions

10.07. The Planning Sub-Committee will operate this Protocol with two particular aims regarding representations:

- (a) to allow those who have applied to make representations to be heard by the Sub-Committee on items on the agenda for the meeting; and
- (b) to get through the agenda expeditiously to avoid delay to applications and wasted journeys by the public.

10.08. Objectors or supporters, including Ward or other Members where possible, should advise the Council by noon on the working day immediately prior to the Sub-Committee meeting (for a Monday meeting this would be by noon on the Friday prior to the Sub-Committee) in order to allow appropriate administrative arrangements to be put in place. The number of speakers will usually be limited to two speaking against the proposal with a time limit of 3 minutes each i.e. a maximum of 6 minutes. Members will have a time limit of 3 minutes each. Those supporting a proposal will be given the same time as those speaking

PART FIVE – CODES AND PROTOCOLS

Section E – Planning Protocol

against (including time taken by any Members objecting less any time by Members supporting).

- 10.09. Speaking should take place immediately before the Sub-Committee debates a particular application (see running order for the Sub-Committee) and after the planning officer has set the scene and updated the meeting on any late matters not dealt with in the published report.
- 10.10. The circulation of materials will not normally be accepted during the meeting. If new or further material is to be allowed following the publication of the Sub-Committee papers it should be received in advance of the meeting so that it can be circulated to Members of the Sub-Committee and the detail considered by officers and members.
- 10.11. For petitions, as per the Committee Procedure Rules, the Democratic Services Manager or Committee Clerk should be notified of any petitions by 10 a.m. five clear days² in advance of the Committee meeting. The petition will be handed to the Chair, and recorded as received by the Democratic Services Manager or Committee Clerk. If the petition is accepted, the Chair shall invite officers to advise the Planning Sub-Committee regarding planning policies and material considerations raised in the petition which may be debated by Members. If the petition is not considered at the meeting, the Chair shall report the response to the petition at the next ordinary meeting of the Committee.
- 10.12. Speakers should not be allowed to engage in discussion with Members of the Sub-Committee during public speaking or the Sub-Committee deliberations, to avoid any risk of accusation of bias or personal interest.

The procedure for addressing the Sub-Committee

- 10.13. Although the Committee Procedure rules allow for Members not on the Planning Sub-Committee, or officers outside the Planning Service who wish to address the Sub-Committee, to give written notice of their attendance to the Chair of the Sub-Committee rather than inform the Sub-Committee Clerk by 12 noon on the working day prior to Committee Members and Council Officers are asked to inform the Sub-Committee Clerk by 12 noon on the working day prior to Committee where possible.
- 10.14. The Chair will allow those persons outside the Council completing the form to address the Sub-Committee except where there are several people applying to speak, in which case there will be a limit as shown below. The right to speak shall be on a first come first served basis.
- 10.15. For any issue which is within the Sub-Committee's terms of reference, but for which there is not a report on the agenda, members of the public

² Five clear days does not include weekends or national holidays and excludes both the day of the meeting and the day on which notice of the meeting is given

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

may use the Deputations Procedure in accordance with the Committee Procedure Rules to make their representations to the Sub-Committee.

Running order for planning applications

10.16. Declarations of interest will be taken at the start of the meeting (Members will be invited to *clearly state their interest in an item and whether they believe it to be personal, prejudicial (including bias and predetermination) or pecuniary. To include whether they will leave, stay, refrain from debate and whether they will vote*).

(a)	Announce application and give a summary of the description and recommendation.
(b)	Name the public speakers.
(c)	Advise the meeting of the declarations of interest that have been made in relation to the item
(d)	Local Member declaration to represent their constituents or vote (<i>Where a local Member sits on the Sub-Committee they should state whether they intend to vote on the application or instead to represent their constituents. If representing their constituents they should move to the area reserved for speakers and remain there as applicable e.g. until the end of their contribution subject to then leaving the room</i>).
(e)	Planning officer presents case including update of any late representations or new issues, with possible supplementary presentation from other officers.
(f)	Members ask any clarification questions of the planning officer This should be through the Chair, relating to points of fact relating to material planning considerations only
(g)	Speaking arrangements Objectors - up to 2 speakers with a total time of 3 minutes each.
(h)	Members ask any clarification questions of the objectors This should be through the Chair, relating to points of fact relating to material planning considerations only
(i)	Any interested Councillors who have informed the Sub-Committee Clerk or the Chair in advance of the meeting may address the Sub-Committee for up to 3 minutes each.
(j)	Members ask any clarification questions of the Councillors This should be through the Chair, relating to points of fact relating to material planning considerations only
(k)	The Applicant and any supporters of the proposal will have the right to speak if there are any speakers against the proposal and then will be allowed to speak for an equivalent length of time as given to those objecting to the application i.e. maximum of 6 minutes (subject to any Members' speaking time) the total time to be divided between them.
(l)	Debate – Members through Chair with support from officers / legal providing clarification. Sub-Committee Members debate the case and consider the recommendation including conditions.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

(m)	Summing up – Chair brings discussion to conclusion and seeks a decision on the recommendation/alternative recommendation proposed.
(n)	Vote and explicitly record decision(s), taking vote(s) as necessary. Following the vote, there will be no further discussion of the item.
(For certain cases the procedure may be varied to allow for adjournments for confidential legal advice.)	
The Sub-Committee will be aware that some parties listed as "objectors" can be overall in support of a development but be looking, for example, for some amendment or condition to protect their amenity.	

Motions and decisions contrary to officer recommendation

10.17. Decisions on planning proposals have to be taken in accordance with the development plan³ unless material considerations indicate otherwise. In determining planning and other applications the Committee is entitled to decide the weight to be attached to the various planning considerations which are relevant to the application. This can lead to a decision which is contrary to the recommendation of the Officers. The Committee can for example decide to:

- refuse planning permission where officers have recommended approval;
- agree with officers that permission should be refused⁴ but for different reasons; or
- grant permission subject to different conditions or legal requirements than those recommended.

10.18. Where any Committee Member puts forward a motion, the following process is to be followed:

- Members, through the Chair, at any time, may ask planning & legal officers for clarification on planning policies, material considerations & implications of their reasons and decisions, to inform a potential motion
- The Chair may ask Members if there are any other issues or reasons which may be relevant to inform a potential motion, and ask for officer clarification regarding these too
- The Member proposing a motion should state and explain their reasons and relevant planning policies and material considerations
- Another Member must second the motion, otherwise the motion falls away
- The Chair will restate the motion and reasons to Sub-Committee

³ And National Development Management Policies when the relevant provisions come into force

⁴ Although noting that applications that are to be refused by officers under delegated authority will not normally be determined at Planning Sub-Committee

PART FIVE – CODES AND PROTOCOLS

Section E – Planning Protocol

- The Chair shall invite the planning and legal officers to advise the Sub-Committee regarding the relevant planning policies, material considerations and implications (if any) of approving the motion
- The Chair may adjourn the meeting so that reasons for approving the motion can be considered and/or drafted by officers
- The Chair will restate the motion and reasons to Sub-Committee
- The Members will debate the motion
- Following the debate, the Chair will ask for the affirmative votes, the negative votes, then abstentions
- The Chair will announce the result of the voting, instruct the relevant officers to take the necessary action and introduce the next item of business

10.19. When the Planning Sub-Committee makes a decision which is contrary to the recommendation of the planning officers, whether the decision is one of approval or refusal, a detailed minute of the Sub-Committee's reasons for its decision and any changes to conditions of obligations will be made. A copy of the minute will be kept on the application file.

10.20. When a decision is made which is contrary to the Plan the material considerations which led to this decision and the reason(s) why they are considered to override the development plan will be clearly identified and minuted.

Deferrals

10.21. It should only be in exceptional circumstances that an item is deferred to a future meeting. It is Committee's role to make decisions on items presented to it. It should not be expected that there will be changes made to a proposal during a deferment, as Committee must make a decision on the item presented to it and not any other hypothetical proposal. The NPPF states that there is a presumption in favour of sustainable development and that for decision-making this means "approving development proposals that accord with an up-to-date development plan without delay" (emphasis added).

10.22. Once an item is published as part of an agenda for a Sub-Committee meeting it must be heard and can only be deferred at the meeting itself. Normally, the Sub-Committee will hear representations on both / all sides before they make a motion and decision to defer for any reason. Where any Committee Member puts forward a motion, the process to be followed is the same as that set out earlier on in paragraph 10.18 of this Protocol.

10.23. In order to take part in the discussion regarding, and be able to vote upon, an application, a Councillor must be present throughout the whole of the Committee's consideration of an application including the officer introduction to the matter. If an application has previously been deferred then the same Councillors will be asked to reconsider the application

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

when it is returned to Committee. Where an application is deferred and its consideration recommences at a subsequent meeting only Members who were present at the previous meeting will be able to vote. If this renders the Committee inquorate then the item will have to be reconsidered afresh.

10.24. Officers may also change the recommendation from a recommendation to approve to a recommendation to defer if there are exceptional circumstances that occur between a Sub-Committee agenda and reports being published and the meeting taking place.

10.25. When a deferred application is re-submitted to the Sub-Committee, further representations will normally only be allowed if some fresh matter has arisen since the first Sub-Committee meeting. If this further submission is exceptionally allowed, the number of people speaking will be limited to one objector for a further 3 minutes. The applicant/supporter will have a right to reply of 3 minutes.

For larger or more contentious applications

- 10.26. (a) In relation to larger and/or more controversial applications (as agreed by the Sub-Committee), the Chair may allow more speakers, with the equivalent of the total length of time to be divided between them) if they consider it necessary to hear a wider range of views.
- (b) For example: in relation to para. 10.2 above this would be four speakers with a total of 12 minutes divided between them.
- (c) The applicant and any supporters will normally have a right to reply of the same length of time as taken by the objectors.

10.27. The Sub-Committee will aim to deal with all applications, except those of exceptional significance, within one hour, and the Chair will take active steps to keep to these time-scales in the interests of all participants. Members will also act to deal fairly and expeditiously and will therefore commit not to repeat questions. It is expected that there will be a maximum of 30 minutes of questions and comments for any one application.

Equal Opportunities

10.28. The adoption and publication of a Protocol giving clear information about planning procedures and getting involved in decisions would improve access to the system by all communities in the Borough, as well as potential investors. Arrangements will be put in place to make the policy principles within this protocol available in pamphlets in different languages and in larger print.

PART FIVE – CODES AND PROTOCOLS
Section E – Planning Protocol

11. SITE VISITS

11.01. The Director/Head of Service, in consultation with the Chair of the Sub-Committee, will decide which planning applications require a site visit which will be scheduled during daylight hours for the week before the Sub-Committee meeting at which an application will be determined. Examples of when a site visit would not normally be appropriate for a planning application include where:

1. purely policy matters or issues of principle are to be determined;
2. the report, together with drawings, photographs and other material is sufficient to provide the necessary information regarding a proposed development; or
3. Councillors have already visited the site within the last 12 months.

11.02. To ensure Members of the Sub-Committee are able to see a site in order to reach an informed decision whilst maintaining fairness and probity, the following procedures will be followed.

Procedure

11.03. Access to the site will be arranged with the site owners or their agent and adjoining owners where necessary by planning officers.

11.04. Planning officer(s) will show the Members around the site(s) / area / adjoining properties, showing relevant scheme drawings, or any other material and pointing out significant features attached to/identified in the Sub-committee report. If the applicant's or agent's presence is required at the site, it will be solely to provide access to the site. An attendance list of the Members attending a site visit should be recorded.

11.05. A site visit will be adjourned and rearranged where the Director and/or Head of Service consider that Members of the Sub-committee are being lobbied/Members safety is at risk due to demonstrations at a site.

11.06. Members of the Sub-Committee may ask planning officers to provide further information regarding a planning application as part of the presentation for that application to the Sub-Committee.

11.07. If a Member of the Sub-Committee is unable to attend a site visit organised by planning officers, they may determine a planning application at the Sub-committee meeting if they consider they have all relevant information regarding the site, because it is a site they are familiar with/they have viewed the site from a public vantage point.

Procedure for individual Members

11.08. Where a Member is unable to attend a site visit organised by planning officer they may wish to undertake a site visit on their own from a public

PART FIVE – CODES AND PROTOCOLS

Section E – Planning Protocol

vantage point before the Sub-Committee meeting. A Member of the Sub-Committee should not arrange to meet site owners or their agents or neighbouring owners at the site visit.

11.09. If a Sub-Committee Member is approached at their site visit by any party they should seek to avoid discussion of the planning application for the site and not give any indication of their views or the likely decision of Sub-Committee regarding the application. Where it is not practical to avoid some discussion the Member should make a note of what was discussed and with whom and pass that information to planning officers, so that it can be made available at the Sub-Committee meeting.

12.0 REVIEW OF THE PROTOCOL

12.01. The protocol will be regularly reviewed to take account of:

- new planning legislation;
- changes to national codes of conduct; and
- emerging examples of good practice.

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Report for: Standards Committee 13 November/ Full Council 24 November

Title: Updates to the Constitution - Part Four Section I Financial Regulations

Report Authorised by: Taryn Eves – Corporate Director for Finance and Resources

Lead Officer: Kevin Bartle – Strategic Adviser

Ward(s) affected: N/A

Report for Key/ Non Key Decision: Non Key Decision

1. Describe the issue under consideration

The Constitution, at Part 4, Rules of Procedure Section I – Financial Regulations, provides the framework for managing the Council’s financial affairs. Although minor administrative amendments were made to the Regulations in May 2023, the last substantive update was in March 2021. Officers have undertaken a review of the Regulations and propose some changes to the Council’s Financial Regulations.

2. Cabinet Member Introduction

Not applicable

3. Recommendations

- 3.1 To comment on and endorse the proposed changes to the Financial Regulations set out at Appendix 1 for onward approval at Standards Committee and Full Council in November 2025.

4. Reasons for decision

As stated above, the Financial Regulations were last updated in March 2021. In addition to the need to undertake a regular review and consider required updates to the Financial Regulations in the light of current circumstances, it is also vital to ensure that these are as robust and transparent as possible to maintain the integrity and core values on financial decision making.

5. Alternative options considered

None – not to update the regulations would not be in keeping with good governance principles.

6. Background information

- 6.1 As stated above, a routine review of regulations was due. However in the light of the Council's current exceptionally challenging financial position, it is vital that Financial Regulations are up to date, easily understandable, concise and accountability for financial control and budget management is clear.
- 6.2 Although some of the changes are necessary tidying up, such as job titles, there are some other key sections of the regulations specifically around strengthening accountability for budget managers, that are necessary. For example, the current version does not include a requirement for budget holders to remain within budget or for Corporate Directors to notify the Section 151 Officer of all underspends, over-recovery of income or windfall benefits arising within their revenue and capital budgets.
- 6.3 These additional regulations are seen by the Section 151 Officer as essential if we are to tighten our financial control environment and move to a financially sustainable position as soon as possible.

7. Contribution to Strategic Outcomes

The Council's Constitution supports the governance of the Council and its decision making thereby assisting the Council to meet its strategic outcomes.

8. Statutory Officers comments (Chief Finance Officer (including procurement), Director of Legal & Governance, Equalities)

Finance

- 8.1 There are no resources implications from these changes, however the Section 151 officer commends the changes to members.

Legal

- 8.2 Legal comments are contained within the report.

Equality

- 8.3 There are no equalities matters for consideration with this report as the proposals relate to governance procedural changes.

9. Use of Appendices

Appendix 1 – draft updated Financial Regulations for approval

10. Local Government (Access to Information) Act 1985

Council Constitution

1972 Local Government Act

Local Government Act 2000

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Part Four, Section I

Financial Regulations

Contents	Page
Part 1 - Status of Financial Regulations	2
1. Status	2
2. Recording delegations	3
3. Financial Control Framework	3
4. Devolution of Financial Management and Accounting	4
Part 2 - Financial Management	5
5. Financial Management (including virement rules)	5
6. Financial Planning	19 18
7. Risk Management and Control of Resources	24 23
8. Systems and Procedures	29 28
9. External Arrangements	32 31
10. Retention of Records	34 32

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

Part 1 - Status of Financial Regulations

1. Status

- 1.1. Our Financial Regulations provide the framework for managing the Council's financial affairs and for resources that the Council or its employees manage on behalf of others. They apply to every **Councillor** and **Officer** of the Council and to the ALMO in respect of debt write off.
- 1.2. All Members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.
- 1.3. The regulations identify the financial responsibilities of:
 - the **full Council**;
 - the **Cabinet**;
 - the **Overview and Scrutiny Committee**;
 - the **Head of the Paid Service (Chief Executive)**;
 - the **Monitoring Officer** ([Director of Legal and Governance](#))
 - the **Section 151 Officer** ([Corporate Director of Finance and Resources](#)
[Director of Finance](#) also known as Chief Finance Officer) and [Corporate Directors](#);
 - **Budget Holders** within service areas.
- 1.4. The **Section 151 Officer** is responsible for maintaining a continuous review of these Financial Regulations and submitting any additions or changes necessary to **full Council** for approval in accordance with article 15.03(a) of the Constitution.
- 1.5. The **Section 151 Officer** is responsible for issuing advice and guidance to underpin these Financial Regulations that **Councillors, Officers and others acting on behalf of the Council** are required to follow. This advice and guidance will generally be based on CIPFA Standards of Professional Practice, which are available on www.cipfa.org.uk.
- 1.6. The **Section 151 Officer** is also responsible for reporting, where appropriate, breaches of these Financial Regulations to the **Council** and/or to the **Cabinet Members**.

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

- 1.7. These Financial Regulations are supported, where appropriate, by detailed procedure notes, setting out how these Financial Regulations will be implemented.
- 1.8. ~~Directors~~[Corporate Directors](#) are responsible for ensuring that all staff in their service areas are aware of the existence and content of the Council's Financial Regulations and other internal regulatory documents and that they comply with them.
- 1.9. It is a disciplinary offence to breach these Financial Regulations. A breach of these regulations should be reported to the **Section 151 Officer** [and Chief People Officer](#) as soon as is practicable to do so.
- 1.10. All staff are required to conduct themselves to the highest standards. The involvement of staff in any form of bribery, corruption, fraud or deception will not be tolerated.
- 1.11. For any aspect of finance relating to schools the Haringey's Scheme for Financing Schools which are designed to give detailed assistance to schools, should be referred to.

2. Recording delegations

- 2.1. **Directors** should maintain written records where financial decision making has been delegated to members of their staff, including seconded or temporary staff. Where decisions have been delegated or devolved to other responsible officers references to ~~Directors~~[Corporate Directors](#) in the regulations should be read as referring to them.

3. Financial Control Framework

3.1. The financial administration framework of the Council is organised in accordance with Section 151 of the Local Government Act 1972, requiring that every Local Authority in England and Wales should 'make arrangements for the proper administration of their financial affairs and shall secure that one of their Officers has responsibility for the administration of those affairs.' The framework comprises:

- **Constitution:** The principal rules governing the Council's affairs, including financial affairs, and the delegation of authority to **Councillors** and **Officers**;
- **Financial Regulations:** This document is part of the Constitution, created by the Council;

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

- The Scheme of Financial Delegation and specific delegations by ~~Directors~~[Corporate Directors](#) to officers in their service area;
- Contract Standing Orders;
- Guide to Procurement;
- Medium Term Financial Strategy (MTFS).

4. Devolution of Financial Management and Accounting

- 4.1. The Council seeks to unite operational and financial responsibility to empower managers to give them the tools to deliver high quality services. Part of that empowerment is to give them control of the resources needed to deliver the service so that they can plan and use these resources to obtain the maximum benefit for the service.
- 4.2. The Council also needs to balance responsibilities with accountability and protection for Officers so that they know their authorisation levels and the limit to those authorities.

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

Part 2 – Financial Management

5. Financial Management (including virement rules)

Introduction

- 5.1. Financial management covers all financial accountabilities in relation to the running of the Council, including the policy framework and budget. The Financial Regulations are not an exhaustive document and proper financial management should be applied in all circumstances even if not specifically referred to.

The Full Council and the Cabinet

- 5.2. The **full Council** is responsible for adopting the Council's Constitution and Members' code of conduct and for approving the policy framework and budget within which the **Cabinet** operates. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control. The framework is set out in this Constitution. The **full Council** is also responsible for monitoring compliance with the agreed policy and related **Cabinet** decisions.
- 5.3. The **Leader** has powers to take any decision, including a key decision, which the **Cabinet** could have taken. This is set out in Part 3 Section C of the Council Constitution. When **Members** take decisions on reports, the reports must comply with the Protocol for Decision-making in Part 5 Section D and this must include the provision of the **Section 151 Officer's** comments on the financial implications.
- 5.4. The **Cabinet** is responsible for proposing the policy framework and budget to the **full Council** and for discharging Executive functions in accordance with the policy framework and budget.
- 5.5. **Cabinet** decisions can be delegated, in accordance with the delegation arrangements set out in Part 3 of this Constitution.

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

Committees of the Council

Overview and Scrutiny Committee

- 5.6. The **Overview and Scrutiny Committee** is responsible for scrutinising key decisions (decisions of the **Cabinet, the Leader, or Cabinet members**) before or after they have been implemented and for holding the **executive** (the **Cabinet, the Leader and Cabinet members**) to account. The **Overview and Scrutiny Committee** is also responsible for making recommendations on future policy options and for reviewing the general policy and service delivery of the Council.

Audit Committee

- 5.7. The **Audit Committee** is established by the **full Council**. It has right of access, through the officer acting as Chief Internal Auditor (currently the Head of Audit and Risk Management) from time to time, to all the information it considers necessary and can consult directly with internal and external auditors. The **Audit Committee** is responsible for reviewing the external auditor's reports and the Annual Audit and Inspection Letter and internal audit's annual report. The **Audit Committee** also monitors responses to audit reports.

Standards Committee

- 5.8. The **Standards Committee** is established by the **full Council** and is responsible for promoting and maintaining high standards of conduct amongst **Councillors** as Members. In particular, it is responsible for advising the Council on the adoption and revision of the Members' code of conduct, for monitoring the operation of the code, and for recommending proposals for any changes to the Constitution to full Council for approval.

The Pensions Committee and Board

- 5.9. The **Pensions Committee and Board** acts as the quasi-trustee of the Local Government Pension Scheme (LGPS) for the Council.

Alexandra Palace and Park Board

- 5.10. Alexandra Palace and Park Board is a Committee of the Council with responsibility for discharging a specific statutory charity trustee role. It has its own Financial Regulations and governance but is, nonetheless, subject overall to the Section 151 Officer who has responsibility for its financial affairs. It is also subject to charities law and accounting practice.

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

The Statutory officers

Head of Paid Service (Chief Executive)

- 5.11. The **Chief Executive** as Head of Paid Service is responsible, in relation to these Financial Regulations, for the corporate and overall strategic management of the Council as a whole. The **Chief Executive** must report to and provide information for the **Cabinet**, the **full Council**, the **Overview and Scrutiny Committee** and other committees.
- 5.12. The **Chief Executive** is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The **Chief Executive** is also responsible, together with the **Monitoring Officer**, for the system of record keeping in relation to all the **full Council's** decisions.

Monitoring Officer (~~Assistant~~ Director of [Legal and Corporate Governance](#))

- 5.13. The **Monitoring Officer** is responsible, in relation to these Financial Regulations, for promoting and maintaining high standards of financial conduct and therefore provides support to the **Standards Committee**. The **Monitoring Officer** is also responsible for reporting any actual or potential breaches of the law or maladministration to the **full Council** and/or to the **Cabinet**.
- 5.14. The **Monitoring Officer** (together with the **Section 151 Officer**) is responsible for advising the **Cabinet** or the **full Council** about whether a decision is likely to be considered contrary to, or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' include:
- (a) initiating a new policy;
 - (b) committing expenditure in future years above the budget level;
 - (c) incurring inter-service area transfers above virement limits; and
 - (d) causing the total expenditure financed from Council tax, grants and corporately held reserves to increase.
- 5.15. The **Monitoring Officer** is responsible for maintaining an up-to-date Constitution.

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

The Section 151 Officer (~~-Corporate Director of Finance and Resources~~
~~Director of Finance~~)

5.16. The **Section 151 Officer** has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from:

- (a) Section 151 of the Local Government Act 1972;
- (b) The Local Government Finance Act 1988;
- (c) The Local Government and Housing Act 1989;
- (d) The Accounts and Audit (England) Regulations 2011;
- (e) The Local Government Act 2003;
- (f) The Accounts and Audit Regulations 2015
- (g) The Local Audit and Accountability Act 2014

5.17. The **Section 151 Officer** is responsible, in relation to these regulations for:

- (a) the proper administration of the Council's financial affairs, including the determination of the appropriate staffing level to ensure proper administration;
- (b) setting and monitoring compliance with financial management standards;
- (c) ensuring these Financial Regulations are fit for purpose and proposing any necessary amendments;
- (d) advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
- (e) providing financial information;
- (f) preparing the revenue budget and capital programme;
- (g) treasury management;
- (h) internal audit;
- (i) anti-fraud;
- (j) risk management; and
- (k) insurance.

5.18. The Section 151 Officer may from time to time delegate responsibility to [the Deputy Section 151 Officer](#), a Head of Finance or other officer reporting to them, as the Section 151 Officer deems appropriate.

5.19. Section 114 of the Local Government Finance Act 1988 requires the **Section 151 Officer** to report to the **full Council**, the **Cabinet** and external auditor if the Council or one of its officers:

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

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

Section 114 of the 1988 Act also requires:

- (a) the **Section 151 Officer** to nominate a properly qualified member of staff to deputise should they be unable to perform the duties under Section 114 personally; and
- (b) the Council to provide the **Section 151 Officer** with sufficient staff, accommodation and other resources, including legal advice where this is necessary, to carry out the duties under Section 114.

5.20. The Section 151 Officer will:

- (a) respond to annual expenditure proposals submitted by the following bodies (if applicable):-

Greater London Authority
London Pension Fund Authority
Lee Valley Regional Park Authority
North London Waste Authority
London Councils
Greater London Magistrates Courts Authority
Environment Agency

- (b) Consult with Ratepayers in accordance with Section 65 of the Local Government Finance Act 1992;
- (c) Authorise redundancy and early termination costs in relation to officers of the Council;
- (d) Authorise redundancy and early termination costs in relation to education staff giving consideration to the Education Act 2002.

[Directors](#)[Corporate Directors](#)

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

5.21. ~~Directors~~Corporate Directors are responsible for the financial affairs of their service area including any financial staff, processes and systems. They have no authority to overspend revenue or capital budgets, or to under-recover income budgets, under their control, and are responsible for monitoring their budgets to ensure this situation does not arise. In the circumstance where an overspend, or an under recovery of income, is forecast to occur, the Corporate Director must report the position to the Section 151 Officer at the earliest opportunity. They must equally report financial issues to the **Section 151 Officer**. The responsibilities include:

(a) ensuring that **Cabinet** Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the **Section 151 Officer** including:

- Non-Domestic Rating Discretionary Rate Relief;
- the annual review of the Council Tax Reduction Scheme;

(b) ensuring compliance with Contract Standing Orders;

(c) leading the production of revenue and capital programme budgets for their service area as appropriate and ensuring all plans have appropriate and necessary approved budgetary provision in place;

(d) ensuring that detailed plans and realistic prudent profiled budgets exist for the delivery of the Medium Term Financial Strategy and to report variances and forecast outturn adverse or favourable variances immediately when they exist;

(e) control of income and expenditure within the approved budget and ensuring that expenditure is not incurred without an appropriately approved budget in place;

(f) reporting known and potential variances from the service area cash limit in excess of £100,000 to the **Section 151 Officer**, through the formal budget management procedures;

(g) notifying the Section 151 Officer of all underspends, over-recovery of income or windfall benefits arising within their revenue and capital budgets. Where these occur, they should, in the first instance be transferred to the contingency budget unless regulations specify restrictions on their use which make this inappropriate, or the under spend, additional income or other financial benefits are to be used to offset uncontrollable overspends elsewhere within the service. The Corporate Director is responsible for notifying the Section 151 Officer that this is to occur. Approval to these budget variations will be in line with the scheme of virement;

(f)—

(g)(h) providing appropriate financial information to the **Section 151 Officer** and their respective teams in a timely, accurate and appropriate form and

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

- level of detail. e.g. to permit final accounts to be prepared at year end as necessary, in accordance with appropriate legislation, accounting codes of practice and the Council's accounting procedure notes;
- ~~(h)~~(i) appointing budget holders for all areas of their own budget;
- ~~(h)~~(i) monitoring performance levels with budget performance in accordance with published timescales;
- ~~(h)~~(k) adherence to the budget management procedures contained within service area Schemes of Financial Delegation including virement management;
- ~~(h)~~(l) ensuring records, systems and appropriate financial controls are up to date and available for audit. Any loss or deficiencies are to be reported to the **Section 151 Officer** immediately;
- ~~(h)~~(m) actively seeking additional income or savings opportunities, including grant and new financing opportunities, and reporting them to the **Section 151 Officer**. All grant applications are to be notified to the **Section 151 Officer** prior to submission, to consider any potential future resourcing issues and incorporate into the Grants Register which will be maintained by Corporate Finance;
- ~~(h)~~(n) ensuring that the necessary systems and controls are in place to ensure that all the Council's cash is paid into its bank accounts quickly and efficiently;
- ~~(h)~~(o) ensuring all assets are appropriately protected, accounted for and reconciled. Any significant loss of stock or concerns should be reported to the **Section 151 Officer** immediately;
- ~~(h)~~(p) advise the **Section 151 Officer** and/or the **Head of Audit and Risk Management** of any fraudulent activity and other losses through error and mismanagement by any party connected with or employed by the Council.
- ~~(h)~~(q) liaise with the **Head of Audit & Risk Management** in agreeing the annual audit plan of the service area. To report to the **Section 151 Officer** any concerns where an audit is considered necessary but is not being undertaken.
- ~~(h)~~(r) ensure that appropriate timely arrangements are in place to sign off the financial implications of all reports including comments from the **Section 151 Officer** where appropriate, prior to their submission to the full Council, Cabinet, a Committee, Council Management Teams or other bodies within and external to the Council.
- ~~(h)~~(s) ensure that all appropriate financial controls and systems are in place where not specified above, in particular adequate separation of duties and accurate and timely reconciliations.
- ~~(h)~~(t) report to the **Section 151 officer** any other matter of financial significance.

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

- 5.22. It is the responsibility of ~~Directors~~Corporate Directors to consult with the **Section 151 Officer** and seek approval on any matter liable to affect the Council's finances materially, before any commitments are incurred.
- 5.23. ~~Directors~~Corporate Directors and **Budget Holders** are supported in the completion of their financial responsibilities by a **Head of Finance** (or another suitably senior finance officer whose post title may vary from this). Heads of Finance are part of the Corporate Finance service area and report to the **Section 151 Officer**. They have a direct link, therefore, to the **Section 151 Officer** and a functional relationship to their ~~Directors~~Corporate Director.

Budget Holders

- 5.24. The **Budget Holder** is responsible for the management of the budget for which he/she is allocated by the Corporate Director and has no authority to overspend budgets, or under-recover income budgets, under their control, and is responsible for monitoring their budgets to ensure this situation does not arise. The responsibilities of the role also include:
- (a) to take ~~new wording added~~ responsibility for all aspects of the financial management of the service(s) which they are responsible for, including managing, controlling and recording all expenditure and income;
 - (b) leading the production of revenue and capital programme budgets for the service area ensuring all plans have appropriate and necessary budget provision;
 - (c) ensuring plans and realistic prudent profiled budgets exist for the delivery of the Medium Term Financial Strategy;
 - (d) ~~and not to enter into commitments before satisfying themselves there is sufficient approved budget provision available.~~
 - ~~(e)~~(e) to report year to date variances and forecast outturn adverse or favourable variances on the financial management system immediately when they become apparent exist;
 - ~~(d)~~(f) ensuring that appropriate financial controls exist and are maintained properly within the service area and report on any deficiencies to DirectorsCorporate Directors;
 - ~~(e)~~(g) providing appropriate financial information to DirectorsCorporate Directors and their respective teams in a timely, accurate and appropriate form and level of detail;
 - ~~(f)~~(h) actively seeking additional income or savings opportunities, including grant and new financing opportunities, and reporting to DirectorsCorporate Directors;

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

- ~~(g)~~(i) ensuring that appropriate financial controls and systems exist, are applied within the service area and report on any deficiencies to ~~Directors~~[Corporate Directors](#);
- ~~(h)~~(j) ensuring that the appropriate financial controls are in place to ensure that all the Council's cash is paid into its bank accounts quickly and efficiently;
- ~~(i)~~(k) ensuring value for money is obtained for the whole Council when undertaking any procurement activity;
- ~~(j)~~(l) reconciling all cash received by the service area on a regular basis (at least monthly);
- ~~(k)~~(m) ensuring all monies due to the council are recorded accurately and recovered promptly; and
- ~~(l)~~(n) ensuring that all accounts payable are settled within 30 days unless special terms have been agreed by the **Section 151 Officer**.

5.25. The **Budget Holder** ~~must~~ [should](#) report to ~~Directors~~[Corporate Directors](#):

- (a) any unlawful or inappropriate expenditure immediately it is realised that it is about to take place or has taken place;
- (b) any area where a loss or deficiency is about to occur;
- (c) budget variances by forecasting all variations on the financial management system;
- (d) any occasions where the overall service budget is projected to be overspent or where any individual budget (cost centre) is projected to be overspent by more than £50,000;
- (e) any concerns as regards the slow or non-banking of cash immediately;
- (f) any significant loss of stock or concerns immediately; and
- (g) any other matter of financial significance.

5.26. The **Budget Holder** should:

- a) advise the **Section 151 Officer** and/or the **Head of Audit and Risk Management** of any fraudulent activity and other losses through error and mismanagement by any party connected with or employed by the Council;
- b) ensure that all financial implications of all reports are agreed and approved with ~~Directors~~[Corporate Directors](#) and the Section 151 Officer prior to their submission to the **full Council, Cabinet**, a Committee, Council Management Teams or other bodies within and external to the Council.

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

Other Financial Accountabilities

Virements – Revenue and Capital

- 5.27. The Council controls approved budgets and transfers of budgetary provision representing policy change (i.e. virements) giving consideration to gross expenditure and income, net expenditure and service area cash limits.
- 5.28. The **Section 151 Officer** may authorise any budget adjustments between or within service areas or capital schemes, required for technical reasons and which do not fall into the below mentioned revenue or capital virement definitions. For example, the **Section 151 Officer** may authorise central support cost allocation, capital charges such as depreciation, IAS19 pension adjustments, or to reflect the enactment of previous decision making. Such adjustments over £250k will be reported in the budget monitoring reports to **Cabinet** within 3 months of them taking place.
- 5.29. ~~Directors~~**Corporate Directors** must submit appropriately completed virement pro-formas to Corporate Finance for formal ratification and subsequent adjustment of approved cash limits.
- 5.30. All virements must be recorded on the Council's main accounting system.

Virements – Revenue

- 5.31. A policy change/re-prioritisation of resources between, or within, services relating to direct spend and excluding internal charges, ~~These~~ are to be approved as a virement in accordance with the below thresholds:
- (a) Up to £100,000 by the relevant **Corporate Director(s)**, and reported to the relevant **Head of Finance**;
 - (b) £100,000 up to £250,000 by the **Section 151 Officer** following referral from the relevant **Corporate Director(s)** and where it has been determined by the **Section 151 Officer** that there is no change to Council policy;
 - (c) £100,000 and above involving a policy change; or any other virement of £250,000 and above, by the **Cabinet**.

Virements – Capital

- 5.32. A policy change/re-prioritisation of resources between capital schemes relating to direct spend and excluding internal charges, ~~These~~ are to be approved as a virement in accordance with the below thresholds:

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

- (a) Up to £250,000 by the **Section 151 Officer** following referral from the relevant [Corporate Director\(s\)](#);
- (b) £250,000 and above, by the **Cabinet**

5.32A Any policy changes or re-prioritisation between service areas are to be approved by Cabinet and are a Key Decision in accordance with Part 5 Section C of the Constitution

Treatment of year-end balances

5.33. The **Section 151 Officer** will consider requests to carry forward underspends at year-end before approval by the **Cabinet**. The **Section 151 Officer** will also consider whether any overspends at the year-end on service budgets should be carried forward before approval by the **Cabinet**.

Accounting policies

5.34. The **Section 151 Officer** is responsible for selecting accounting policies and ensuring that they are applied consistently. The ~~Directors~~[Corporate Directors](#) are responsible for adhering to these policies.

Accounting records, procedures and returns

5.35. The **Section 151 Officer** is responsible for determining the accounting procedures and records for the Council and has a duty to ensure accounting procedures meet statutory duties. Such procedures may include procedures and timetables for the preparation of the budget and the Council's financial statements. ~~Directors~~[Corporate Directors](#) have a responsibility to:

- (a) comply with the procedures and timetables determined by the **Section 151 Officer**;
- (b) regularly monitor, reconcile and clear the control accounts;
- (c) supply information to comply with statutory timetables;
- (d) complete grant claims etc. by due dates; and
- (e) retain appropriate financial records as required by the **Section 151 Officer**.

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

The Annual Statement of Accounts

- 5.36. The **Section 151 Officer** is responsible for ensuring that the annual statement of accounts is prepared in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC). The **Section 151 Officer** has the authority to make such amendments to the treatment of the Council's transactions as are in the overall interest of the Council including the optimisation of the capital financing position and the management of earmarked reserves. The [Audit Corporate Committee](#) and **Pensions Committee and Board** are responsible for approving their respective parts of the annual statement of accounts.
- 5.37. Each [Corporate Director](#):
- (a) has a responsibility to supply budget monitoring information on time.
 - (b) ~~is are~~ accountable for the income and expenditure in their budgets and for the service area budgets.
 - (c) must supply required information and produce appropriate documents on time as requested by the **Section 151 Officer**.
 - (d) ~~needs~~ to protect against the risks of creating contingent liabilities and to keep the **Section 151 Officer** informed of any new contingent liabilities or contingent assets as they arise.

Bribery, Corruption and Financial Irregularities

- 5.38. All employees shall conduct themselves to the highest standards. Any employee involved in bribery, corruption, fraud or deception will be subject to disciplinary action and in certain circumstances criminal prosecutions.
- 5.39. It is a criminal offence for any person to use their position with the Council to accept or ask for any gift, reward or other advantage from work done in an official capacity. In addition such acts seriously undermine the public image of the Authority and its staff. As a result the Council will discipline staff on the grounds of gross misconduct if they breach this regulation.

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

Financial Irregularities

- 5.40. Staff must act with absolute honesty when dealing with the assets of the Council, and any other assets for which the Council is responsible. The Council will rigorously enforce sanctions laid down in the Employee Code of Conduct if staff are found to have acted dishonestly. The Code gives examples of financial irregularities that are considered to be gross misconduct.
- 5.41. All staff must ensure that any irregularity or suspected irregularity involving Council funds, property or any other assets for which the Council is responsible is reported immediately to the **Head of Audit and Risk Management**. This also applies to the misuse of computer passwords, misuse of information obtained in any other way, the deliberate malicious damage to information assets and the disclosure to unauthorised individuals of information obtained by their use.
- 5.42. The Council has an approved Anti-Fraud and Corruption Policy and Fraud Response Plan which set out the Council's expectations in relation to standards of behaviour and how it will respond in cases where fraud is suspected. The Anti-Fraud and Corruption Policy is supported by the Council's Whistleblowing Policy, which sets out how the Council will support anyone who wishes to report cases where they suspect fraud.
- 5.43. The **Head of Audit and Risk Management** will decide how such matters should be investigated. Service officers should not undertake any investigation or interview those involved unless prior agreement has been given by the **Head of Audit and Risk Management**.

The Role of Internal Audit

- 5.44. The statutory responsibility for internal audit derives from the **Section 151 Officer's** responsibilities under the 1972 Local Government Act, the Local Government Finance Act 1988 and the specific duties detailed in the Accounts and Audit (England) Regulations 2011. In accordance with these and the Auditing Practices Board guidelines the **Head of Audit and Risk Management** will provide a continuous audit of the accounting, financial and other operations of the Authority.

- 5.45. Internal audit is an independent and objective appraisal function established by the authority for reviewing the system of internal control. It examines, evaluates, and reports on the adequacy of internal control. It does this by objectively reviewing and advising management upon the effectiveness of their systems of internal control. It aims to provide assurance on the design and operation of internal controls and provide constructive and positive advice on control improvement and risk management.

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

5.46. The **Head of Audit and Risk Management** has authority to:

- (a) enter at any time all Council premises or land;
- (b) have unrestricted access to all records, personnel, documents, assets and correspondence relating to any financial and other transactions that the auditors consider necessary for the purpose of their work;
- (c) remove and/or secure any computer equipment, record, document, and correspondence of the Council as considered necessary;
- (d) require and receive such explanations as s/he considers necessary concerning any matter being examined; and
- (e) obtain from Council employees cash, stores or any other property owned, hired, leased or borrowed by the Authority.

5.47. The decision to report financial irregularities to the Police shall be made by the **Head of Audit and Risk Management**. Where employees are involved, the **Head of Audit and Risk Management** will inform the **Chief Executive** and appropriate ~~Directors~~[Corporate Directors](#).

5.48. The **Head of Audit and Risk Management** has authority to report to any body of the Council matters which are considered to adversely affect the efficient/proper use of the Council's resources.

Unofficial Funds

5.49. The **Section 151 Officer** shall be notified of any funds arising from unofficial sources, including school funds, and shall approve audit and accounting arrangements for these funds:

- (a) that come under the control of any **Committee**, ~~Sub-Committee~~ or **Panel** of the Council;
- (b) where a member of staff is involved as a result of their employment with the Authority.

6. Financial Planning

Introduction

6.1. **Full Council** is responsible for agreeing the Council's policy framework and budget, which will be proposed by the **Cabinet**. The Council uses the the Council Plan as its framework for determining priorities and is delivered through the business planning process. In terms of financial planning, the key elements are:

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

- (a) the medium term financial strategy;
- (b) the budget; and
- (c) the capital programme.

Policy framework

- 6.2. The **full Council** is responsible for approving the policy framework and budget. The policy framework comprises the statutory plans and strategies set out in the Constitution and the budget. Pensions Committee and Board approves the policy framework for the Pension Fund; namely the Investment Strategy Statement (including responsible investment policies) and Funding Strategy Statement.

Preparation of the Council Plan

- 6.3. The **Council** will produce an updated Borough Plan every four years and report this to the **Cabinet** for consideration before its submission to the **full Council** for approval.

Budgeting

Budget format

- 6.4. The general format of the budget will be proposed by the **Cabinet** and approved by the **full Council** on the advice of the **Section 151 Officer**. The draft budget should include allocation to different services and projects, proposed taxation levels, adequacy of the proposed financial reserves and contingency funds.

Budget preparation

- 6.5. The **Section 151 Officer** is responsible for ensuring that a revenue budget is prepared on an annual basis and a financial plan over three years for consideration by the **Cabinet**, before submission to the **full Council**. The **Section 151 Officer** also has responsibility to confirm budget pressures, robustness of estimates and adequacy of reserves in accordance with Section 25 of the Local Government Act 2003. The **full Council** may amend the budget or ask the **Cabinet** to reconsider it before approving it.

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

- 6.6. It is the responsibility of ~~Directors~~[Corporate Directors](#) to ensure that realistic budget estimates reflecting agreed service plans are submitted to the **Cabinet** and that these estimates are prepared in line with guidance issued by the **Cabinet**, through the **Section 151 Officer**. The Budget risk is managed through the Council's budget management process in which the variances are analysed and decisions made accordingly.

Budget management and control

- 6.7. The **Section 151 Officer** is responsible for providing appropriate financial information to enable budgets to be monitored effectively. The **Section 151 Officer** must monitor and control expenditure against budget allocations and report to the **Cabinet** on the overall position on a regular basis. There will be a monthly budget management process determined by the **Section 151 Officer**. Any decision to alter or increase any of the existing services of the Council in such a way as may result in a material increase in the expenditure to be provided for in the budget for the current and future financial years will be subject to the approval of the **Cabinet**.

Resource allocation

- 6.8. The **Section 151 Officer** is responsible for developing and maintaining a resource allocation process that ensures due consideration of the full Council's policy framework.

Preparation of the capital programme

- 6.11. The **Section 151 Officer** is responsible for ensuring:
- (a) the preparation of the Council's medium-term capital programme on an annual basis, for consideration by the **Cabinet** before submission to **full Council**;
 - (b) [the preparation of that](#) the Council's Capital Strategy, ~~that it is in accordance with guidance and~~ is kept up-to-date;
 - (c) financial monitoring of the capital programme;
 - (d) the Capital Programme is managed flexibly and to make adjustments to the phasing of approved projects within the limits of available capital resources;
 - (e) preparation of an Asset Management Plan;
 - (f) value for money objectives are met;
 - (g) adherence to CIPFA Prudential guidelines;
 - (h) adherence to the Council's Treasury Management Strategy Statement;
 - (i) maximisation of external funding opportunities; and

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

- (j) financial appraisal/evaluation of proposed capital schemes and options.

6.12. The medium-term capital programme models income and expenditure and resource requirements (both internal and external financing) over a minimum of three years and is reviewed and updated at least annually.

6.12-6.13.

The Capital Strategy will provide the following:-

- a) a high-level long-term overview of how capital expenditure, capital financing and treasury management activity contribute to the provision of services
- b) an overview of how the associated risk is managed
- c) the implications for future financial sustainability

6.13.—The aim of the strategy is to ensure that all of the Council's elected members and other stakeholders fully understand the overall long-term policy objectives and resulting Capital Strategy requirements, governance procedures and risk appetite. sets out strategic guidance on the Council's approach to capital investment. It provides clear objectives and priorities which are informed by overall corporate and service objectives, the Haringey community and other stakeholders including central government.

- 6.14. Capital expenditure will only be incurred when the appropriate ~~Directors~~Corporate Directors and **Section 151 Officer** have jointly reported the financial implications to the **Cabinet** for approval. All such reports requesting financial provision must be supported by a professionally prepared estimate of the costs of the project. Once financial approval has been obtained the specifications and assumptions upon which the written appraisal of costs was based cannot be substantially altered without the further approval of the **Cabinet**.

Guidelines

- 6.15. Guidelines on budget preparation may be issued to **Members** and ~~Directors~~Corporate Directors by the **Cabinet** following agreement with the **Section 151 Officer**. The guidelines will take account of:

- (a) legal requirements;
- (b) medium-term planning prospects;
- (c) available resources;
- (d) spending pressures;

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

- (e) best value/value for money and other relevant government guidelines;
- (f) other internal policy documents; and
- (g) cross-cutting issues (where relevant).

Maintenance of Reserves

- 6.16. It is the responsibility of the **Section 151 Officer** to advise the **Cabinet** and the **full Council** on prudent levels of general reserves for the Council. When fixing the level of reserves an assessment is made of the key financial risks facing the Council.

7. Risk Management and Control of Resources

Introduction

- 7.1. It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services. The effective identification and management of risks is a responsibility that sits with all ~~Directors~~[Corporate Directors](#)

Risk Management

- 7.2. The **Audit Committee** is responsible for approving the Council's risk management policy statement and strategy and for reviewing the effectiveness of risk management. The **Section 151 Officer** is responsible for and has delegated authority to ensure that proper insurance exists where appropriate.
- 7.3. The **Monitoring Officer** is responsible for preparing the Council's risk management policy statement and for promoting it throughout the Council.
- 7.4. At a service area level ~~Directors~~[Corporate Directors](#) should ensure that the Council's risk management strategy is complied with. The Management of Risk Policy and Strategy specifies that ~~Directors~~[Corporate Directors](#) must align the assessment of their risks and the actions to manage these to the Council's business planning processes. This must be done so that the Council is able to identify any significant risks that could jeopardise delivery of business plans in the following year and for which appropriate actions will need to be taken.

Internal control

- 7.5. Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded. The Council prepares an Annual Governance Statement each year. ~~Directors~~[Corporate Directors](#) have a role to provide assurances to support the production of the Annual Governance Statement and to maintain appropriate systems of governance and internal control.

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

- 7.6. The **Section 151 Officer** is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- 7.7. It is the responsibility of ~~Directors~~[Corporate Directors](#) to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency, propriety, regularity and effectiveness and for achieving their financial performance targets.

Audit requirements

- 7.8. The Accounts and Audit Regulations 2015 require every local authority to maintain an adequate and effective internal audit. The rights of the internal audit function are set out in Regulation 5.
- 7.9. Public Sector Audit Appointments Ltd is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 20 of the Local Audit and Accountability Act 2014.
- 7.10. The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenues and Customs who have statutory rights of access.

Preventing fraud and corruption

- 7.11. The **Monitoring Officer** is responsible for the development and maintenance of an anti-fraud and anti-corruption policy. ~~Directors~~[Corporate Directors](#) shall notify the **Head of Audit and Risk Management** immediately of any suspected fraud, theft or misuse of the authority's assets or resources. Further guidance can be found in the Haringey Anti-fraud and Corruption Policy and Strategy (which includes the Council's Whistleblowing Policy).
- 7.12. The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council.
- 7.13. The Council's expectation of propriety and accountability is that members and officers at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and good practices.

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

- 7.14. The Council also expects that individuals and organisations (e.g. suppliers, contractors, and service providers) with which it comes into contact will act towards the Council with integrity and without thought or actions involving fraud and corruption.

Assets

- 7.15. ~~Directors~~Corporate Directors should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place. Any disposal of any asset no longer required by the Council shall be for the best available consideration. Inventories of the Council's assets, other than stores, must be kept by the **Budget Holder** concerned. The inventories must be in a form approved by, and include the items defined by, the **Section 151 Officer**. Any write-off of stocks must be in accordance with the Council's stock write-off policy.

Treasury Management

- 7.16. The Council has adopted the Code of Practice contained within The Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes (CIPFA, ~~2017~~2021). The Council will create and maintain, as cornerstones for effective treasury management:
- (a) a Treasury Management Strategy Statement (TMSS) which states the Council's policies, objectives and approach to risk management with respect to its treasury management activities;
 - (b) suitable treasury management practices setting out how the Council will achieve those policies and objectives and prescribing how it will manage and control its treasury management activities;
 - (c) the TMSS and treasury management practices will follow the recommendations in Sections 6 and 7 of the CIPFA Code of Practice. They may be subject to amendment where necessary to reflect the particular circumstances of Haringey Council but will not deviate materially from the Code's key principles.

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

- 7.17 The **Audit Committee** will formulate the TMSS and amendments to it. The Cabinet Member for Finance [and Corporate Services](#) will be consulted on the draft TMSS because of the budget implications. The **Overview and Scrutiny Committee** will scrutinise the draft TMSS annually before [considered by Cabinet](#) and its adoption by **full Council**. The **full Council** is responsible for approving and adopting the TMSS setting out the matters detailed in The Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes (CIPFA, 2021~~17~~⁷). The **Section 151 Officer** has delegated authority for implementing and monitoring the TMSS. The Council sets its TMSS in line with the indicators required under the Prudential Code for Capital Finance in Local Authorities introduced by CIPFA 1 April 2004 and subsequently revised in 2017 [and 2021](#).
- 7.18 All decisions on borrowing, investment, leasing or financing shall be delegated to the **Section 151 Officer**, who is required to act in accordance with the TMSS and The Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes (CIPFA, 2021~~17~~⁷).
- 7.19 The **Section 151 Officer** is responsible for reporting to the **Audit Committee** each quarter, or as near as practicable, on the implementation and regular monitoring of the treasury management policies and practices and on the exercise of his/her delegated treasury management powers.
- 7.20 The **Section 151 Officer** is responsible for consulting the Cabinet Member for Finance [and Corporate Services](#) on the mid-year monitoring report and an out-turn report after the close of the year concerning treasury management policies and practices before these reports are considered by the **Audit Committee** and **full Council**.

Arrangements for Cash and Banking

7.21. All money in the hands of the Council is controlled by the officer designated for the purposes of section 151 of the Local Government Act 1972, in the Council's case the **Section 151 Officer** and save as allowed in the Financial Regulations for Schools where, in any case, arrangements shall be made for the **Section 151 Officer** to be able to exercise control upon the withdrawal of delegation or otherwise, no officer other than the **Section 151 Officer** (or those officers to whom the S151 Officer has granted delegated authority to) may:

- (a) open a bank or credit/purchase card account.
- (b) agree to or sanction the arrangements for the handling of any liquid resource, cash or instrument of payment.

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

- (c) make payments, save through imprest accounts; or
- (d) authorise direct debits.

7.22. The **Section 151 Officer** makes imprest advances to certain officers for giving out petty cash disbursements on behalf of the Council. The value of any advance is subject to the agreement of the **Section 151 Officer**. The officer named as responsible for each imprest is accountable for the full value of the sum advanced at any time. Imprest accounts must be operated in accordance with the procedures set down by the **Section 151 Officer**. Detailed imprest account procedure rules are available from Corporate Procurement Division.

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

Amenity, Trust and Other Unofficial Funds

- 7.23. Funds held by the Council on behalf of other bodies or persons must be dealt with in accordance with procedures set down by the **Section 151 Officer**. [DirectorsCorporate Directors](#) must ensure such funds are held securely and in such a way that they can be identified, accounted for and reconciled, at any time, separately from Council monies. [DirectorsCorporate Directors](#) are accountable for the appropriate expenditure from such funds or repayment thereof.

Staffing

- 7.24. **Full Council** is responsible for determining how officer support for Executive and non-Executive roles within the Council will be organised.
- 7.25. The Head of Paid Service (**Chief Executive**) is responsible for providing overall management to staff. The **Chief Executive** is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.
- 7.26. [DirectorsCorporate Directors](#) are responsible for controlling total staff numbers by:
- (a) advising the **Cabinet** on the budget necessary in any given year to cover estimated staffing levels;
 - (b) adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs; and
 - (c) the proper use of appointment procedures.

8. Systems and Procedures

General

- 8.1. The **Section 151 Officer** is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes made by [DirectorsCorporate Directors](#) to the existing financial systems or the establishment of new systems must be approved by the **Section 151 Officer**. However, [DirectorsCorporate Directors](#) are responsible for the proper operation of financial processes in their own service area in line with overall procedures set by the Council and the **Section 151 Officer**.

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

- 8.2. Any changes to agreed procedure notes by ~~Directors~~Corporate Directors to meet their own specific service needs should be agreed with the **Section 151 Officer**.
- 8.4. ~~Directors~~Corporate Directors should ensure that their staff receive relevant financial training that has been approved by the **Section 151 Officer**.
- 8.5. ~~Directors~~Corporate Directors must ensure that staff are aware of their responsibilities under data protection, freedom of information legislation and the Computer Misuse Act.
- 8.6. ~~Directors~~Corporate Directors must ensure that proper business continuity planning is in place for the delivery of financial services in the event of any incident that affects systems.

Income and expenditure

- 8.7. It is the responsibility of ~~Directors~~Corporate Directors to ensure that a proper scheme of delegation in respect of financial matters has been established within their area and is operating effectively. The **Section 151 Officer's** Scheme of Financial Delegation provides detailed procedures for:
 - (a) expenditure;
 - (b) income including grants, fees & charges, cash and banking;
 - (c) control of assets, stocks and stores;
 - (d) human resources.

Payments to employees and members

- 8.8. The **Section 151 Officer** should approve any amendments to the approval processes for the payment of all salaries, wages, pensions, compensation, other emoluments and any ex-gratia payments. ~~Directors~~Corporate Directors, -Directors and Heads of Service and Business Unit Heads must supply such certificates relating to the employment of staff as the **Section 151 Officer** deems necessary. The ~~Chief People Officer~~ Head of Human Resources is responsible for all payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to Members.

Taxation

- 8.9. The **Section 151 Officer** (and the ~~Chief People Officer~~**Head of Human Resources**) for PAYE and NI) are responsible for advising ~~Directors~~**Corporate Directors**, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council. ~~Directors~~**Corporate Directors** should discuss with the **Section 151 Officer** potential tax implications of any new initiatives. ~~Directors~~**Corporate Directors** have a responsibility for the proper application of tax rules as advised.
- 8.10. ~~Directors~~**Corporate Directors** are responsible for ensuring that the appropriate controls and procedures are operated within the relevant service area in relation to taxation issues.
- 8.11. The **Section 151 Officer** (and the ~~Chief People Officer~~**Head of Human Resources**) for PAYE and NI) are responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.
- 8.12. **All staff and Councillors** should adhere to VAT rules & regulations and also guidance issued by the **Section 151 Officer**.

Trading accounts/business units

- 8.13. It is the responsibility of the **Section 151 Officer** to advise on the establishment and operation of trading accounts and business units. ~~Directors~~**Corporate Directors** have a responsibility to advise the **Section 151 Officer** on any plans to utilise trading arrangements.

Debt Write Off

- ~~8.14. Arrears of housing rents and other housing income administered by the ALMO (Homes for Haringey) may be written off in accordance with procedure notes issued by the Section 151 Officer with the below authorities, applying to individual debt accounts:~~
- ~~a) on the Almo increasing approval levels from 100 to 1000 up to and including £1,000, the approval of Chief Executive of the ALMO and reported to the Section 151 Officer.~~
 - ~~b) Over £1,000 and up and including £50,000, on the approval of the Section 151 Officer upon the advice of the Chief Executive of the ALMO.~~
 - ~~c) Over £50,000, on the approval of the Cabinet Member with responsibility for Finance upon the advice of the Chief Executive of the ALMO and the Section 151 Officer.~~

~~The ALMO shall keep a record of all such sums written off.~~

~~8.15.8.14.~~ All ~~other~~ individual debt accounts which remain unpaid may be written off in accordance with the below authorities:

- a) up to and including £1,000, the approval of relevant **Director** and reported to the **Section 151 Officer**.
- b) Over £1,000 and up to and including £50,000 on the approval of the **Section 151 Officer** upon the advice of the relevant **Director**;
- c) Over £50,000 on the approval of the **Cabinet Member with responsibility for Finance** upon the advice of the relevant **Director** and the **Section 151 Officer**.

Corporate Finance shall keep a record of all such sums written off.

~~8.16.8.15.~~ All debts written off will be reported in summary to the **Cabinet** in the regular budget monitoring reports.

~~8.17.8.16.~~ It is important that Council income is maximised and therefore to ensure that systems and procedures are in place to collect income promptly and to minimise the level of any bad debts.

Procedure Notes

~~8.18.8.17.~~ From time to time the **Section 151 Officer** may issue procedure notes pursuant to these Financial Regulations or his statutory duties or otherwise. Failure to comply with a lawful instruction is a disciplinary offence.

9. External Arrangements

Introduction

- 9.1. The Council provides a distinctive Leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.
- 9.2. The Council works closely with other agencies and private service providers. Other Government funding streams also provide additional resources to enable the Authority to deliver services to the local community.

PART 4 – RULES OF PROCEDURE Section I – Financial Regulations

Partnerships

- 9.3. The **Cabinet** is responsible for approving delegations, including frameworks for partnerships. The **Cabinet** is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 9.4. The **Cabinet** can delegate functions – including those relating to partnerships to officers. These are set out in the scheme of delegation that forms part of the Council's Constitution. Where functions are delegated, the **Cabinet** remains accountable for them to the **full Council**.
- 9.5. The Head of the Paid Service (**Chief Executive**) represents the Council on partnership and external bodies, in accordance with the scheme of delegation.
- 9.6. The **Section 151 Officer** is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council.
- 9.7. The **Section 151 Officer** must ensure that the accounting arrangements to be adopted relating to partnerships, pooled budgets and joint ventures are satisfactory.
- 9.8. The **Monitoring Officer** must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. They must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- 9.9. [DirectorsCorporate Directors](#) are responsible for ensuring that appropriate approvals both internal and external are obtained before any negotiations are concluded in relation to work with external bodies.

External Funding

- 9.10. The **Section 151 Officer** is responsible for ensuring that all funding noted by external bodies is received and properly recorded in the Council's accounts.

Work for Third Parties

- 9.11. The **Cabinet** is responsible for approving the contractual arrangements for any work for third parties or external bodies. Advice should be obtained from the **Section 151 Officer** and the **Monitoring Officer** before entering into a contract for supply to others.

10. Retention of Records

- 10.1 Records held locally in establishments shall be retained in accordance with the approved guidance, which in turn must meet the Council's standards.
- 10.2 ~~Directors~~Corporate Directors and Budget holders shall be responsible for ensuring that financial records are carefully and systematically filed and retained for inspection by the **Section 151 Officer** or agencies (e.g. HM Revenue & Customs) in line with the approved local management information schemes that meets relevant statutory requirements.
- 10.3 The list is not exhaustive and, where there is uncertainty, the advice of the **Section 151 Officer** and the Council's ~~Assistant~~Director of Legal and Corporate Governance must be sought. Periods referred to are in addition to the current year of account, which ends at the conclusion of the annual external audit of the Council's accounts (i.e. 30 September following the end of the financial year).
- 10.4 The **Section 151 Officer** or his representative shall have access to documents as deemed necessary.
- 10.5 The information governance framework assists services to meet the requirements of the Data Protection Act, the Freedom of Information Act and other statutory requirements.

Report for: Standards Committee

Item number: 8

Title: Proposed changes to the Council's Contract Standing Orders

Report authorised by : Taryn Eves, Director of Finance

Lead Officer: Barry Phelps, Chief Procurement Officer

Ward(s) affected: N/A

Report for Key/ Non-Key Decision: Non-Key

1. Describe the issue under consideration

- 1.1. The Council's Constitution defines the Council decision making procedures. It is kept under review and when necessary, amendments are proposed to Standards Committee for consideration and recommendation on to full council.
- 1.2. The previous update to Part Four of the Constitution, Section J Contract Standing Orders was in March 2025 and intended to align with the new Procurement Act 2023 (PA23), which came into effect on 24 February 2025 and the centralisation of procurements above £25,000.
- 1.3. The proposed amendments to the Contract Standing Orders (CSO's) are intended to address:
 - 1.3.1. some minor omissions following the revised CSO's introduced in March 2025;
 - 1.3.2. address some audit recommendations;
- 1.4. Additional information on the proposed changes can be found in Appendix 2 – Summary of Proposed CSO Amendments Nov 2025 v1.1.

2. Cabinet Member Introduction

N/A

3. Recommendations

- 3.1. That Standards Committee recommends that the Council adopt the proposed revised Part Four of the Constitution, Section J Contract Standing Orders as attached at Appendix 1 – CSO Nov 2025 v1.1.
- 3.2. The Standards Committee notes the following key amendments:

- 3.2.1. Directors may approve extensions and variations of contracts with an aggregated value of less than £500,000;
- 3.2.2. Letters of Intent are restricted to 50% of the contract value, where the contract value is £100,000 or less.
- 3.2.3. Directors are to record decisions to novate contracts and notify the Chief Procurement Officer of such decisions.

4. Reasons for decision

- 4.1. The CSO's need updating to incorporate some drafting omissions from the previous version approved by Full Council in March 2025. The main omission being a clerical error to allow Directors not just to award contracts of less than £500,000, but to also be able to vary or extend a contract, where the aggregated value of the award, variation or extension is less than £500,000. This is consistent with Delegated powers afforded to Directors elsewhere in the Constitution.
- 4.2. Currently it is possible for Officers to issue a Letter of Intent up to the full contract value, where the contract value is less than £100,000. Legal services have recommended this are restrictions applied, as a Letter of Intent is not intended to replace a contract, which in effect is possible under the current drafting.
- 4.3. Audit have recommended that the Chief Procurement Officer is advised of all contract novation's, this is to ensure compliance with the Procurement Act 2023 and other relevant legislation.

5. Alternative options considered

Do Nothing

- 5.1. Without amending the CSO to state that Directors' are able to vary and extend contracts would conflict with other delegated provisions within the Constitution.
- 5.2. Officers would be able to issue Letters of Intent to cover the entire contract value up to £100,000 without having any contractual arrangements in place. This exposes both parties to risks around the service delivery, liabilities and commercial arrangements.
- 5.3. Novations could potentially be processed without having undertaken relevant compliance checks to ensure the new contractor meets requirements within the relevant legislative frameworks (i.e. Procurement Act 2023 and Public Contract Regulations 2015). If these were found to be in breach of legislation, it exposes the Council to the contract being ineffective and potentially other sanctions applied by the courts or the Procurement Review Unit.

6. Background information

- 6.1. In March 2025, Full Council approved the current version of Part Four of the Constitution, Section J Contract Standing Orders (CSOs) to comply with the Procurement Act 2023 and the centralisation of procurements above £25,000.
- 6.2. The Chief Procurement Officer has consulted with internal legal colleagues, the Leader of the Council, members of the Corporate Leadership Team and the Constitutional Working Group in developing the proposed amendments to the CSOs.
- 6.3. The current version of the CSOs only provide for Directors to award contracts up to a value of £500,000, there is no provision for Directors to vary or extend contracts. Therefore the additional provisions are required to ensure there is clarity that Directors can also vary and extend contracts up to an aggregated value of £500,000, which is consistent with other delegated powers within the constitution.
- 6.4. The proposed Constitutional amendments have been made to allow flexibility by removing the prohibitive references, allowing for the taking of key decisions by officers in these certain circumstances (i.e. in respect of awarding contracts only), and to add clarity more generally. Amendments have also been necessary to procedure rules to make changes to working practices such as the Forward Plan and the application of call-in to include officer key decisions.
- 6.5. Additional provisions have been included relating to letters of intent. This is to avoid any abuse of this provision (CSO 16.04), which could potentially allow officers to issue a letter of intent up to the value of the contract if it was £100,000 or less. The additional provisions cap the maximum amount permitted under a letter of intent to 50% of the contract value, where the contract is below £100,000.
- 6.6. An Audit in respect of Managing Contracts within Housing in 2025 recommended that CSO's were updated to require documentary evidence of decisions relating to novation of contracts and the Chief Procurement Officer is sent copies of these decisions to ensure compliance with the Procurement Act.

7. Contribution to strategic outcomes

- 7.1. The recommendations in this report enable departments support the Councils Borough Plan and priorities through the commissioning and management of services compliantly, and to deliver best value.

8. Carbon and Climate Change

- 8.1. Not applicable – The Procurement Act 2023 makes provisions for social value and environmental considerations, which is already embedded in our procurement activity

9. Statutory Officers comments (Chief Finance Officer (including procurement), Head of Legal & Governance (Monitoring Officer), Equalities)

Finance

- 9.1. The Director of Finance notes the contents of the report and confirms there are no financial implications directly arising from this report.

Procurement

- 9.2. The Chief Procurement Officer has prepared this report following consultation on the proposed changes to the Constitution with senior officers within the Council, legal services, and members of the Constitutional Working Group.
- 9.3. The Chief Procurement Officer supports the Recommendations proposed in paragraph 3 of this report and confirms where Cabinet delegates decisions in relation to award of contracts, officers are still required to comply with transparency requirements relating to key decisions.

Legal

- 9.4. The Director of Legal and Governance (Monitoring Officer) has been consulted in the preparation of this report.
- 9.5. Under section 135 Local Government Act 1972, local authorities may make standing orders with respect to the making of contracts by them or on their behalf and shall make standing orders with respect to the making by them or on their behalf of contracts for the supply of goods, materials or for the execution of works. Standing orders should include provisions for securing competition in the award of contracts and for regulating the way tenders are invited, as well as be in line with the provisions of relevant public procurement laws and regulations.
- 9.6. Officers are required to adhere to the standing orders when procuring, awarding and managing public contracts. This enables the Council to comply with its statutory duties when spending money, including relevant procurement legislation and the Best Value duty under the Local Government Act 1999.
- 9.7. Pursuant to Part 2, Article 9.03(l) of the Council's Constitution, the Standards Committee has power to consider amendments to the Council's Constitution and recommend proposals to full Council for approval.
- 9.8. The Director of Legal and Governance (Monitoring Officer) sees no legal reasons preventing Standards Committee from approving the recommendations in this report.

Equality - N/A

10. Use of Appendices

- 10.1. Appendix 1 – CSO Nov 2025 v1.1 (clean copy)
- 10.2. Appendix 2 – Summary of Proposed CSO Amendments Nov 2025 v1.1
- 10.3. Appendix 3 – CSO March 2025 vs Nov 2025 v1.1 Comparison

11. Local Government (Access to Information) Act 1985 - N/A

Part Four, Section J

Contract Standing Orders

GLOSSARY	1
0. Statement of Principles	6
CONTRACT STANDING ORDERS	7
1. Introduction.....	7
2. Roles & Responsibilities	8
3. Scope of the CSO's.....	12
4. Public Procurement Rules and Procedures.....	12
5. Contract Value and Aggregation	13
6. Social Value	13
7. Frameworks	14
8. Dynamic Purchasing Systems.....	14
9. Dynamic Markets.....	15
10. Direct Awards	15
11. Procedure for Contracts below £25,000	15
12. Procedure for Contracts valued above £25,000	16
13. Electronic communications, procurement documents, receipt and opening of Bids.....	17
14. Abnormally Low Bids	17
15. Post Tender Clarifications/Confirmations.....	17

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

16.	Bid Acceptance	18
17.	Conditions Applying to All Contracts:.....	18
18.	Waivers, Extensions, Variations and Novations	20
19.	Contract Termination	22
20.	Contract Management.....	23
21.	Application of CSOs to Grants	23
22.	Subsidy Control	24

PART FOUR – RULES OF PROCEDURE
Section J – Contract Standing Orders

GLOSSARY

In these Contract Standing Orders the following terms shall have the meanings set out below (as amended from time to time).

Term	Meaning
Approved Electronic Means	means such electronic means of authenticating the formation and sealing of a Contract, which may include the use of electronic seals and signatures, positive approval using check boxes or other similar means, as may be expressly approved by the Monitoring Officer from time to time or for a specific Contract.
Approved Form of Contract	means a Contract approved by the Monitoring Officer for use within procurement activity.
Best Value	means the duty, which Part 1 of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by Council.
Bid(s)	means Tenders of Quotations (as applicable).
Cabinet	means the Council's Executive committee comprising the Leader of the Council and up to 9 individual Cabinet members selected by the Leader.
Cabinet Member	means individual members (Councillor) of the Cabinet, selected by the Leader with a particular portfolio (area) of responsibility.
Central Digital Platform	means the online system referenced in the Procurement Act and Procurement Regulations where Notices, documents and other information required to be published/made available.
Chief Finance Officer	also known as the Section 151 Officer , the Council's most senior finance officer who has the responsibility under section 151 Local Government Act 1972 for the proper management of the Council's financial affairs and occupies the post of Director of Finance.
Chief Procurement Officer	means the Council's most senior procurement officer, as appointed from time to time.
Constitution	means the constitution of the Council which sets out; (i) how it operates; (ii) how it makes decisions; and (iii) the procedures which it must follow.
Concession Contract	means a Contract for the supply, for pecuniary interest, of works or services to the Council, where (i) at least part of the consideration for that supply is a right for the supplier

PART FOUR – RULES OF PROCEDURE
Section J – Contract Standing Orders

Term	Meaning
	to exploit the works or services; and (ii) under the Contract the supplier is exposed to real operating risk.
Contract	means any Council Contract in writing and of monetary value for the execution of works or the supply of goods and the provision of services. For avoidance of doubt: (i) any contract of Services, Supply and/or Works; (ii) any Framework ; (iii) any Concession Contract; or (iv) any Utilities Contract but does not include in any circumstances (v) an employment contract; or (vi) a Grant agreement
Contract Standing Orders (CSO's)	means these Contract Standing Orders which provide the constitutional basis for the Council's procurement of works, goods and services.
Corporate Contracts Register	means the central register of Council Contracts as managed and maintained by the Chief Procurement Officer.
Corporate e-Sourcing System	means the following: (i) The designated corporate e-sourcing system, that manages the following activities; sourcing, Contract and performance management and management of commercial invoices, referred to in the Procurement Code of Practice; or (ii) Such other systems as may be approved by the Chief Procurement Officer from time to time
Council	means London Borough of Haringey Council, Alexandra House, 10 Station Road, Wood Green, N22 7TR
Director	means an employee of the Council holding a post designated as: (i) The Chief Executive; (ii) A member of the Strategic Leadership Team; or (iii) A Director or Assistant Director.

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

Term	Meaning
Dynamic Market	means a list of qualified suppliers who have met the conditions of membership of the dynamic market who are eligible to participate in future procurements as defined in the Procurement Act.
Dynamic Purchasing System (DPS)	means a completely electronic system which can be used for commonly used purchases of works, goods or services as defined in Regulations.
Extension	means an extension to an existing Contract as described in more detail in CSO 18.02.18.02
Financial Regulations for Schools	means financial duties and procedures stated by the Council and all legislation relating to the financial management of schools.
Forward Plan	means the document that lists all decisions that the Cabinet will take together with all Key Decisions to be taken and by whom.
Framework	means a Contract between a contracting authority and one or more Suppliers that provides for the future award of Contracts by a contracting authority to a Supplier or Suppliers as more particularly described in the Regulations or Procurement Act (as applicable).
Grant(s)	means a payment to help the recipient (e.g. school, charity or voluntary organisation) to deliver an agreed outcome in return, the grant funder (e.g. the Council) gets no direct service delivery (“the Grant Agreement”). A grant is usually provided subject to conditions that state how the grant shall be used (for example to support the wider objectives of the Council in promoting the social, economic or environmental well-being within their communities). The Grant Agreement will normally set out general instructions as to how this is to be achieved, and any particular conditions in regard to claw-back if those wider objectives are not met.
Head of Audit & Risk Management	means the Councils most senior officer with responsibility for leading the Council’s audit and risk management function.
Key Decision	has the meaning attributed to it in the Access to Information Procedure Rules at Part 4 Section D of the Constitution.
London Living Wage	means as defined by the Living Wage Foundation (https://www.livingwage.org.uk/what-real-living-wage)

PART FOUR – RULES OF PROCEDURE
Section J – Contract Standing Orders

Term	Meaning
Monitoring Officer	means the most senior legal officer with responsibility for leading the Council's legal and governance function and with responsibility under section 5 Local Government and Housing Act 1989 for supporting and advising the Council in relation to the lawfulness and fairness of the decision-making of the Council, and has the title of Assistant Director for Legal & Governance.
Notice	means a notice any one of the various types of notices that is required to be published in accordance with the Procurement Act and the Regulations.
Officer(s)	means an Officer as employed by the Council with relevant and appropriate authority to act on behalf of the Council.
Pensions Committee	means the Council's committee exercising the functions of Administering Authority, being responsible for the management and monitoring of the Council's pension fund.
Procurement Act	means the Procurement Act 2023 which comes into force on 28 February 2025 and associated Procurement Regulations 2024 as may be amended from time to time.
Procurement Code of Practice	means the separate document referenced in these CSO's titled Procurement Code of Practice where more detailed information about the Council's procurement and contract procedures can be found.
Procurement Policy Notice (PPN)	means any relevant Procurement Policy Notice as issued by government (as may be updated and issued from time to time). PPN's can be found via – https://www.gov.uk/government/collections/procurement-policy-notes
Procurement Threshold	means the applicable financial thresholds at which the Procurement Act or Regulations (as applicable) applies with effect from 1 January 2024 (as may be updated from time to time).
Provider Selection Regime	means the Health Care Services (Provider Selection Regime) Regulations 2023 as may be amended from time to time.
Quotation	means an offer submitted in writing to the Council by a Supplier in response to a request for quotation (RFQ)) (without the formal commencement of a public procurement exercise).

PART FOUR – RULES OF PROCEDURE
Section J – Contract Standing Orders

Term	Meaning
Regulations	means the: (i) the Public Contract Regulations 2015; (ii) Utilities Contract Regulations 2016; or (iii) Concession Contract Regulations 2016; as applicable
Scheme for Financing Schools	means the Council's published scheme of finance for schools as amended from time to time.
Scheme of Delegation	means the Council's scheme of delegation which can be found at Part 3 of the Constitution.
Social Value	means social, economic and environmental considerations aligned with the Council's priorities and policies, the Public Services (Social Value) Act 2012 and the National Procurement Policy Statement.
Strategic Procurement	means the Council's centralised procurement department managed by the Chief Procurement Officer.
Supplier	means any individual or organisation(s) invited to submit a quotation or Tender or where a Contract has been awarded a Contract, the counterparty to a Contract with the Council who is responsible for delivering goods, services or works in accordance with the terms and conditions of Contract.
Technical Guidance	means the Technical Guidance published by the Government Commercial Function in relation to the Procurement Act. Further details can be found at – https://www.gov.uk/government/collections/procurement-act-2023-guidance-documents
Tender	means a Supplier's proposal submitted in response to an invitation to tender as part of a competitive tendering exercise.
Utilities Contract	means a Contract for the supply of goods, services or works wholly or mainly for the purpose of utility activity.
Variation	means a modification to an existing Contract (such as additional services, exercising extension options, changes in price or a change in Supplier).
Waiver	means an exemption (i.e. "waiver") from the requirement to comply with all or part of these CSOs.

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

0. Statement of Principles

- 0.01. These CSO's provide the constitutional basis for the Council's procurement of works, goods and services. Following them will assist in ensuring statutory compliance, value for money, propriety and the proper spending of public money.
- 0.02. The Procurement Code of Practice provides more detail and shall govern Council procurement process and contract award procedures. The Chief Procurement Officer shall issue and maintain the Procurement Code of Practice. Any procurement activity shall proceed in accordance with these CSO's and the Procurement Code of Practice and all such other guidance issued by the Chief Procurement Officer.
- 0.03. The Chief Procurement Officer shall make the latest version of these CSO's and the Procurement Code of Practice available to every Director, Cabinet Member and Officer of the Council. Directors, or Officers acting on their behalf, shall apply the requirements of the CSO's and the Procurement Code of Practice when engaging in any procurement activity.
- 0.04. All Procurement activity shall be used (amongst other things) to achieve Best Value in accordance with the Council's statutory requirements or approved objectives. This should include an innovative approach to building partnerships with the private and not-for-profit sectors and collaborating with other public sector bodies within a robust contractual framework. Officers with responsibility for procurement shall ensure that they are able to demonstrate achievement of Best Value with regards to the optimal combination of economy, efficiency and effectiveness.
- 0.05. Every Contract or official order for works, goods or services made by the Council shall be for the purpose of achieving the Council's statutory obligations or approved objectives and shall conform to all relevant laws of England and Wales.
- 0.06. All procurement activity constituting Key Decisions shall comply with the requirements of the Access to Information Procedure Rules set out in Part 4 and the Protocols for Key Decisions and for Decision Making set out in Part 5 of this Constitution.
- 0.07. Directors shall ensure that the Cabinet or an appropriate Member of the Cabinet is consulted on any procurement activity prior to its publication in the Council's Forward Plan.
- 0.08. Where in these CSOs a decision is required by the Cabinet, this may also be taken by the Leader or by a Cabinet Member with the Leader's agreement.
- 0.09. Directors must ensure that robust audit trails are in place for all procurement activity in accordance with the Procurement Code of Practice.

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

- 0.10. No Cabinet Member of the Council or Council Officer shall enter into any Contract on the Council's behalf.
- 0.11. No Cabinet Member or Officer of the Council shall be permitted to become security under any Contract.

CONTRACT STANDING ORDERS

1. Introduction

- 1.01. Procurement decisions are among the most important decisions a manager will make because the money involved is public money and the Council is required to ensure that Best Value is obtained when procuring works, goods and services. Efficient use of resources to achieve Best Value is therefore imperative. The Council's reputation is equally important and should be safeguarded from any imputation of dishonesty or corruption.
- 1.02. For these reasons it is a disciplinary offence to fail to comply with these CSO's and the Procurement Code of Practice when the Council is procuring Contracts for works, good and services and raising orders with suppliers. This also includes situations where the Council procures works, goods and/or services for and on behalf of other public bodies.
- 1.03. Council employees have a duty to report breaches of these CSO's to an appropriate senior manager and the Head of Audit & Risk Management.
- 1.04. Unless otherwise provided within these CSO's or the Procurement Code of Practice or with the express approval of the Chief Procurement Officer, all procurement processes, regardless of value, should be conducted via the Corporate e-Sourcing System.
- 1.05. Reference should be made to the Procurement Code of Practice for more detailed information on procurement processes.
- 1.06. All Officers will need to familiarise themselves with and comply with these CSO's and any other policies (including the National Procurement Policy Statement) / guidance (including Technical Guidance) / Procurement Policy Notices¹, the Procurement Act 2023 (Commencement No. 3 and Transitional and Saving Provisions) Regulations 2024, Regulations and Procurement Act (as applicable).
- 1.07. Throughout these CSO's references are primarily made to the "Procurement Act".

¹ Where applicable

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

However, there are also instances where references are made to the “Regulations” to capture instances where Contracts fall under an alternative procurement regime. The relevant procurement legislation that will be applicable to procurement activity should be considered on a case-by-case basis. As such, advice should therefore be sought from Strategic Procurement as to the applicable procurement regime a proposed public Contract may need to be awarded in accordance with.

- 1.08. In the event of any doubt as to the interpretation of these CSO's or the Procurement Code of Practice, or as to the proper procedure to be followed, clarification should be sought from the Chief Procurement Officer.
- 1.09. Unless stated otherwise, all financial references to pounds sterling in these CSO's are to be exclusive of VAT.
- 1.10. Subject to Regulations or Procurement Act (as applicable), all communication and information exchange in relation to procurement shall be performed using electronic means of communication.

2. Roles & Responsibilities

- 2.01. **The Cabinet** (and Pensions Committee where relevant) will:
 - a) hold Directors accountable for any decisions they make under their delegated authority or under these CSO's;
 - b) approve commencing a procurement exercise for proposed Contracts valued at £500,000 or more;
 - c) approve awards of Contract valued at £500,000 or more;
 - d) approve any Variation or Extension with an aggregate value of £500,000 or more (see also CSO 18);
 - e) ensure that the award of any Contract and any Extension or Variation with an aggregated value at £500,000 or more is treated as a '**Key Decision**' and as such must be in the Council's Forward Plan and comply with the other procedures in that regard set out in the Constitution.
- 2.02. Where a Contract has previously been awarded under CSO 2.01c) and:
 - a) that Contract includes an Extension within its terms (see CSO 18); and/or
 - b) that Contract is to be subject to a Variation;

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

following consultation with the Cabinet Member responsible for the relevant portfolio, a Director may approve any subsequent Contract Extension(s) and/or Variation(s) up to an aggregated value of less than £500,000.

2.03. Where the additional cumulative value of all Variations and Extensions of the original award is £500,000 or more, this will be treated as a 'Key Decision' and CSO 2.01e) will apply.

2.04. Where a Director undertakes a decision in relation to CSO 2.02, details of the Extension and/or Variation must be reported retrospectively via the quarterly financial update report to Cabinet.

2.05. **Directors**

2.05.1 Each Director has responsibility for all Contracts let under their control and is accountable to the Cabinet for the performance of their duties in relation to Contract letting and management, which are:

- a) to ensure compliance with the laws of England and Wales and the Council's Policies;
- b) to ensure value for money in all procurement processes;
- c) to ensure compliance with these CSO's and the Procurement Code of Practice;
- d) to maintain a departmental Scheme of Delegation;
- e) to ensure that all relevant Officers are familiar with the provisions of these CSO's and the Procurement Code of Practice and that they receive adequate training on their operation;
- f) to ensure compliance with any guidelines issued in respect of these CSO's;
- g) to ensure all relevant regulatory consultations have been considered and complied with, including but not limited to Local Government Act 1999 Section 3 Best Value Consultations, Landlords and Tenants Act 1985 Section 20 etc.
- h) to take immediate action in the event of a breach of these CSO's or the Procurement Code of Practice within their service;
- i) to submit to the Chief Procurement Officer a pipeline of proposed procurements where the anticipated Contract value will be £2,000,000 or more, no later than 31 March of each year. The pipeline is to include procurements due to

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

commence within the following two financial years;

- j) to submit to the Chief Procurement Officer a pipeline of proposed procurements where the anticipated Contract value will exceed £25,000 every three months. The pipeline is to include procurements due to commence within the following 12 months as a minimum;
- k) to seek Cabinet approval to commence a procurement process for proposed Contracts the value of which is £500,000 or more;
- l) to keep:
 - i. copies of all concluded Contracts as required by the Regulations or Procurement Act (as applicable), and ensure electronic copies of such Contracts are stored in the Corporate e-Sourcing System, and
 - ii. proper records of procurement procedures sufficient to justify decisions taken at all stages of the procurement procedure for a period of at least three years from the date of award of the Contract, as required by the Regulations or Procurement Act (as applicable);
- m) to keep records of Waivers of any provision of these CSO's and forward a copy of such signed records to Strategic Procurement;
- n) approve award, vary and extend Contracts with an aggregated value of less than £500,000;
- o) Where a Contract has previously been awarded under CSO 2.01c) and following consultation with the Cabinet Member responsible for the relevant portfolio, a Director may approve any subsequent Contract Extension(s) and/or Variation(s) up to an additional aggregated value of less than £500,000.
- p) to ensure that the Council's seal is affixed to any document required to be executed as a deed and that where a document is not expressed to be under seal, it is either signed by two people or authenticated by Approved Electronic Means as provided for in these CSO's;
- q) to record all Contracts in the Corporate Contracts Register;
- r) to ensure effective management of all Contracts under their control, and to a level deemed appropriate in regard to risk or value of each Contract;
- s) to ensure that no Contract is let unless the expenditure involved has been fully considered and approved beforehand and sufficient money has been allocated in the relevant budget;

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

- t) to record and report on decisions taken under the Officer Scheme of Delegation in accordance with Part Three Section E Section 1 - paragraphs 3.01 to 3.06 of the Councils Constitution;

- u) Approve the termination of any Contract having regard for CSO 19.

2.06. **Pensions Committee**

- 2.06.1 The Pensions Committee shall have the same powers and duties of the Cabinet specified in these CSO's but limited to its responsibilities for procurements relating to the Pension Fund.

2.07. **Alexandra Palace and Park**

- 2.07.1 These CSO's apply to the procurement of works, goods and services by or on behalf of the above Alexandra Palace and Park Charitable Trust and any on the following basis:

- a) The Chief Executive of the relevant organisation shall have the powers of a Director specified in these CSO's;
- b) The Executive Board shall have the powers of the Cabinet and a Cabinet Member specified in these CSO's;
- c) In the event of any conflict, the requirements of the Charities Act 2011, any regulations made under that Act or charity law in general shall prevail over the provisions of these CSO's.

2.08. **Schools**

- 2.08.1 In accordance with the requirements of the Council's Scheme for Financing Schools and the Financial Regulations for Schools, where a school acts as an agent for the Council, these CSO's apply to all schools within the London Borough of Haringey except for academy and trust schools.

- a) A school's governing body shall have the powers of the Cabinet specified in these CSO's, except in relation to Waivers (CSO 18).

2.09. **Other wholly owned subsidiaries/arms-length organisations owned by the Council**

- 2.09.1 These CSO's apply to the procurement of works, goods and services by wholly owned subsidiary or arms-length organisation owned by the Council where they are subject to the Regulations or Procurement Act on the following basis:

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

- a) The Chief Executive of the relevant organisation shall have the powers and duties of a Director specified in these CSO's;
- b) The Board shall have the powers and duties of the Cabinet and a Cabinet Member specified in these CSO's.

3. Scope of the CSO's

3.01. These CSO's shall apply to all Contracts awarded by the Council for works, goods and services) unless otherwise expressly stated or these requirements are waived in accordance with CSO 1818.01.

3.02. Where the Council:

- a) secures funding from an external funding body; or
- b) is involved in joint working funded partly or entirely by external funding to the extent that the money passes through the Council's accounts; or
- c) intends to Grant funding to an external body;

for the purposes of securing the provision of works/ goods or services, these CSO's shall apply.

3.03. These CSO's shall **not apply** to Contracts falling within the specific exclusion provisions within the Regulations or in the case of the Procurement Act, exempted contracts as defined in Part 2 of Schedule 2 of the Procurement Act. For the avoidance of doubt, this exclusion applies to (amongst other things) Contracts of employment, certain Contracts for legal services, certain financial services and debt finance and agreements for the sale of land (including leases), or other exclusions as amended from time to time.

4. Public Procurement Rules and Procedures

4.01. Where the Council wishes to award a Contract for the provision of works, goods or services it will need to do so in accordance with the Regulations or Procurement Act (as applicable).

Provider Selection Regime

4.02. The Council will need to procure in accordance with the Provider Selection Regime where it is seeking to procure relevant in scope health care services for the purpose of the health service in England, whether alone or as part of a mixed procurement.

4.03. Advice should be sought from the Strategic Procurement prior to seeking to award a contract under the Provider Selection Regime.

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

5. Contract Value and Aggregation

- 5.01. Directors must ensure that a pre-tender estimate of the total Contract value is prepared and recorded in writing and is an accurate reflection of the expected Contract value (to the extent of the information available to Directors at the time), to determine whether it falls within the scope of the Regulations or Procurement Act.
- 5.02. Total Contract value or an estimated total Contract value in these CSO's means the aggregate value payable in pounds sterling exclusive of Value Added Tax, over the entire Contract period, including any extension periods in the proposed Contract. Procurements falling within the scope of the Procurement Act will need to have their estimated value calculated in accordance with Section 4 of the Procurement Act.
- 5.03. A Contract's value must not be artificially under or overestimated or divided into two or more separate Contracts with the intention of avoiding the application of these CSO's, the Regulations or the Procurement Act.

6. Social Value

- 6.01. The Council is committed to fulfilling its obligations under The Public Services (Social Value) Act 2012 and the National Procurement Policy Statement. Officers shall maximise the potential to generate social value outcomes from procurement activity.
- 6.02. Contracts valued at £500,000 or more must include Social Value as part of the evaluation criteria. Such consideration should be proportionate and appropriate to the size and nature of the Contract. Officers must follow guidance as stated in the Code of Practice.
- 6.03. For Contracts valued over £500,000 Social Value is to be included as part of the evaluation criteria. The Social Value weighting must be between 10% and 25% of the total award criteria.
- 6.04. Unless otherwise agreed with Chief Procurement Officer in writing, the Social Value Portal is to be used to record, manage and monitor these contractual Social Value commitments.
- 6.05. Social Value must be considered for Contracts valued below £500,000 where appropriate. However, such considerations should be proportionate and appropriate to the size and nature of the Contract. Officers must follow guidance as stated in the Code of Practice.
- 6.06. Any Social Value commitments made as part of a Tender submission must form part of the contractual obligations to be delivered by the Supplier under the Contract.

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

7. Frameworks

- 7.01. The Council may establish Frameworks for its own use or use by other contracting authorities.
- 7.02. The Council may access and call-off from Frameworks established by other public sector organisations where it is deemed suitable and appropriate to do so. However, consideration should first be given to the use of the Council's own established Frameworks, including those operated by the London Construction Program (LCP). Where the Council operates such Frameworks and are deemed suitable for the requirements being sought, use of these Frameworks shall take precedence over the use of any other third-party Framework, unless otherwise agreed by the Chief Procurement Officer.
- 7.03. Where an accessible Framework exists in respect of the subject matter, and there is an absence of compliant objective criteria to directly award, or prices have yet to be determined, then a mini competition is to be undertaken in accordance with the terms of the Framework. The Council will also need to act in accordance with Regulations or Procurement Act (as appropriate) alongside any terms stated in the use of such Frameworks.
- 7.04. The Council's decision to enter into a Contract with the recommended Supplier under a Framework must be made in accordance with CSO 16.

8. Dynamic Purchasing Systems

- 8.01. Where the Council operates its own DPS (including the LCP) for a works, goods, or service category, suitable for its requirement this must be used to carry out the procurements related to those categories; or
- 8.02. The Council may access and call-off from a DPS established by other public sector organisations that have been established in accordance with the Regulations, where it is deemed suitable and appropriate to do so. However, consideration should first be given to the use of the Council's own established DPS, including those operated by the LCP. Where the Council operates a DPS and is deemed suitable for the requirements being sought, use of the Council DPS shall take precedence over the use of any other third-party DPS, unless otherwise agreed by the Chief Procurement Officer.

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

- 8.03. Electronic formation of individual Contracts within a DPS is permitted, subject to CSO 17.

9. Dynamic Markets

- 9.01. The Council may establish Dynamic Markets for its own use or use by other contracting authorities.
- 9.02. The Council, acting in accordance with Procurement Act can establish Dynamic Markets for the purposes of awarding Contracts by reference to Suppliers' participation in those arrangements which must remain open for new Suppliers to join at any time.
- 9.03. Where the Council operates its own Dynamic Market (including the LCP) for a works, goods, or service category, that is deemed suitable for its requirement this must be used to carry out the procurements related to those categories;
- 9.04. The Council may access and call-off from a Dynamic Market established by other public sector organisations and that has been established in accordance with the Procurement Act, where it is deemed suitable and appropriate to do so. However, consideration should first be given to the use of the Council's own established Dynamic Market, including those operated by the LCP. Where the Council operates a Dynamic Market and is deemed suitable for the requirements being sought, use of the Council Dynamic Market shall take precedence over the use of any other third-party Dynamic Market, unless otherwise agreed by the Chief Procurement Officer.
- 9.05. Electronic formation of individual Contracts within a Dynamic Market is permitted, subject to CSO 17.

10. Direct Awards

- 10.01. The Council can directly award a public Contract to a supplier without undertaking a competitive procurement process in accordance with the limited situations described in the Regulations, sections 41-44 and Schedule 5 of the Procurement Act or in accordance with the Provider Selection Regime (as applicable).
- 10.02. Prior to seeking to rely on this CSO 10 to award a public Contract, advice should be sought from the Chief Procurement Officer.

11. Procedure for Contracts below £25,000

- 11.01. All Contracts with an estimated value below £25,000 must be procured in accordance

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

with the Code of Practice via the Corporate e-Sourcing System, except where an alternate e-sourcing system is mandated by a Framework, a DPS or an alternative e-sourcing system has been pre-approved in writing by the Chief Procurement Officer.

- 11.02. Where a Contract has an estimated value of less than £25,000, the relevant Director should act in the manner most expedient to the efficient management of the service, having regard for CSOs 7.01, 8 and 9 and retaining a record of the procurement activity and related approval.

12. Procedure for Contracts valued above £25,000

- 12.01. All Contracts let with a value of £25,000 or more must be undertaken in accordance with the Code of Practice having regard for CSOs 7.01, 8 and 9 in the first instance.
- 12.02. Except as otherwise expressly permitted by or under these CSO's, for all Contracts with an estimated value of £25,000 or more but less than £500,000, and where the value of the Contract does not exceed the relevant Procurement Threshold requiring a Contract to be advertised, at least three competitive Quotations should be sought via the Corporate e-Sourcing Solution, without the need for an advertisement (unless required to do so by the Procurement Act), or to follow the competitive tender procedure. Where the intention is to advertise the opportunity, the relevant Notices must be published in accordance with the Procurement Act. This activity will be managed by the Chief Procurement Officer, unless agreed otherwise by the Chief Procurement Officer.
- 12.03. Except as otherwise expressly permitted by or under these CSO's, all Contracts that exceed the relevant Procurement Threshold requiring a Contract to be advertised, or which have an estimated value of £500,000 or more must be let following publication of an appropriate advertisement (Tender) in accordance with the Regulations or Procurement Act (as applicable). This activity will be managed by the Chief Procurement Officer.
- 12.04. Where Tenders are to be invited, the regulatory procedure to be followed, shall be determined prior to advertising and be managed by the Chief Procurement Officer and shall comply with the Regulations or Procurement Act and the Procurement Code of Practice.
- 12.05. The Chief Procurement Officer may decide that processes in this CSO 12 are not appropriate in order to secure value for money for the Council and to ensure general procurement law principles are complied with. If that is the case, he/she may determine another process of selecting a Supplier, which will meet best value criteria and/or ensure compliance with procurement law. The decision and process must be properly documented.

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

- 12.06. All Contracts let require the publication of relevant Notices in compliance with the Regulations or the Procurement Act (as applicable).

13. Electronic communications, procurement documents, receipt and opening of Bids

- 13.01. Subject to the terms of Regulations and Procurement Act, the Council will provide unrestricted and full electronic direct access free of charge to the procurement documents from the date of publication of the advertisement, or the date on which an invitation to confirm interest was sent.
- 13.02. Electronic Bids received securely may be opened at the appointed date and time by a Council Officer or the Council's appointed consultant.
- 13.03. Records of any non-compliant Bids and of the date and time of receipt of any late Tenders must be kept by Officers.
- 13.04. Late Bids may only be accepted in exceptional circumstances and with the written authorisation of the Chief Procurement Officer.

14. Abnormally Low Bids

- 14.01. Abnormally low bids should be dealt with in accordance with the Regulations or Procurement Act (as applicable).

15. Post Tender Clarifications/Confirmations

- 15.01. Negotiation after receipt of formal bids and before the award of contract is only permitted:
- a) as part of a tender process allowed for by the Regulations or Procurement Act;
 - b) in circumstances which do not breach the Regulations/Procurement Act or put other Suppliers at a disadvantage, distort competition or adversely affect trust in the competitive process, and
 - c) if the prior authority of the Chief Procurement Officer has been obtained.
- 15.02. Tender clarifications are permitted in circumstances which do not breach the Regulations/Procurement Act or put other Suppliers at a disadvantage, distort competition or adversely affect trust in the competitive process
- 15.03. All communication with Suppliers during a formal procurement shall be performed

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

using electronic means in accordance with the Regulations or Procurement Act (as applicable).

16. Bid Acceptance

- 16.01. Bids are to be accepted on the basis that the award is compliant with the Regulations or Procurement Act (where applicable) and as determined by the application of the published award criteria.
- 16.02. Where a Contract has been awarded the Council is required to published Notices in accordance with the Regulations or Procurement Act (as applicable).
- 16.03. Where a purchasing card is used to procure goods, works or services it cannot be used to circumvent these CSO's. The relevant approvals in accordance with these CSO's must be in place prior to procuring the goods, works or services.
- 16.04. Where the provision of works, goods or services under a Contract is required to commence prior to the issuance and execution of a formal Contract, a Director, if satisfied that it is in the Council's best interest in the particular circumstances, may approve issuance of a Letter of Intent pending the issuance and execution of a formal Contract. However, the maximum cover afforded by any Letter of Intent shall not exceed £100,000 or 10% of the total Contract price, whichever is the higher value; except when the Contract price is £100,000 or less, where the maximum cover afforded must not exceed 50% of the Contract price.

17. Conditions Applying to All Contracts:

- 17.01. The procurement documents in respect of every Contract to which the Regulations or Procurement Act apply, shall provide for the Contract to include provisions enabling the Council to terminate the Contract in each of the circumstances as set out in Regulations or the Procurement Act.
- 17.02. The procurement documents in respect of every Contract to which the Procurement Act or Regulations apply shall include a requirement that the Council may require the successful Supplier to enter into a collateral Contract in a form approved by the Monitoring Officer which provides for the allocation of risks between the Parties where the Contract has been declared ineffective by a court.
- 17.03. The decision as to whether or not a collateral Contract will be required in respect of a Contract will ultimately be made, before the formal Contract is issued and executed, by the Monitoring Officer or an Officer acting under their delegated authority.

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

Contracts valued £25,000 or more

- 17.04. All Contracts valued at £25,000 or more must be in writing by way of a document prepared, or on a basis approved, by the Monitoring Officer.
- 17.05. Every Contract valued at £25,000 or more must be an Approved Form of Contract unless otherwise agreed by the Monitoring Officer
- 17.06. All Contracts for the provision of services which may entail members of the service provider's staff (including agents, sub-contractors and assigns) carrying out a role that involves contact with children and/or vulnerable adults or access to their personal records shall contain a provision requiring the service provider to undertake in respect of each staff member the appropriate level of Disclosure and Baring Service (DBS) check for which their role is eligible prior to provision of the services being carried out by the relevant staff member and at appropriate intervals thereafter.
- 17.07. All computer software Contracts shall contain a clause to the effect that use of the software by the Council's Suppliers shall not amount to use by a third party for which an additional software license might otherwise be required.
- 17.08. All Contracts for works and services must include provisions for the payment of London Living Wage.
- 17.09. The approval of contract awards, Variations and Extensions, may be evidenced within the Corporate e-Procurement Systems by electronic copies of signatures or through positive acceptance (i.e. tick box, yes /no indicator or other similar means of approval).
- 17.10. A Contract valued at less than £250,000 does not require sealing and should either be signed or electronically approved on behalf of the Council by the relevant Director, Assistant Director, or the Head of the relevant business unit, where permitted to do so under the Scheme of Delegation. Where the nature of the works, goods or services is such so as to pose a high risk of significant latent defects, then the Chief Procurement Officer may decide to have the Contract with a value of less than £250,000 executed under seal as a deed.

Contracts Valued £250,000 or more

- 17.11. In addition to the provisions above regarding Contracts valued over £25,000 the following requirements apply to Contracts exceeding £250,000.
- 17.12. A Contract valued at £250,000 or more must be executed on behalf of the Council under seal as a deed, and to ensure original sealed Contract documents are held by the Monitoring Officer for safekeeping. Where appropriate, electronic sealing of Contracts is permitted.

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

- 17.13. Every Contract valued at £250,000 or more must contain clauses to cover the following:
- a) if it is a Contract for works, that the Council may require the Supplier to provide security for completing the Contract in the form of a bond;
 - b) that, where the Supplier is a subsidiary or group company, the Supplier may be required to provide a parent or group company guarantee;
 - c) or other means of surety as agreed by the Chief Finance Officer or an Officer acting under their delegated authority.
- 17.14. The decision as to whether or not a bond or parent company guarantee will be required in respect of a Contract valued at £250,000 or more will ultimately be made by the Chief Finance Officer or an Officer acting under their delegated authority.

18. Waivers, Extensions, Variations and Novations

18.01. Waivers

- 18.01.1 Any Waiver relating to these CSO's must be agreed by the Chief Procurement Officer prior to engaging with any Supplier to provide goods, services or works in accordance with this CSO 18.
- 18.01.2 A Waiver may be agreed after considering a written report that demonstrates:
- a) the Contract is one entered into between entities within the public sector in circumstances permitted by the Regulations or Procurement Act (as applicable); or
 - b) the Contract is one that the Council is permitted to reserve for certain economic operators in circumstances permitted by the Regulations or Procurement Act (as applicable); or
 - c) the circumstances of the proposed contract award are covered by a relevant legislative exemption (under the law of England and Wales); or
 - d) the value of the Contract is below the applicable Procurement Threshold pursuant to the Regulations or Procurement Act (as applicable) and:
 - (i) complies with below threshold provisions within the Regulations or Procurement Act (as applicable);

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

- (ii) the nature of the market for the works to be carried out or the goods or services to be provided has been investigated and is such that a departure from the requirements of these CSO's is justifiable;
 - (iii) it is in the Council's overall interest; or
 - (iv) there are other circumstances which are genuinely exceptional.
- 18.01.3 All Waiver requests must be approved before any related Contract award and/or Variation occurs.
- 18.01.4 CSO's other than CSO 4 (which relates to the Regulations and the Procurement Act) may be waived on the basis set out in this CSO 18 by:
 - a) the Cabinet where the Waiver concerns a Contract with a value of £500,000 or more; or
 - b) a Director where the Waiver concerns a Contract with a value of less than £500,000 (save that the Director shall not have authority to waive CSO 17).
- 18.01.5 Any waiver valued at £100,000 or above relating to these CSO's must be agreed by the Chief Procurement Officer prior to engaging the supply chain.
- 18.01.6 A record of the decision approving a Waiver and the reasons for it must be kept and an entry made in a central register maintained and monitored by the Chief Procurement Officer.
- 18.01.7 Where an additional Waiver of these CSO's is sought in relation to the same individual Contract, whereby the aggregated value of the Contract increases to £500,000 or more, the Waiver must be agreed by the Cabinet.
- 18.02. **Contract Variations and Extensions**
- 18.02.1 A Contract may be extended before its expiry provided that the Extension is provided for in the original Contract terms or is permitted by the Regulations or Procurement Act (as applicable)
- 18.02.2 Contract Extensions shall be approved in accordance with CSO 2.
- 18.02.3 All Variations and Extensions must be recorded in writing and an electronic copy retained in the Corporate e-Sourcing System.

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

18.03. **Contract Variations**

- 18.03.1 Prior to seeking to vary an existing Contract, appropriate advice should be sought from Strategic Procurement on a case-by-case basis as to whether the Variation needs to be considered in accordance with the Regulations or Procurement Act (as applicable).
- 18.03.2 Prior to and following the Variation of a Contract subject to the Procurement Act, the Council may be required to publish a Notice(s) in accordance with section 75 of the Procurement Act.
- 18.03.3 Contract Variations shall be approved in accordance with CSO 2.

18.04. **Novations (Transfers)**

- 18.04.1 In circumstances permitted in the Regulations or Procurement Act, or where the value of a Contract is below the applicable Procurement Threshold pursuant to the Regulations or Procurement Act, the Council may agree to the novation or assignment of a Contract.
- 18.04.2 A Director may approve the assignment or novation of a Contract where the value of the remaining term including any Extension is less than £500,000.
- 18.04.3 The Cabinet will approve the assignment or novation of a Contract where the value of the remaining term including any Extension is £500,000 or more.
- 18.04.4 A record of the decision approving a Novation and the reasons for it must be kept and a copy sent to the Chief Procurement Officer.

19. **Contract Termination**

- 19.01. In the event of a supplier being declared bankrupt, going into administration, receivership or liquidation then a Director may terminate any associated Contract(s) and initiate alternative arrangements as may be required considering CSO 18.04 in cases of novation or CSO 3.01 in cases that warrant the re-letting of a Contract(s).
- 19.02. Subject to CSO 19.01 (above) prior to deciding to terminate a Contract early, approval must be sought from a Director and reported to the Chief Procurement Officer.
- 19.03. In all cases of Contract termination for whatever reason where the awarded Contract value was £500,000 or more, a report must be presented at the earliest opportunity to Cabinet.
- 19.04. Where a Contract is terminated and the Procurement Act applies the Council is also

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

required to publish a Notice in accordance with section 80 of the Procurement Act.

20. Contract Management

- 20.01. It is the responsibility of the Director to ensure effective contract management is undertaken for Contracts under their control and management.
- 20.02. Directors must assign a contract owner for all Contracts above £25,000 and record this information in the Corporate e-Sourcing System.
- 20.03. It is the responsibility of the Director to ensure all contract owners manage Contracts under their control, to ensure the Supplier delivers their contractual commitments, and where required, record the performance of the Supplier in the Corporate e-Sourcing System.
- 20.04. Contract Managers must follow any guidance issued by the Chief Procurement Officer and stated in the Procurement Code of Practice regarding contract and performance management.
- 20.05. Where a Supplier fails to deliver its contractual commitments to the extent it results in a breach of contract, this must be referred to Chief Procurement Officer and considered in accordance with the Procurement Act (where applicable).
- 20.06. Contract performance monitoring must be in accordance with the Procurement Act and any relevant Notices published as required.

21. Application of CSOs to Grants

Approval for Receipt of Grants by the Council from External Bodies

- 21.01. Where the Council receives a Grant from an external body, the process for approving or varying the agreement for the Grant shall be the same as that set out in CSO 2 (i.e. the Director may approve receipt of a Grant valued at less than £500,000. For approval of receipt of Grants valued at £500,000 or more, a Cabinet decision is required).
- 21.02. The Council's requirements in respect of execution of Contracts as deeds (CSO 17.12) shall not apply in respect of Grants which the Council receives, and subject to the requirements of the funder, they may be signed by the relevant Director and Head of the business unit or authenticated by Approved Electronic Means.

Expenditure of Grant funding

- 21.03. Where a below threshold public Contract is to be funded by a Grant, Officers must seek the advice of the Chief Procurement Officer in respect of requirements to

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

advertise to ensure transparency of the procedure and compliance with funding requirements.

- 21.04. Where an above threshold public Contract is to be funded by a Grant, that Contract should be awarded in accordance with the Regulations or Procurement Act (as applicable) and these CSO's.
- 21.05. Where the conditions of Grant funding agreements and/or applicable guidance documents conflict with these CSOs, the provisions of the Grant/funding agreements and/or guidance documents shall prevail.

Approval for Payment of Grants from the Council to External Bodies

- 21.06. Where the Council awards a Grant to an external body, the process for approving or varying the agreement for the Grant shall be the same as that set out in CSO 2.05.1n) and CSO 2.05.1o) (i.e. the Director may approve awards/Variations of Grants valued less than £500,000. For approval of award/Variation of Grants valued at £500,000 or more, a Cabinet decision is required in accordance with CSO 2.01c) or CSO 2.01d).

22. Subsidy Control

- 22.01. The Council will ensure that all projects and procurements comply with the UK Subsidy Control Regime (formerly "State Aid").

Appendix 2 - Summary of Proposed CSO Amendments November 2025 v1.1

Proposed Amendments

Below is a summary of the proposed amendments, where appropriate, drafting from previous CSO's has been carried forward, and therefore the summary table below focuses on the key amendments. Full details of the changes can be found in Appendix 3 CSO March 2025 vs Nov 2025 v1.1 comparison document.

Area of Amendment	Comment
2. Roles and Responsibility	This section now includes the following requirements: Directors 2.05.1 n) approve award, vary and extend Contracts with an aggregated value of less than £500,000. This is to address a clerical error in the previous CSO's where Directors were unable to vary and extend contracts.
16. Bid Acceptance	This section now includes the following requirements: 16.04 extension of provision to include: except where the Contract price is £100,000 or less, where the maximum cover afforded must not exceed 50% of the Contract Price. This is added for clarity to avoid officers issuing letter of intent to the full contract value where it is below £100,000.
18. Waivers, Extensions, Variations and Novations	This section now includes the following requirements: 18.04.4 A record of the decision approving a Novation and the reasons for it must be kept and a copy sent to the Chief Procurement Officer. This has been added for clarity, to ensure relevant compliance checks with legislation can be undertaken by Strategic Procurement.

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Part Four, Section J

Contract Standing Orders

GLOSSARY	1
0. Statement of Principles	6
CONTRACT STANDING ORDERS	7
1. Introduction.....	7
2. Roles & Responsibilities	8
3. Scope of the CSO's.....	12
4. Public Procurement Rules and Procedures.....	12
5. Contract Value and Aggregation	13
6. Social Value	13
7. Frameworks	14
8. Dynamic Purchasing Systems.....	14
9. Dynamic Markets.....	15
10. Direct Awards	15
11. Procedure for Contracts below £25,000	15
12. Procedure for Contracts valued above £25,000	16
13. Electronic communications, procurement documents, receipt and opening of Bids.....	17
14. Abnormally Low Bids	17
15. Post Tender Clarifications/Confirmations.....	17

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

16.	Bid Acceptance	18
17.	Conditions Applying to All Contracts:.....	18
18.	Waivers, Extensions, Variations and Novations	20
19.	Contract Termination	22
20.	Contract Management.....	22
21.	Application of CSOs to Grants	23
22.	Subsidy Control	24

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

GLOSSARY

In these Contract Standing Orders the following terms shall have the meanings set out below (as amended from time to time).

Term	Meaning
Approved Electronic Means	means such electronic means of authenticating the formation and sealing of a Contract, which may include the use of electronic seals and signatures, positive approval using check boxes or other similar means, as may be expressly approved by the Monitoring Officer from time to time or for a specific Contract.
Approved Form of Contract	means a Contract approved by the Monitoring Officer for use within procurement activity.
Best Value	means the duty, which Part 1 of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by Council.
Bid(s)	means Tenders of Quotations (as applicable).
Cabinet	means the Council's Executive committee comprising the Leader of the Council and up to 9 individual Cabinet members selected by the Leader.
Cabinet Member	means individual members (Councillor) of the Cabinet, selected by the Leader with a particular portfolio (area) of responsibility.
Central Digital Platform	means the online system referenced in the Procurement Act and Procurement Regulations where Notices, documents and other information required to be published/made available.
Chief Finance Officer	also known as the Section 151 Officer , the Council's most senior finance officer who has the responsibility under section 151 Local Government Act 1972 for the proper management of the Council's financial affairs and occupies the post of Director of Finance.
Chief Procurement Officer	means the Council's most senior procurement officer, as appointed from time to time.
Constitution	means the constitution of the Council which sets out; (i) how it operates; (ii) how it makes decisions; and (iii) the procedures which it must follow.
Concession Contract	means a Contract for the supply, for pecuniary interest, of works or services to the Council, where (i) at least part of the consideration for that supply is a right for the supplier

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

Term	Meaning
	to exploit the works or services; and (ii) under the Contract the supplier is exposed to real operating risk.
Contract	means any Council Contract in writing and of monetary value for the execution of works or the supply of goods and the provision of services. For avoidance of doubt: (i) any contract of Services, Supply and/or Works; (ii) any Framework ; (iii) any Concession Contract; or (iv) any Utilities Contract but does not include in any circumstances (v) an employment contract; or (vi) a Grant agreement
Contract Standing Orders (CSO's)	means these Contract Standing Orders which provide the constitutional basis for the Council's procurement of works, goods and services.
Corporate Contracts Register	means the central register of Council Contracts as managed and maintained by the Chief Procurement Officer.
Corporate e-Sourcing System	means the following: (i) The designated corporate e-sourcing system, that manages the following activities; sourcing, Contract and performance management and management of commercial invoices, referred to in the Procurement Code of Practice; or (ii) Such other systems as may be approved by the Chief Procurement Officer from time to time
Council	means London Borough of Haringey Council, Alexandra House, 10 Station Road, Wood Green, N22 7TR
Director	means an employee of the Council holding a post designated as: (i) The Chief Executive; (ii) A member of the Strategic Leadership Team; or (iii) A Director or Assistant Director.

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

Term	Meaning
Dynamic Market	means a list of qualified suppliers who have met the conditions of membership of the dynamic market who are eligible to participate in future procurements as defined in the Procurement Act.
Dynamic Purchasing System (DPS)	means a completely electronic system which can be used for commonly used purchases of works, goods or services as defined in Regulations.
Extension	means an extension to an existing Contract as described in more detail in CSO 18.02. 18.02
Financial Regulations for Schools	means financial duties and procedures stated by the Council and all legislation relating to the financial management of schools.
Forward Plan	means the document that lists all decisions that the Cabinet will take together with all Key Decisions to be taken and by whom.
Framework	means a Contract between a contracting authority and one or more Suppliers that provides for the future award of Contracts by a contracting authority to a Supplier or Suppliers as more particularly described in the Regulations or Procurement Act (as applicable).
Grant(s)	means a payment to help the recipient (e.g. school, charity or voluntary organisation) to deliver an agreed outcome in return, the grant funder (e.g. the Council) gets no direct service delivery (“the Grant Agreement”). A grant is usually provided subject to conditions that state how the grant shall be used (for example to support the wider objectives of the Council in promoting the social, economic or environmental well-being within their communities). The Grant Agreement will normally set out general instructions as to how this is to be achieved, and any particular conditions in regard to claw-back if those wider objectives are not met.
Head of Audit & Risk Management	means the Council's most senior officer with responsibility for leading the Council's audit and risk management function.
Key Decision	has the meaning attributed to it in the Access to Information Procedure Rules at Part 4 Section D of the Constitution.
London Living Wage	means as defined by the Living Wage Foundation (https://www.livingwage.org.uk/what-real-living-wage)

PART FOUR – RULES OF PROCEDURE
Section J – Contract Standing Orders

Term	Meaning
Monitoring Officer	means the most senior legal officer with responsibility for leading the Council's legal and governance function and with responsibility under section 5 Local Government and Housing Act 1989 for supporting and advising the Council in relation to the lawfulness and fairness of the decision-making of the Council, and has the title of Assistant Director for Legal & Governance.
Notice	means a notice any one of the various types of notices that is required to be published in accordance with the Procurement Act and the Regulations.
Officer(s)	means an Officer as employed by the Council with relevant and appropriate authority to act on behalf of the Council.
Pensions Committee	means the Council's committee exercising the functions of Administering Authority, being responsible for the management and monitoring of the Council's pension fund.
Procurement Act	means the Procurement Act 2023 which comes into force on 28 February 2025 and associated Procurement Regulations 2024 as may be amended from time to time.
Procurement Code of Practice	means the separate document referenced in these CSO's titled Procurement Code of Practice where more detailed information about the Council's procurement and contract procedures can be found.
Procurement Policy Notice (PPN)	means any relevant Procurement Policy Notice as issued by government (as may be updated and issued from time to time). PPN's can be found via – https://www.gov.uk/government/collections/procurement-policy-notes
Procurement Threshold	means the applicable financial thresholds at which the Procurement Act or Regulations (as applicable) applies with effect from 1 January 2024 (as may be updated from time to time).
Provider Selection Regime	means the Health Care Services (Provider Selection Regime) Regulations 2023 as may be amended from time to time.
Quotation	means an offer submitted in writing to the Council by a Supplier in response to a request for quotation (RFQ)) (without the formal commencement of a public procurement exercise).

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

Term	Meaning
Regulations	means the: (i) the Public Contract Regulations 2015; (ii) Utilities Contract Regulations 2016; or (iii) Concession Contract Regulations 2016; as applicable
Scheme for Financing Schools	means the Council's published scheme of finance for schools as amended from time to time.
Scheme of Delegation	means the Council's scheme of delegation which can be found at Part 3 of the Constitution.
Social Value	means social, economic and environmental considerations aligned with the Council's priorities and policies, the Public Services (Social Value) Act 2012 and the National Procurement Policy Statement.
Strategic Procurement	means the Council's centralised procurement department managed by the Chief Procurement Officer.
Supplier	means any individual or organisation(s) invited to submit a quotation or Tender or where a Contract has been awarded a Contract, the counterparty to a Contract with the Council who is responsible for delivering goods, services or works in accordance with the terms and conditions of Contract.
Technical Guidance	means the Technical Guidance published by the Government Commercial Function in relation to the Procurement Act. Further details can be found at – https://www.gov.uk/government/collections/procurement-act-2023-guidance-documents
Tender	means a Supplier's proposal submitted in response to an invitation to tender as part of a competitive tendering exercise.
Utilities Contract	means a Contract for the supply of goods, services or works wholly or mainly for the purpose of utility activity.
Variation	means a modification to an existing Contract (such as additional services, exercising extension options, changes in price or a change in Supplier).
Waiver	means an exemption (i.e. "waiver") from the requirement to comply with all or part of these CSOs.

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

0. Statement of Principles

- 0.01. These CSO's provide the constitutional basis for the Council's procurement of works, goods and services. Following them will assist in ensuring statutory compliance, value for money, propriety and the proper spending of public money.
- 0.02. The Procurement Code of Practice provides more detail and shall govern Council procurement process and contract award procedures. The Chief Procurement Officer shall issue and maintain the Procurement Code of Practice. Any procurement activity shall proceed in accordance with these CSO's and the Procurement Code of Practice and all such other guidance issued by the Chief Procurement Officer.
- 0.03. The Chief Procurement Officer shall make the latest version of these CSO's and the Procurement Code of Practice available to every Director, Cabinet Member and Officer of the Council. Directors, or Officers acting on their behalf, shall apply the requirements of the CSO's and the Procurement Code of Practice when engaging in any procurement activity.
- 0.04. All Procurement activity shall be used (amongst other things) to achieve Best Value in accordance with the Council's statutory requirements or approved objectives. This should include an innovative approach to building partnerships with the private and not-for-profit sectors and collaborating with other public sector bodies within a robust contractual framework. Officers with responsibility for procurement shall ensure that they are able to demonstrate achievement of Best Value with regards to the optimal combination of economy, efficiency and effectiveness.
- 0.05. Every Contract or official order for works, goods or services made by the Council shall be for the purpose of achieving the Council's statutory obligations or approved objectives and shall conform to all relevant laws of England and Wales.
- 0.06. All procurement activity constituting Key Decisions shall comply with the requirements of the Access to Information Procedure Rules set out in Part 4 and the Protocols for Key Decisions and for Decision Making set out in Part 5 of this Constitution.
- 0.07. Directors shall ensure that the Cabinet or an appropriate Member of the Cabinet is consulted on any procurement activity prior to its publication in the Council's Forward Plan.
- 0.08. Where in these CSOs a decision is required by the Cabinet, this may also be taken by the Leader or by a Cabinet Member with the Leader's agreement.
- 0.09. Directors must ensure that robust audit trails are in place for all procurement activity in accordance with the Procurement Code of Practice.

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

- 0.10. No Cabinet Member of the Council or Council Officer shall enter into any Contract on the Council's behalf.
- 0.11. No Cabinet Member or Officer of the Council shall be permitted to become security under any Contract.

CONTRACT STANDING ORDERS

1. Introduction

- 1.01. Procurement decisions are among the most important decisions a manager will make because the money involved is public money and the Council is required to ensure that Best Value is obtained when procuring works, goods and services. Efficient use of resources to achieve Best Value is therefore imperative. The Council's reputation is equally important and should be safeguarded from any imputation of dishonesty or corruption.
- 1.02. For these reasons it is a disciplinary offence to fail to comply with these CSO's and the Procurement Code of Practice when the Council is procuring Contracts for works, good and services and raising orders with suppliers. This also includes situations where the Council procures works, goods and/or services for and on behalf of other public bodies.
- 1.03. Council employees have a duty to report breaches of these CSO's to an appropriate senior manager and the Head of Audit & Risk Management.
- 1.04. Unless otherwise provided within these CSO's or the Procurement Code of Practice or with the express approval of the Chief Procurement Officer, all procurement processes, regardless of value, should be conducted via the Corporate e-Sourcing System.
- 1.05. Reference should be made to the Procurement Code of Practice for more detailed information on procurement processes.
- 1.06. All Officers will need to familiarise themselves with and comply with these CSO's and any other policies (including the National Procurement Policy Statement) / guidance (including Technical Guidance) / Procurement Policy Notices¹, the Procurement Act 2023 (Commencement No. 3 and Transitional and Saving Provisions) Regulations 2024, Regulations and Procurement Act (as applicable).
- 1.07. Throughout these CSO's references are primarily made to the "Procurement Act".

¹ Where applicable

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

However, there are also instances where references are made to the “Regulations” to capture instances where Contracts fall under an alternative procurement regime. The relevant procurement legislation that will be applicable to procurement activity should be considered on a case-by-case basis. As such, advice should therefore be sought from Strategic Procurement as to the applicable procurement regime a proposed public Contract may need to be awarded in accordance with.

- 1.08. In the event of any doubt as to the interpretation of these CSO's or the Procurement Code of Practice, or as to the proper procedure to be followed, clarification should be sought from the Chief Procurement Officer.
- 1.09. Unless stated otherwise, all financial references to pounds sterling in these CSO's are to be exclusive of VAT.
- 1.10. Subject to Regulations or Procurement Act (as applicable), all communication and information exchange in relation to procurement shall be performed using electronic means of communication.

2. Roles & Responsibilities

- 2.01. **The Cabinet** (and Pensions Committee where relevant) will:
 - a) hold Directors accountable for any decisions they make under their delegated authority or under these CSO's;
 - b) approve commencing a procurement exercise for proposed Contracts valued at £500,000 or more;
 - c) approve awards of Contract valued at £500,000 or more;
 - d) approve any Variation or Extension with an aggregate value of £500,000 or more (see also CSO 18);
 - e) ensure that the award of any Contract and any Extension or Variation with an aggregated value at £500,000 or more is treated as a '**Key Decision**' and as such must be in the Council's Forward Plan and comply with the other procedures in that regard set out in the Constitution.
- 2.02. Where a Contract has previously been awarded under CSO 2.01c) and:
 - a) that Contract includes an Extension within its terms (see CSO 18); and/or
 - b) that Contract is to be subject to a Variation;

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

following consultation with the Cabinet Member responsible for the relevant portfolio, a Director may approve any subsequent Contract Extension(s) and/or Variation(s) up to an aggregated value of less than £500,000.

2.03. Where the additional cumulative value of all Variations and Extensions of the original award is £500,000 or more, this will be treated as a 'Key Decision' and CSO 2.01e) will apply.

2.04. Where a Director undertakes a decision in relation to CSO 2.02, details of the Extension and/or Variation must be reported retrospectively via the quarterly financial update report to Cabinet.

2.05. **Directors**

2.05.1 Each Director has responsibility for all Contracts let under their control and is accountable to the Cabinet for the performance of their duties in relation to Contract letting and management, which are:

- a) to ensure compliance with the laws of England and Wales and the Council's Policies;
- b) to ensure value for money in all procurement processes;
- c) to ensure compliance with these CSO's and the Procurement Code of Practice;
- d) to maintain a departmental Scheme of Delegation;
- e) to ensure that all relevant Officers are familiar with the provisions of these CSO's and the Procurement Code of Practice and that they receive adequate training on their operation;
- f) to ensure compliance with any guidelines issued in respect of these CSO's;
- g) to ensure all relevant regulatory consultations have been considered and complied with, including but not limited to Local Government Act 1999 Section 3 Best Value Consultations, Landlords and Tenants Act 1985 Section 20 etc.
- h) to take immediate action in the event of a breach of these CSO's or the Procurement Code of Practice within their service;
- i) to submit to the Chief Procurement Officer a pipeline of proposed procurements where the anticipated Contract value will be £2,000,000 or more, no later than 31 March of each year. The pipeline is to include procurements due to

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

commence within the following two financial years;

- j) to submit to the Chief Procurement Officer a pipeline of proposed procurements where the anticipated Contract value will exceed £25,000 every three months. The pipeline is to include procurements due to commence within the following 12 months as a minimum;
- k) to seek Cabinet approval to commence a procurement process for proposed Contracts the value of which is ~~above~~ £500,000 or more;
- l) to keep:
 - i. copies of all concluded Contracts as required by the Regulations or Procurement Act (as applicable), and ensure electronic copies of such Contracts are stored in the Corporate e-Sourcing System, and
 - ii. proper records of procurement procedures sufficient to justify decisions taken at all stages of the procurement procedure for a period of at least three years from the date of award of the Contract, as required by the Regulations or Procurement Act (as applicable);
- m) to keep records of Waivers of any provision of these CSO's and forward a copy of such signed records to Strategic Procurement;
- n) approve award ~~of Contracts with a value up to~~ vary and extend Contracts with an aggregated value of less than £500,000;
- o) Where a Contract has previously been awarded under CSO 2.01c) and following consultation with the Cabinet Member responsible for the relevant portfolio, a Director may approve any subsequent Contract Extension(s) and/or Variation(s) up to an additional aggregated value of less than £500,000.
- p) to ensure that the Council's seal is affixed to any document required to be executed as a deed and that where a document is not expressed to be under seal, it is either signed by two people or authenticated by Approved Electronic Means as provided for in these CSO's;
- q) to record all Contracts in the Corporate Contracts Register;
- r) to ensure effective management of all Contracts under their control, and to a level deemed appropriate in regard to risk or value of each Contract;
- s) to ensure that no Contract is let unless the expenditure involved has been fully considered and approved beforehand and sufficient money has been allocated in the relevant budget;

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

- t) to record and report on decisions taken under the Officer Scheme of Delegation in accordance with Part Three Section E Section 1 - paragraphs 3.01 to 3.06 of the Councils Constitution;
- u) Approve the termination of any Contract having regard for CSO 19.

2.06. **Pensions Committee**

- 2.06.1 The Pensions Committee shall have the same powers and duties of the Cabinet specified in these CSO's but limited to its responsibilities for procurements relating to the Pension Fund.

2.07. **Alexandra Palace and Park**

- 2.07.1 These CSO's apply to the procurement of works, goods and services by or on behalf of the above Alexandra Palace and Park Charitable Trust and any on the following basis:
 - a) The Chief Executive of the relevant organisation shall have the powers of a Director specified in these CSO's;
 - b) The Executive Board shall have the powers of the Cabinet and a Cabinet Member specified in these CSO's;
 - c) In the event of any conflict, the requirements of the Charities Act 2011, any regulations made under that Act or charity law in general shall prevail over the provisions of these CSO's.

2.08. **Schools**

- 2.08.1 In accordance with the requirements of the Council's Scheme for Financing Schools and the Financial Regulations for Schools, where a school acts as an agent for the Council, these CSO's apply to all schools within the London Borough of Haringey except for academy and trust schools.
 - a) A school's governing body shall have the powers of the Cabinet specified in these CSO's, except in relation to Waivers (CSO 18).

2.09. **Other wholly owned subsidiaries/arms-length organisations owned by the Council**

- 2.09.1 These CSO's apply to the procurement of works, goods and services by wholly owned subsidiary or arms-length organisation owned by the Council where they are subject to the Regulations or Procurement Act on the following basis:

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

- a) The Chief Executive of the relevant organisation shall have the powers and duties of a Director specified in these CSO's;
- b) The Board shall have the powers and duties of the Cabinet and a Cabinet Member specified in these CSO's.

3. Scope of the CSO's

3.01. These CSO's shall apply to all Contracts awarded by the Council for works, goods and services) unless otherwise expressly stated or these requirements are waived in accordance with CSO 18^{18.01}.

3.02. Where the Council:

- a) secures funding from an external funding body; or
- b) is involved in joint working funded partly or entirely by external funding to the extent that the money passes through the Council's accounts; or
- c) intends to Grant funding to an external body;

for the purposes of securing the provision of works/ goods or services, these CSO's shall apply.

3.03. These CSO's shall **not apply** to Contracts falling within the specific exclusion provisions within the Regulations or in the case of the Procurement Act, exempted contracts as defined in Part 2 of Schedule 2 of the Procurement Act. For the avoidance of doubt, this exclusion applies to (amongst other things) Contracts of employment, certain Contracts for legal services, certain financial services and debt finance and agreements for the sale of land (including leases), or other exclusions as amended from time to time.

4. Public Procurement Rules and Procedures

4.01. Where the Council wishes to award a Contract for the provision of works, goods or services it will need to do so in accordance with the Regulations or Procurement Act (as applicable).

Provider Selection Regime

4.02. The Council will need to procure in accordance with the Provider Selection Regime where it is seeking to procure relevant in scope health care services for the purpose of the health service in England, whether alone or as part of a mixed procurement.

4.03. Advice should be sought from the Strategic Procurement prior to seeking to award a

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

contract under the Provider Selection Regime.

5. Contract Value and Aggregation

- 5.01. Directors must ensure that a pre-tender estimate of the total Contract value is prepared and recorded in writing and is an accurate reflection of the expected Contract value (to the extent of the information available to Directors at the time), to determine whether it falls within the scope of the Regulations or Procurement Act.
- 5.02. Total Contract value or an estimated total Contract value in these CSO's means the aggregate value payable in pounds sterling exclusive of Value Added Tax, over the entire Contract period, including any extension periods in the proposed Contract. Procurements falling within the scope of the Procurement Act will need to have their estimated value calculated in accordance with Section 4 of the Procurement Act.
- 5.03. A Contract's value must not be artificially under or overestimated or divided into two or more separate Contracts with the intention of avoiding the application of these CSO's, the Regulations or the Procurement Act.

6. Social Value

- 6.01. The Council is committed to fulfilling its obligations under The Public Services (Social Value) Act 2012 and the National Procurement Policy Statement. Officers shall maximise the potential to generate social value outcomes from procurement activity.
- 6.02. Contracts valued at £500,000 or more must include Social Value as part of the evaluation criteria. Such consideration should be proportionate and appropriate to the size and nature of the Contract. Officers must follow guidance as stated in the Code of Practice.
- 6.03. For Contracts valued over £500,000 Social Value is to be included as part of the evaluation criteria. The Social Value weighting must be between 10% and 25% of the total award criteria.
- 6.04. Unless otherwise agreed with Chief Procurement Officer in writing, the Social Value Portal is to be used to record, manage and monitor these contractual Social Value commitments.
- 6.05. Social Value must be considered for Contracts valued below £500,000 where appropriate. However, such considerations should be proportionate and appropriate to the size and nature of the Contract. Officers must follow guidance as stated in the Code of Practice.
- 6.06. Any Social Value commitments made as part of a Tender submission must form part

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

of the contractual obligations to be delivered by the Supplier under the Contract.

7. Frameworks

- 7.01. The Council may establish Frameworks for its own use or use by other contracting authorities.
- 7.02. The Council may access and call-off from Frameworks established by other public sector organisations where it is deemed suitable and appropriate to do so. However, consideration should first be given to the use of the Council's own established Frameworks, including those operated by the London Construction Program (LCP). Where the Council operates such Frameworks and are deemed suitable for the requirements being sought, use of these Frameworks shall take precedence over the use of any other third-party Framework, unless otherwise agreed by the Chief Procurement Officer.
- 7.03. Where an accessible Framework exists in respect of the subject matter, and there is an absence of compliant objective criteria to directly award, or prices have yet to be determined, then a mini competition is to be undertaken in accordance with the terms of the Framework. The Council will also need to act in accordance with Regulations or Procurement Act (as appropriate) alongside any terms stated in the use of such Frameworks.
- 7.04. The Council's decision to enter into a Contract with the recommended Supplier under a Framework must be made in accordance with CSO 16.

8. Dynamic Purchasing Systems

- 8.01. Where the Council operates its own DPS (including the LCP) for a works, goods, or service category, suitable for its requirement this must be used to carry out the procurements related to those categories; or
- 8.02. The Council may access and call-off from a DPS established by other public sector organisations that have been established in accordance with the Regulations, where it is deemed suitable and appropriate to do so. However, consideration should first be given to the use of the Council's own established DPS, including those operated by the LCP. Where the Council operates a DPS and is deemed suitable for the requirements being sought, use of the Council DPS shall take precedence over the use of any other third-party DPS, unless otherwise agreed by the Chief Procurement

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

Officer.

- 8.03. Electronic formation of individual Contracts within a DPS is permitted, subject to CSO 17.

9. Dynamic Markets

- 9.01. The Council may establish Dynamic Markets for its own use or use by other contracting authorities.
- 9.02. The Council, acting in accordance with Procurement Act can establish Dynamic Markets for the purposes of awarding Contracts by reference to Suppliers' participation in those arrangements which must remain open for new Suppliers to join at any time.
- 9.03. Where the Council operates its own Dynamic Market (including the LCP) for a works, goods, or service category, that is deemed suitable for its requirement this must be used to carry out the procurements related to those categories;
- 9.04. The Council may access and call-off from a Dynamic Market established by other public sector organisations and that has been established in accordance with the Procurement Act, where it is deemed suitable and appropriate to do so. However, consideration should first be given to the use of the Council's own established Dynamic Market, including those operated by the LCP. Where the Council operates a Dynamic Market and is deemed suitable for the requirements being sought, use of the Council Dynamic Market shall take precedence over the use of any other third-party Dynamic Market, unless otherwise agreed by the Chief Procurement Officer.
- 9.05. Electronic formation of individual Contracts within a Dynamic Market is permitted, subject to CSO 17.

10. Direct Awards

- 10.01. The Council can directly award a public Contract to a supplier without undertaking a competitive procurement process in accordance with the limited situations described in the Regulations, sections 41-44 and Schedule 5 of the Procurement Act or in accordance with the Provider Selection Regime (as applicable).
- 10.02. Prior to seeking to rely on this CSO 10 to award a public Contract, advice should be sought from the Chief Procurement Officer.

11. Procedure for Contracts below £25,000

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

- 11.01. All Contracts with an estimated value below £25,000 must be procured in accordance with the Code of Practice via the Corporate e-Sourcing System, except where an alternate e-sourcing system is mandated by a Framework, a DPS or an alternative e-sourcing system has been pre-approved in writing by the Chief Procurement Officer.
- 11.02. Where a Contract has an estimated value of less than £25,000, the relevant Director should act in the manner most expedient to the efficient management of the service, having regard for CSOs 7.01, 8 and 9 and retaining a record of the procurement activity and related approval.

12. Procedure for Contracts valued above £25,000

- 12.01. All Contracts let with a value of £25,000 or more must be undertaken in accordance with the Code of Practice having regard for CSOs 7.01, 8 and 9 in the first instance.
- 12.02. Except as otherwise expressly permitted by or under these CSO's, for all Contracts with an estimated value of £25,000 or more but less than £500,000, and where the value of the Contract does not exceed the relevant Procurement Threshold requiring a Contract to be advertised, at least three competitive Quotations should be sought via the Corporate e-Sourcing Solution, without the need for an advertisement (unless required to do so by the Procurement Act), or to follow the competitive tender procedure. Where the intention is to advertise the opportunity, the relevant Notices must be published in accordance with the Procurement Act. This activity will be managed by the Chief Procurement Officer, unless agreed otherwise by the Chief Procurement Officer.
- 12.03. Except as otherwise expressly permitted by or under these CSO's, all Contracts that exceed the relevant Procurement Threshold requiring a Contract to be advertised, or which have an estimated value of £500,000 or more must be let following publication of an appropriate advertisement (Tender) in accordance with the Regulations or Procurement Act (as applicable). This activity will be managed by the Chief Procurement Officer.
- 12.04. Where Tenders are to be invited, the regulatory procedure to be followed, shall be determined prior to advertising and be managed by the Chief Procurement Officer and shall comply with the Regulations or Procurement Act and the Procurement Code of Practice.
- 12.05. The Chief Procurement Officer may decide that processes in this CSO 12 are not appropriate in order to secure value for money for the Council and to ensure general procurement law principles are complied with. If that is the case, he/she may determine another process of selecting a Supplier, which will meet best value criteria and/or ensure compliance with procurement law. The decision and process must be properly documented.

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

- 12.06. All Contracts let require the publication of relevant Notices in compliance with the Regulations or the Procurement Act (as applicable).

13. Electronic communications, procurement documents, receipt and opening of Bids

- 13.01. Subject to the terms of Regulations and Procurement Act, the Council will provide unrestricted and full electronic direct access free of charge to the procurement documents from the date of publication of the advertisement, or the date on which an invitation to confirm interest was sent.
- 13.02. Electronic Bids received securely may be opened at the appointed date and time by a Council Officer or the Council's appointed consultant.
- 13.03. Records of any non-compliant Bids and of the date and time of receipt of any late Tenders must be kept by Officers.
- 13.04. Late Bids may only be accepted in exceptional circumstances and with the written authorisation of the Chief Procurement Officer.

14. Abnormally Low Bids

- 14.01. Abnormally low bids should be dealt with in accordance with the Regulations or Procurement Act (as applicable).

15. Post Tender Clarifications/Confirmations

- 15.01. Negotiation after receipt of formal bids and before the award of contract is only permitted:
- a) as part of a tender process allowed for by the Regulations or Procurement Act;
 - b) in circumstances which do not breach the Regulations/Procurement Act or put other Suppliers at a disadvantage, distort competition or adversely affect trust in the competitive process, and
 - c) if the prior authority of the Chief Procurement Officer has been obtained.
- 15.02. Tender clarifications are permitted in circumstances which do not breach the Regulations/Procurement Act or put other Suppliers at a disadvantage, distort competition or adversely affect trust in the competitive process

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

- 15.03. All communication with Suppliers during a formal procurement shall be performed using electronic means in accordance with the Regulations or Procurement Act (as applicable).

16. Bid Acceptance

- 16.01. Bids are to be accepted on the basis that the award is compliant with the Regulations or Procurement Act (where applicable) and as determined by the application of the published award criteria.
- 16.02. Where a Contract has been awarded the Council is required to published Notices in accordance with the Regulations or Procurement Act (as applicable).
- 16.03. Where a purchasing card is used to procure goods, works or services it cannot be used to circumvent these CSO's. The relevant approvals in accordance with these CSO's must be in place prior to procuring the goods, works or services.
- 16.04. Where the provision of works, goods or services under a Contract is required to commence prior to the issuance and execution of a formal Contract, a Director, if satisfied that it is in the Council's best interest in the particular circumstances, may approve issuance of a Letter of Intent pending the issuance and execution of a formal Contract. However, the maximum cover afforded by any Letter of Intent shall not exceed £100,000 or 10% of the total Contract price, whichever is the higher value; except when the Contract price is £100,000 or less, where the maximum cover afforded must not exceed 50% of the Contract price.

17. Conditions Applying to All Contracts:

- 17.01. The procurement documents in respect of every Contract to which the Regulations or Procurement Act apply, shall provide for the Contract to include provisions enabling the Council to terminate the Contract in each of the circumstances as set out in Regulations or the Procurement Act.
- 17.02. The procurement documents in respect of every Contract to which the Procurement Act or Regulations apply shall include a requirement that the Council may require the successful Supplier to enter into a collateral Contract in a form approved by the Monitoring Officer which provides for the allocation of risks between the Parties where the Contract has been declared ineffective by a court.
- 17.03. The decision as to whether or not a collateral Contract will be required in respect of a Contract will ultimately be made, before the formal Contract is issued and executed, by the Monitoring Officer or an Officer acting under their delegated authority.

Contracts valued £25,000 or more

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

- 17.04. All Contracts valued at £25,000 or more must be in writing by way of a document prepared, or on a basis approved, by the Monitoring Officer.
- 17.05. Every Contract valued at £25,000 or more must be an Approved Form of Contract unless otherwise agreed by the Monitoring Officer
- 17.06. All Contracts for the provision of services which may entail members of the service provider's staff (including agents, sub-contractors and assigns) carrying out a role that involves contact with children and/or vulnerable adults or access to their personal records shall contain a provision requiring the service provider to undertake in respect of each staff member the appropriate level of Disclosure and Baring Service (DBS) check for which their role is eligible prior to provision of the services being carried out by the relevant staff member and at appropriate intervals thereafter.
- 17.07. All computer software Contracts shall contain a clause to the effect that use of the software by the Council's Suppliers shall not amount to use by a third party for which an additional software license might otherwise be required.
- 17.08. All Contracts for works and services must include provisions for the payment of London Living Wage.
- 17.09. The approval of contract awards, Variations and Extensions, may be evidenced within the Corporate e-Procurement Systems by electronic copies of signatures or through positive acceptance (i.e. tick box, yes /no indicator or other similar means of approval).
- 17.10. A Contract valued at less than £250,000- does not require sealing and should either be signed or electronically approved on behalf of the Council by the relevant Director, Assistant Director, or the Head of the relevant business unit, where permitted to do so under the Scheme of Delegation. Where the nature of the works, goods or services is such so as to pose a high risk of significant latent defects, then the Chief Procurement Officer may decide to have the Contract with a value of less than £250,000 executed under seal as a deed.

Contracts Valued £250,000 or more

- 17.11. In addition to the provisions above regarding Contracts valued over £25,000 the following requirements apply to Contracts exceeding £250,000.
- 17.12. A Contract valued at £250,000 or more must be executed on behalf of the Council under seal as a deed, and to ensure original sealed Contract documents are held by the Monitoring Officer for safekeeping. Where appropriate, electronic sealing of Contracts is permitted.

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

17.13. Every Contract valued at £250,000 or more must contain clauses to cover the following:

- a) if it is a Contract for works, that the Council may require the Supplier to provide security for completing the Contract in the form of a bond;
- b) that, where the Supplier is a subsidiary or group company, the Supplier may be required to provide a parent or group company guarantee;
- c) or other means of surety as agreed by the Chief Finance Officer or an Officer acting under their delegated authority.

17.14. The decision as to whether or not a bond or parent company guarantee will be required in respect of a Contract valued at £250,000 or more will ultimately be made by the Chief Finance Officer or an Officer acting under their delegated authority.

18. Waivers, Extensions, Variations and Novations

18.01. Waivers

18.01.1 Any Waiver relating to these CSO's must be agreed by the Chief Procurement Officer prior to engaging with any Supplier to provide goods, services or works in accordance with this CSO 18.

18.01.2 A Waiver may be agreed after considering a written report that demonstrates:

- a) the Contract is one entered into between entities within the public sector in circumstances permitted by the Regulations or Procurement Act (as applicable); or
- b) the Contract is one that the Council is permitted to reserve for certain economic operators in circumstances permitted by the Regulations or Procurement Act (as applicable); or
- c) the circumstances of the proposed contract award are covered by a relevant legislative exemption (under the law of England and Wales); or
- d) the value of the Contract is below the applicable Procurement Threshold pursuant to the Regulations or Procurement Act (as applicable) and:
 - (i) complies with below threshold provisions within the Regulations or Procurement Act (as applicable);
 - (ii) the nature of the market for the works to be carried out or the goods or services

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

to be provided has been investigated and is such that a departure from the requirements of these CSO's is justifiable;

(iii) it is in the Council's overall interest; or

(iv) there are other circumstances which are genuinely exceptional.

18.01.3 All Waiver requests must be approved before any related Contract award and/or Variation occurs.

18.01.4 CSO's other than CSO 4 (which relates to the Regulations and the Procurement Act) may be waived on the basis set out in this CSO 18 by:

a) the Cabinet where the Waiver concerns a Contract with a value of £500,000 or more; or

b) a Director where the Waiver concerns a Contract with a value of less than £500,000 (save that the Director shall not have authority to waive CSO 17).

18.01.5 Any waiver valued at £100,000 or above relating to these CSO's must be agreed by the Chief Procurement Officer prior to engaging the supply chain.

18.01.6 A record of the decision approving a Waiver and the reasons for it must be kept and an entry made in a central register maintained and monitored by the Chief Procurement Officer.

18.01.7 Where an additional Waiver of these CSO's is sought in relation to the same individual Contract, whereby the aggregated value of the Contract increases to £500,000 or more, the Waiver must be agreed by the Cabinet.

18.02. **Contract Variations and Extensions**

18.02.1 A Contract may be extended before its expiry provided that the Extension is provided for in the original Contract terms or is permitted by the Regulations or Procurement Act (as applicable)

18.02.2 Contract Extensions shall be approved in accordance with CSO 2.

18.02.3 All Variations and Extensions must be recorded in writing and an electronic copy retained in the Corporate e-Sourcing System.

18.03. **Contract Variations**

18.03.1 Prior to seeking to vary an existing Contract, appropriate advice should be sought

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

from Strategic Procurement on a case-by-case basis as to whether the Variation needs to be considered in accordance with the Regulations or Procurement Act (as applicable).

18.03.2 Prior to and following the Variation of a Contract subject to the Procurement Act, the Council may be required to publish a Notice(s) in accordance with section 75 of the Procurement Act.

18.03.3 Contract Variations shall be approved in accordance with CSO 2.

18.04. **Novations (Transfers)**

18.04.1 In circumstances permitted in the Regulations or Procurement Act, or where the value of a Contract is below the applicable Procurement Threshold pursuant to the Regulations or Procurement Act, the Council may agree to the novation or assignment of a Contract.

18.04.2 A Director may approve the assignment or novation of a Contract where the value of the remaining term including any Extension is less than £500,000.

18.04.3 The Cabinet will approve the assignment or novation of a Contract where the value of the remaining term including any Extension is £500,000 or more.

18.04.4 A record of the decision approving a Novation and the reasons for it must be kept and a copy sent to the Chief Procurement Officer.

19. **Contract Termination**

19.01. In the event of a supplier being declared bankrupt, going into administration, receivership or liquidation then a Director may terminate any associated Contract(s) and initiate alternative arrangements as may be required considering CSO 18.04 in cases of novation or CSO 3.01 in cases that warrant the re-letting of a Contract(s).

19.02. Subject to CSO 19.01 (above) prior to deciding to terminate a Contract early, approval must be sought from a Director and reported to the Chief Procurement Officer.

19.03. In all cases of Contract termination for whatever reason where the awarded Contract value was £500,000 or more, a report must be presented at the earliest opportunity to Cabinet.

19.04. Where a Contract is terminated and the Procurement Act applies the Council is also required to publish a Notice in accordance with section 80 of the Procurement Act.

20. **Contract Management**

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

- 20.01. It is the responsibility of the Director to ensure effective contract management is undertaken for Contracts under their control and management.
- 20.02. Directors must assign a contract owner for all Contracts above £25,000 and record this information in the Corporate e-Sourcing System.
- 20.03. It is the responsibility of the Director to ensure all contract owners manage Contracts under their control, to ensure the Supplier delivers their contractual commitments, and where required, record the performance of the Supplier in the Corporate e-Sourcing System.
- 20.04. Contract Managers must follow any guidance issued by the Chief Procurement Officer and stated in the Procurement Code of Practice regarding contract and performance management.
- 20.05. Where a Supplier fails to deliver its contractual commitments to the extent it results in a breach of contract, this must be referred to Chief Procurement Officer and considered in accordance with the Procurement Act (where applicable).
- 20.06. Contract performance monitoring must be in accordance with the Procurement Act and any relevant Notices published as required.

21. Application of CSOs to Grants

Approval for Receipt of Grants by the Council from External Bodies

- 21.01. Where the Council receives a Grant from an external body, the process for approving or varying the agreement for the Grant shall be the same as that set out in CSO 2 (i.e. the Director may approve receipt of a Grant valued at less than £500,000. For approval of receipt of Grants valued at £500,000 or more, a Cabinet decision is required).
- 21.02. The Council's requirements in respect of execution of Contracts as deeds (CSO 17.12) shall not apply in respect of Grants which the Council receives, and subject to the requirements of the funder, they may be signed by the relevant Director and Head of the business unit or authenticated by Approved Electronic Means.

Expenditure of Grant funding

- 21.03. Where a below threshold public Contract is to be funded by a Grant, Officers must seek the advice of the Chief Procurement Officer in respect of requirements to advertise to ensure transparency of the procedure and compliance with funding requirements.

PART FOUR – RULES OF PROCEDURE

Section J – Contract Standing Orders

- 21.04. Where an above threshold public Contract is to be funded by a Grant, that Contract should be awarded in accordance with the Regulations or Procurement Act (as applicable) and these CSO's.
- 21.05. Where the conditions of Grant funding agreements and/or applicable guidance documents conflict with these CSOs, the provisions of the Grant/funding agreements and/or guidance documents shall prevail.

Approval for Payment of Grants from the Council to External Bodies

- 21.06. Where the Council awards a Grant to an external body, the process for approving or varying the agreement for the Grant shall be the same as that set out in CSO 2.05.1n) and CSO 2.05.1o) (i.e. the Director may approve awards/Variations of Grants valued less than £500,000. For approval of award/Variation of Grants valued at £500,000 or more, a Cabinet decision is required in accordance with CSO 2.01c) or CSO 2.01d).

22. Subsidy Control

- 22.01. The Council will ensure that all projects and procurements comply with the UK Subsidy Control Regime (formerly "State Aid").