

NOTICE OF MEETING

STANDARDS COMMITTEE

**Tuesday, 27th June, 2023, 7.00 pm - George Meehan House,
294 High Road, N22 8JZ (watch the live meeting [here](#) and ,
watch the recording [here](#))**

Councillors: Dogan, Felicia Opoku, Ibrahim Ali (Chair), Scott Emery and Simmons-Safo

Quorum: 3

1. **FILMING AT MEETINGS**

Please note this meeting may be filmed or recorded by the Council for live or subsequent broadcast via the Council's internet site or by anyone attending the meeting using any communication method. Members of the public participating in the meeting (e.g. making deputations, asking questions, making oral protests) should be aware that they are likely to be filmed, recorded or reported on. By entering the 'meeting room', you are consenting to being filmed and to the possible use of those images and sound recordings.

The Chair of the meeting has the discretion to terminate or suspend filming or recording, if in his or her opinion continuation of the filming, recording or reporting would disrupt or prejudice the proceedings, infringe the rights of any individual, or may lead to the breach of a legal obligation by the Council.

2. **APOLOGIES FOR ABSENCE**

To receive any apologies for absence.

3. **URGENT BUSINESS**

The Chair will consider the admission of any late items of Urgent Business. (Late items will be considered under the agenda item where they appear. New items will be dealt with under items 13 & 17 below).

4. **DECLARATIONS OF INTEREST**

A member with a disclosable pecuniary interest or a prejudicial interest in a matter who attends a meeting of the authority at which the matter is considered:

- (i) must disclose the interest at the start of the meeting or when the interest becomes apparent, and
- (ii) may not participate in any discussion or vote on the matter and must withdraw from the meeting room.

A member who discloses at a meeting a disclosable pecuniary interest which is not registered in the Register of Members' Interests or the subject of a pending notification must notify the Monitoring Officer of the interest within 28 days of the disclosure.

Disclosable pecuniary interests, personal interests and prejudicial interests are defined at Paragraphs 5-7 and Appendix A of the Members' Code of Conduct.

5. MINUTES (PAGES 1 - 10)

To confirm and sign the minutes of the Standards Committee meeting held on 21 March 2023.

6. CONFIRMATION OF THE MEMBERSHIP OF THE STANDARDS ASSESSMENT AND HEARING SUB-COMMITTEES (PAGES 11 - 14)

7. PROPOSED CHANGES TO THE COUNCIL'S CONTRACT STANDING ORDERS (PAGES 15 - 94)

8. RESPONSES TO THREE RECOMMENDATIONS ARISING FROM THE INDEPENDENT REVIEW OF THE COUNCIL'S ARRANGEMENTS FOR PROPERTY NEGOTIATIONS, AQUISITIONS AND DISPOSALS OR INTENDED TRANSACTIONS (PAGES 95 - 122)

9. LICENSING PROTOCOL (PAGES 123 - 156)

To consider recommendations from the Licensing Committee on changes to the Licensing protocol.

The Licensing Committee will meet on the 22 of June to consider the attached reports and report from this Committee will follow.

10. PETITIONS SCHEME UPDATE (PAGES 157 - 176)

11. NO FURTHER ACTION CODE OF CONDUCT COMPLAINTS - MONITORING OFFICER ANNUAL REPORT:

To follow

12. COMMITTEE WORK PROGRAMME (PAGES 177 - 178)

This paper seeks to identify topics that will come to the attention of the Standards Committee and seeks members' input.

13. NEW ITEMS OF URGENT BUSINESS

As per item 3.

14. DATES OF FUTURE MEETINGS

To note the dates of future meetings:

31 October 2023

30 January 2024

5 March 2024

15. EXCLUSION OF THE PRESS AND PUBLIC

Items 16- 17 are likely to be subject to a motion to exclude the press and public from the meeting as they contain exempt information as defined in Section 100a of the Local Government Act 1972 (as amended by Section 12A of the Local Government Act 1985); paras 1 & 2; namely, information relating to any individual and information likely to reveal the identity of an individual.

16. EXEMPT NO FURTHER ACTION CODE OF CONDUCT COMPLAINTS - MONITORING OFFICER ANNUAL REPORT

To consider exempt information relating to item 11.

17. NEW ITEMS OF EXEMPT URGENT BUSINESS

As per item 3.

Ayshe Simsek, Democratic Services and Scrutiny Manager

Tel – 020 8489 2929

Fax – 020 8881 5218

Email: Ayshe.Simsek@haringey.gov.uk

Fiona Alderman

Head of Legal & Governance (Monitoring Officer)

George Meehan House, 294 High Road, Wood Green, N22 8JZ

Monday, 19 June 2023

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MINUTES OF MEETING Standards Committee HELD ON Tuesday, 21st March, 2023, 7pm

PRESENT:

**Councillors: Felicia Opoku (Chair), Ibrahim Ali, Barbara Blake,
Scott Emery and Reg Rice**

41. FILMING AT MEETINGS

The Chair referred to the notice of filming at meetings and members noted this information.

42. APOLOGIES FOR ABSENCE

There were apologies for lateness from Cllr Ali.

43. URGENT BUSINESS

Considering s100B(4)(b) of the Local Government Act 1972, the Chair of the meeting agreed that the item 5 should be considered at the meeting as a matter of urgency by reason of special circumstances. These circumstances were that the report was considered by the Constitution Working Group after the dispatch of papers and there was a need to research and compile responses to details concerning the proposed Sub Committees.

The report needed to be considered at the Standards Committee on the 21st of March to enable the report to progress to Full Council on the 27th of March 2023 and have implementation of the new committees in May 2023.

Cllr Emery stated that the papers on the changes to Committees had been sent out late to the Constitution Working Group on each consideration. In response, it was noted that there were many technical issues to consider which had required external legal advice and this summarised in an accessible language, meaning delays in the despatch of papers. This feedback would be provided to the Constitution Working Group.

44. DECLARATIONS OF INTEREST

None

45. MINUTES

RESOLVED

To approve the minutes of the meeting held on the 24 January 2023.

46. CONSTITUTIONAL CHANGES AND COMMITTEE CHANGES 2022/23 2023/24

Cllr Ali entered the room at 7.15pm

The Committee considered a report setting out proposed changes to the Council's Committee Structure and resultant changes to the Constitution. The emphasis of the report was on meeting good governance requirements and ensuring that the non-executive functions were effectively assigned and also responded to recent changes in terms and conditions of statutory officers.

The Standards Committee noted that establishing a Committee which focused on Audit, independent of any executive council operations, would provide an independent and high-level focus on the adequacy of governance, risk and control arrangements, and give greater confidence to all those charged with governance that those arrangements would be effective.

The Committee discussed the following:

- The proposed 2 Independent Advisors and their appointment process. The Committee noted that the Director of Finance, Head of Audit and Risk along with the Monitoring Officer would be part of the recruitment panel and the Chair of the Audit Committee would be consulted on the appointments. The recruitment process would start as soon as possible and it was hoped to attract local residents with the appropriate experience to be recruited by July 2023, if these Committee proposals were agreed. They would be non-voting and would not have a political affiliation. Their term of office was expected to be 4 years, and they would receive the same remuneration as the Independent Persons on Standards Committee.
- The training of Audit Committee members and ensuring they had the skills needed to participate and making this mandatory requirement. The Committee noted it was likely that training would take place before the first meeting in July and continue thereafter.
- The need for Audit Committee Members to be only part of the Audit Committee and not on scrutiny. It was clarified that the expectation was for Overview and Scrutiny members to not be a member of the Audit Committee, but that a Scrutiny Panel members [not the Chair] could participate in both Audit and Scrutiny Panel meetings. There was a concern raised about the democratic accountability of Audit Committee members if they were members of both Committees, but members noted the learning and preparation that would be involved in this Audit role.
- The membership number of the Audit Committee was expected to be 7 plus 2 Independent Advisors. This was a proportionate number and the Committee

would cover treasury management functions. These were areas concerning non-executive financial management and involved similar officers with linked expertise.

The Committee considered information from the Constitution Working Group on the remaining powers for Corporate Committee which would be non-executive functions, including the legislation on non-executive functions set out in section Reg. 2 and Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 S.I. 2853 and the proposals for managing Director appointments, dismissals, disciplinarys and grievance to ensure the Council met updated legislation related to statutory officers. The Committee received updates to part 5 Section D of the Constitution, Decision Making protocol, to include consideration of climate change mitigation in decision making reports.

The Committee continued to discuss the following:

- The need to have Cabinet Members involved in Director and Statutory Officer Appointments, Dismissals, Disciplinarys even though there was a right of Cabinet Members to call in a decision on the appointment of a Director. The Committee were advised that this was a legislative requirement and there was no way around this.
- The request to have a separate Appointments body and a separate Disciplinary, Grievance and Dismissals body by the Constitution Working Group was noted
- The attendance reporting issues. Current arrangements meant that some Members of S&R were marked as having given apologies for special meetings which they could not attend as they had not been involved in the recruitment process and did not have a vote. Democratic services agreed to look into this matter and could mark S&R members as not required to attend.
- The current Staffing and Remuneration arrangements were referred to and compared to the proposals. It was proposed that the Leader of the Council chair these bodies, with the Chair of General Purposes Committee as Vice Chair of these bodies. In addition, the membership would comprise of a member from the GP Committee, a Cabinet Member, and a Member of the Opposition to ensure political proportionality.

The Committee were advised at the meeting that late external legal advice had been received and indicated a legislative legal issue with establishing the Appointments body and Disciplinary, Grievance and Dismissals body as planned sub-Committees of the General Purposes Committee as it had been proposed that these Sub-Committees had a different membership to the parent Committee. Due to the Leader and Cabinet Member not being members of the GP Committee, it meant that they would not qualify to be a member of the Sub-Committees. However, they would be required to be a member of the Sub-Committees to meet legislative requirements. The Committee noted that if the General Purposes Committee was expanded from 5 to 7 members to include the Leader and a Cabinet member, this would no longer be an issue. The Committee had a discussion on this and indicated that General Purposes

Committee should have a non- executive membership. The Committee also noted that some Councils had these Appointments and Disciplinary bodies as Committees of the Council.

The Committee were advised that questions had been raised with the external legal advisor, shortly before the meeting, to understand if there could be a change in reference. This would be with the Sub Committee reference removed and instead the term 'Panel' used as a way forward and were awaiting a response.

The Standards Committee agreed the recommendations in the report, subject to clarification in the reports on whether the 2 bodies would be Sub-Committees or Panels. The Committee agreed to provide a delegation to the Monitoring Officer in consultation with the Chair [who would in turn consult with the Standards members] following urgent legal external legal advice being sought, to clarify the report and either amend the number of members on General Purposes from 5 to 7 to include the executive members and meet the requirements of the Sub Committee or amend the references to the Sub Committee and use the term 'Panel'.

RESOLVED, subject to clarification in the reports on whether the 2 bodies would be Sub-Committees or Panels.

1. To recommend to Full Council on the 27th of March 2023 the agreement of the establishment of an Audit Committee as an Ordinary Committee of the Council at the Full Council on the 27th of March and to take effect from the Annual Meeting of the Council in May.
2. To recommend to Full Council on the 27th of March 2023 agreement of the establishment of a General Purposes Committee as an Ordinary Committee of the Council at the Full Council on the 27th of March and to take effect on from the Annual Meeting of the Council in May.
3. To recommend to Full Council on the 27th of March 2023 agreement of the establishment of an Appointments Sub Committee. This is to be a Sub Committee of the General Purposes Committee and to take effect from the Annual Meeting of the Council in May
4. To recommend to Full Council on the 27th of March agreement of the establishment of a Disciplinary Grievance and Dismissal Sub Committee. This is to be a Sub Committee of the General Purposes Committee and to take effect from the Annual Meeting of the Council in May.
5. To recommend to Full Council the deletion of the Corporate Committee and Staffing Remuneration Committee from the Council's Committee Structure and to take effect from the Annual Meeting of the Council in May.

6. To agree to recommend to Full Council on the 27th of March 2023, and update part 5 Section D of the Constitution to include consideration of climate change mitigation in decision making reports. This will be in line with the adopted policy position, set out in the Council's Climate Change Action Plan, and will require all key decision-making reports, to consider and report on whether or how the proposals delivers Climate Change Mitigation (reducing carbon and energy impacts) and Climate Change Adaptation (minimising the risks and impacts in a changing climate).
7. To agree to recommend the full Council, the subsequent administrative changes to the Member Allowance scheme with the Chair of General Purposes Committee allocated the SRA banding 1B for the Staffing and Remuneration Chair and the Audit Committee Chair allocated the SRA 1B for the Corporate Committee Chair.
8. To agree to recommend to full Council the subsequent changes to the Council's Constitution set out Appendices 1 and 2 and noting the final versions set out in Appendices 3 and 4.
9. To agree to recommend to full Council on the 27th of March 2023 to provide delegation to the Council's Monitoring Officer to update the subsequent required administrative and technical amendments (grammatical, formatting, and consistency) necessary to finalise the revised constitution for publication. To note that these will be reported up to the Annual Council meeting in May as part of the Monitoring Officer report and shown in track changes.

Reasons for decision

CIPFA is the Chartered Institute of Public Finance and Accountancy (CIPFA) and a UK-based international accountancy membership and standard-setting body. This is a global body dedicated to public financial management.

CIPFA believes that improving public services is the key to changing lives for the better and that good public financial management is central to achieving this ambition. CIPFA Guidance outlines that the Audit Committee should be an independent and to be effective, provide the following:

- Be independent of executive decision making and scrutiny;
- Able to provide objective oversight with sufficient importance in the authority so that its recommendations and opinions carry weight and have influence with the leadership team and those charged with governance;
- Have rights of access to and constructive engagement with other Committees/functions, for example scrutiny and service Committees, corporate risk management boards and other strategic Groups;
- Have rights to request reports and seek assurances from relevant officers;
- be of an appropriate size to operate as a cadre of experienced, trained Committee Members. Large Committees should be avoided;
- include at least two co-opted independent Members to provide appropriate technical expertise;

- meet regularly, at least four times a year, and have a clear policy on those items to be considered in private and those to be considered in public; and be able to meet privately and separately with the external auditor and with the head of internal audit.

In accordance with paragraphs 6.3 to 6.23 The Section 151 Officer and statutory Officers of the Council strongly recommend that an Audit Committee is established in keeping with good governance practices.

Reasons for establishing a General Purposes Committee together with an Appointments Sub Committee and Disciplinary Grievance and Dismissal Sub Committee. are further set out in paragraphs 7 to 7.23.

Reasons for updating the Decision-making Protocol are set out in paragraphs 7.24 to 7.27.

Alternative Options

To continue with current arrangements which would not be in full accordance with CIPFA guidance on good governance principals.

To continue with the Staffing and Remuneration Committee and separate Corporate Committee and include an additional SRA in the Member Allowance Scheme for 2023/24.

Adding Regulatory functions to the Corporate Committee as these non-executive functions have only recently been added to the Strategic Planning Committee and Licensing Committee in May 2021.

In line with the resolutions and delegations, the Committee subsequently received legal advice that the Sub Committee membership of the 2 proposed subcommittees should be drawn from the main Committee and this was a matter concerning the way delegations worked. According to legislation, Full Council delegates the function to a Committee and the Committee can only work within the terms of reference and membership approved by Full Council. If they wish to create a Sub-Committee then they are bound to the remit set by Council .Therefore, there would be a legal issue if the Council set up these bodies as Sub Committees of General Purposes with additional members who were not members of the main Committee and would mean that the bodies were not constituted properly.

Further to consultation, it was agreed to update the Council report and assign the Appointments body and Disciplinary, Grievance and Dismissals body as Committees of the Council, calling these bodies: The Appointments Panel and Disciplinary, Grievance and Dismissals Panel. This would allow the involvement of Leader to chair meetings and the Cabinet Member with responsibility for the portfolio area to be on this Committee to meet legislative requirements. The Committee members agreed the following to be added to the terms of reference to allow this body to have a working relationship with General Purposes Committee:

- *Specify the membership in the Constitution: The Leader of the Council, Cabinet Member responsible for HR, Chair of General Purposes, Member of General Purposes Committee and member of the Opposition. This would still allow the substitution of members for meetings if required. However, we would clearly set out the potential substitutes (which would be Cabinet Members) within the Annual report on Committees and could include a note on this within the Terms of Reference.*
- *Specify that the Leader of the Council would be Chair of these bodies, with the Chair of General Purposes as Vice-Chair.*
- *The minutes of the Panels would be received by the General Purposes Committee, in keeping with their responsibility and oversight for staffing functions of the Council and this would be added to their Terms of Reference to make this clear.*
- *These meetings would not be listed in the Council's calendar of meetings as they would take place on an ad hoc basis.*

In addition, the administrative details proposed to be completed were:

- *Adding information to the published Members Allowance scheme, in the SRA banding 1b, alongside the listing of chair of General Purposes, Vice chair of Appointments Board/Panel and Disciplinary, Grievance and Dismissals.*

47. MEMBERS ALLOWANCES SCHEME FOR 2023- 2024

Following the discussion on Member's Allowance Scheme at the Standards meeting on 24 January 2023 and further to dialogue with councillor colleagues, the Standards Committee Members indicated that a 2% increase to the Basic Allowance for the 2023/24 municipal year was required. This was in alignment with the review completed in 2019/20 which indicated that the Members Basic Allowance percentage increase be index linked to the local government officer pay percentage increase, capped at 2% to be reduced if a lesser percentage is agreed.

The Committee considered that there had been a local government officer pay percentage increase, and proposed that the current Basic Allowance be increased from £11,247 to £11,471.94 [rounded to 11,472] from the 1 April 2023 to 31 March 2024.

RESOLVED

1. To consider the changes to the Members' Allowances Scheme set out at paragraph 6.13 and reflected at Appendix 1 to the report.

2. To recommend that the Members' Allowances Scheme 2023/24 attached at Appendix 1 be adopted by Full Council on 27 March 2023.

Reasons for decision

The Council has a legal duty to approve a Members Allowances Scheme before the end of each year to cover the following year. The Council can amend a scheme any time during the year but can only revoke a scheme with effect from the beginning of the year. The scheme must make provision for basic allowances and, if they are to be paid, special responsibility, dependents' carers, travelling and subsistence and co-optees allowances.

Alternative options considered.

No alternative options were considered as there is a duty to adopt a members' allowance scheme annually.

48. NEW ITEMS OF URGENT BUSINESS

None

49. DATES OF FUTURE MEETINGS

Noted

50. EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED

To exclude the press and public from the meeting as defined in Section 100a of the Local Government Act 1972 (as amended by Section 12A of the Local Government Act 1985); paras 1 & 2; namely, information relating to any individual and information likely to reveal the identity of an individual.

51. EXEMPT MINUTES

None

52. NEW ITEMS OF EXEMPT URGENT BUSINESS

None

53. COMMITTEE WORK PROGRAMME

Noted

CHAIR: Councillor Felicia Opoku

Signed by Chair

Date

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Report for: Standards Committee – 27 June 2023

Title: Confirmation of the Membership of the Standards Assessment and Hearing Sub-Committees

Report authorised by: Fiona Alderman, Head of Legal and Governance (Monitoring Officer)

Lead Officer: Ayshe Simsek, Democratic Services and Scrutiny Manager
ayshe.simsek@haringey.gov.uk, 020 8489 2929

Ward(s) affected: N/A

**Report for Key/
Non Key Decision:** Non Key Decision

1. Describe the issue under consideration

1.1 This report seeks confirmation of the Membership of the Standards Assessment and Hearing Sub-Committees.

2. Cabinet Member Introduction

Not applicable.

3. Recommendations

The Standards Committee is asked:

3.1 To agree that, given the need for members' expertise and discretion, the membership of the Standards Assessment Sub-Committee and the Standards Hearing Sub-Committee be the same as the membership of the Standards Committee.

4. Remit of Standards Committee

4.1 The Articles of the Council's Constitution set out the remit of the Standards Committee at Article 9:

9.01 Standards Committee

The Council meeting will establish a Standards Committee to promote and maintain high standards of conduct by Members and Co-opted Members of the Council.

9.02 Composition

The Standards Committee will be composed of Councillors appointed on the basis of political balance. In addition, the Standards Committee may appoint up to six non-voting co-opted members.

Quorum. The quorum of the Standards Committee is three.

9.03 Role and Function

The Standards Committee will have the following roles and functions:

- (a) Promoting and maintaining high standards of conduct by Councillors, co-opted members and representatives of religious organisations and parent governor representatives;*
- (b) Assisting the Leader, Councillors, co-opted members and representatives of religious organisations and parent governor representatives to observe the Members' Code of Conduct;*
- (c) Advising the Council on the adoption or revision of the Members' Code of Conduct;*
- (d) Monitoring the operation of the Members' Code of Conduct;*
- (e) Advising, training or arranging to train Councillors and co-opted members on matters relating to the Members' Code of Conduct and the ethical framework;*
- (f) Granting dispensations to Councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;*
- (g) Advising the Council on codes and protocols forming the Council's ethical framework and its governance arrangements, monitoring the effectiveness of those arrangements and making reports and recommendations accordingly;*
- (i) Responding to national reviews and consultations on standards related issues;*
- (j) Granting exemptions for politically restricted posts and giving directions to include a post on the list of restricted posts;*
- (k) Advising the Council on the appointment of independent persons and taking steps to select them;*
- (l) Considering amendments to the Constitution and recommending proposals to full Council for approval*

9.04 Assessment Sub-Committee

The Standards Committee will establish an Assessment Sub-Committee to assess allegations that a member or co-opted member has failed to comply with the Members' Code of Conduct, as referred by the Monitoring Officer.

9.05 Composition

The Assessment Sub-Committee will be composed of Councillors appointed on the basis of political balance.

9.06 Role and Function

The Assessment Sub-Committee will have the following roles and functions: To consider all allegations referred to the Sub-Committee by the Monitoring Officer that a member or co-opted member has failed to comply with the Members' Code of Conduct and to determine whether the allegation:

- (a) merits no further investigation and is dismissed, or*

(b) merits further investigation.

9.07 Hearing Sub-Committee

The Standards Committee will establish a Hearing Sub-Committee to conduct hearings into allegations that a member or co-opted member has failed to comply with the Members' Code of Conduct and to determine such allegations.

9.08 Composition

The Hearing Sub-Committee will be composed of Councillors appointed on the basis of political balance.

9.09 Role and Function

The Hearing Sub-Committee will have the following roles and functions:

(a) To conduct hearings into allegations referred for investigation by the Assessment Sub-Committee that a member or co-opted member has failed to comply with the Members' Code of Conduct.

(b) To determine whether or not the member or co-opted member did/did not fail to comply with the Members' Code of Conduct.

(c) Where the Sub-Committee has determined that a member has failed to comply with the Members' Code of Conduct to take such action as it may lawfully take.

(d) In consequence of the hearing and determination of any allegation to make recommendations to the Council with a view to promoting high standards of conduct amongst members.

5. Memberships of the Standards Assessment Sub-Committee and Hearing Sub-Committees

5.1 In addition to the above, there is more detail given in the Members' Code of Conduct and the Protocol on Complaints against Members on how the sub-committees of the Standards Committees fulfil their role.

5.2 In Part 4 Section B of the Council's Constitution, the requirement that Members undertake training before participating in the work of the Assessment and Hearing Sub Committees:

In the case of meetings of Committees/Sub-Committees where prior member training is required, only those members who have attended appropriate training can be selected as substitutes. Currently these bodies are the Standards Committee and its Sub-Committees.... Reserve members will be trained for the relevant body as soon as possible after their appointment.

5.3 It is suggested that the Standards Committee agree that, given the need for members' expertise and discretion, the membership of the Standards Assessment Sub-Committee and the Standards Hearing Sub-Committee be the same as the membership of the Standards Committee.

5.4 It is customary for meetings of the Standards Assessment Sub-Committee to begin with the election of the Chair, which allows flexibility in case the Chair of

the parent committee is unable to attend or has recused his- or herself from consideration of a complaint without giving a misleading impression for the reason for the election. It is proposed that that tradition is continued.

6. Contribution to strategic outcomes

Not applicable.

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

Finance and Procurement

There are no direct financial implications arising from the recommendations in this report. The financial implications of the Committee's work programme, in particular the review of Members' allowances, will be set out for Members at the relevant time.

Legal

The Head of Legal and Governance (Monitoring Officer) has been consulted on the contents of this report.

Equality

There are no direct equalities implications arising from the recommendations in this report. Equalities impacts of the work programme, in particular the scheme of Members' Allowances, will be set out for Members at the relevant time.

8. Use of Appendices

Not applicable.

9. Local Government (Access to Information) Act 1985

Council Constitution.

DECISION MAKING REPORT

Report for: Standards Committee

Item number: To be added by the Committee Section

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

Report authorised by : Jon Warlow Director of Finance

Lead Officer: Barry Phelps, Head of Procurement

Ward(s) affected: N/A

Report for Key/
Non Key Decision: Non-Key

1. Describe the issue under consideration

- 1.1. The Council 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 Procedure Rules was in 2016. Since then, the Brexit Freedom Bill has been implemented following the UK's withdrawal from the EU. The proposed amendments to the Contract Standing Orders (CSO) recognise the withdrawal from the EU and the relevant references contained therein
- 1.3. This report proposes changes to the constitution in the following areas:
 - 1.3.1. Amendments to Part Four of the Constitution, Section J Contract Procedure Rules and any other consequential amendments arising as a result of these;
 - 1.3.2. Removal of relevant references to EU law and legislation, updated references to current legislation, Council policy and Officer roles;
 - 1.3.3. Formalisation of existing practices and Council Policies;
 - 1.3.4. Minor drafting amendments.

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 Procedure Rules as attached at Appendix 1.

3.2. The Standards Committee notes the following key amendments:

- 3.2.1. Part Four of the Constitution, Section J Contract Procedure Rules is renamed to Part Four of the Constitution, Section J Contract Standing Orders;
- 3.2.2. Directors to approve additional extensions or a variations to a contract that has previously been approved by Cabinet, up to an aggregated value of five hundred thousand pounds (£500,000) and that such decisions will not be treated as a key decision;
- 3.2.3. Formalising existing practice that Directors are required to report any decisions valued at one hundred thousand pounds (£100,000) or more, are reported to Cabinet;
- 3.2.4. Formalising Council Policy for contracts to include the payment of London Living Wage in contracts valued £50,000 or above;
- 3.2.5. An amendment enabling a Director (or Head of Service up to their level of delegated authority) to sign or approve any contract valued below two hundred and fifty thousand pounds (£250,000), instead of both officers as presently required;
- 3.2.6. An amendment to waiver provisions, so that waivers valued at £160,000 or above, is approved by the Head of Procurement prior to engaging the supply chain.

4. Reasons for decision

- 4.1. The CSO's have not been updated since 2016 and need updating to reflect changes in legislation, improve processes and to reflect current Council Policies.
- 4.2. The title has been amended from 'Contract Procedure Rules' to 'Contract Standing Orders' as all officers and decision reports refer to Contract Standing Orders and not Contract Procedure Rules, therefore the title has been amended to what is commonly referred to throughout the Council.
- 4.3. References to officer roles have been updated to reflect current structures within the Council. Definitions of the roles have been updated to ensure the CSO's remain current going forward by referring to 'or the most senior officer'. This avoids the need to keep amending the roles referenced in the CSO's when job titles change.
- 4.4. New legislation has replaced out of date legislation referenced in the current CSOs; therefore various amendments have been made throughout the document to remove references to old legislation, including those references to the EU brought about by Brexit, so as to ensure the CSOs remain aligned to legislative changes.
- 4.5. Definitions have been updated to ensure references in the CSOs remain consistent throughout the document.
- 4.6. To improve process efficiency by removing the need for matters to return to Cabinet (or member signings) of any amendments to contracts with relatively low values. (i.e. currently

a contract for £1m previously approved by Cabinet would need to return to Cabinet for any additional variation, even if this was just £1). Directors will therefore be able to approve contract extensions and variations on contracts previously approved by Cabinet, up to an aggregated value of five hundred thousand pounds (£500,000). This is consistent with Directors delegated authority of up to £500,000 throughout the constitution.

- 4.7. To ensure transparency and visibility of any variations or extensions agreed by Directors under CSO 3.01 d), Directors are required to report these as part of the quarterly finance report to Cabinet. In continuing the theme of transparency, the formalisation of Directors to report all decisions exceeding one hundred thousand pounds (£100,000) to Cabinet each month is incorporated into the CSOs (CSO 3.02 p)).
- 4.8. Reference to the use of Constructionline as a compliant process has been removed throughout the CSO's. This is because Constructionline has been privatised and no longer remains compliant with the Public Contract Regulations (PCRs).
- 4.9. Formalisation of the use of purchase cards (P cards) needing to comply with the CSO's to ensure the Council remains compliant with the PCRs and the Councils procurement policies and procedures (CSO 8.09).
- 4.10. Removal of reference to postal bids from the CSOs, as legislation now requires all tenders to be conducted electronically.
- 4.11. To re-enforce the Procurement Strategy previously approved by Cabinet and ensure officers comply with the delegated authority thresholds for Directors and Cabinet as stated in the constitution, CSO 9.04 drafting has been strengthened to re-enforce the use of corporate Dynamic Purchasing Systems (DPS) established by the Council. To use a non-Haringey DPS, will require the consent of the Head of Procurement to ensure compliance with the Public Contract Regulations.
- 4.12. Council has already approved a policy to pay London Living Wage (LLW) through contractual provisions, this amendment formalises this within the constitution for contracts valued at fifty thousand pounds (£50,000) or more (CSO 9.08.9). This a practical threshold for applying such conditions and ensures the Council remains eligible for LLW accreditation. The Payment of LLW can still apply to contracts below £50,000 where it is appropriate and viable to do so.
- 4.13. To ensure consistency with other delegated powers in the constitution, improve efficiency, reduce administrative burden and be more operationally practical, it is proposed that either a Director or Head of Service (with appropriate delegated authority) can approve and sign contracts valued below two hundred and fifty thousand pounds (£250,000). Currently both a Director and a Head of Service is required to sign or approve contracts (that do not require sealing) valued at two hundred and fifty thousand pounds (£250,000) or below; even if the contract was only valued at £1,000. The constitution already makes provision for a Director to award contracts up to £500,000, which is further supported by a scheme of delegation to other officers.

- 4.14. To enable contracts to be more accessible to small and medium sized enterprises who are unable to provide the Parent Company guarantees or bonds which may be cost prohibitive, the Director of finance can consider alternate forms of surety on contracts over two hundred and fifty thousand pounds (£250,000), which will also provide more commercially viable options for both the Council and the supply chain.
- 4.15. To ensure officers remain compliant with the Councils CSOs and relevant legislation, officers will require approval by the Head of Procurement of any waivers above one hundred and sixty thousand pounds (£160,000) prior to engaging the supply chain.

5. Alternative options considered

- 5.1. **Do Nothing** – This option would mean the Council would be referencing outdated legislation in its constitution.

6. Background information

- 6.1. In November 2016, Full Council approved the current version of Part Four of the Constitution, Section J Contract Procedure Rules. Since then, the Brexit Freedom Bill has been implemented following the UK's withdrawal from the EU. Therefore there is no need to fully comply with previous EU based legislation and alternate procurement related legislation amendments have been passed into law.
- 6.2. The Government intends to bring forward the Procurement Act which will be a major overhaul of the current Public Contract Regulations. The original intention was to wait for the Procurement Act to be passed into law and then redraft the CSO's to reflect new legislation; however, these reforms have been delayed several times and may not come into force for some time (2024). Therefore, it is proposed to address some of the immediate inconsistencies in the CSOs now and wait for a more fundamental review of the CSOs when the Procurement Act is passed into law.
- 6.3. Currently contracts previously awarded by Cabinet, require Cabinet (or member signing) for any contract extension or variation where there is an increase in value, even if only £1. This applies to each and every change. This can take a considerable amount of time to complete the governance process and can be an expensive use of resource for potentially low values. It is therefore proposed that Directors can approve such contract variations and extensions up to an aggregated value of five hundred thousand pounds (£500,000), to reduce the volume of contractual amendments requiring Cabinet or Member approval.
- 6.4. The Head of Procurement has consulted with legal colleagues in prioritising the changes.
- 6.5. The proposed changes have been shared with an officer working group and the members Constitutional Working Group, both of which are supportive of the amendments proposed.

7. Contribution to strategic outcomes

- 7.1. The recommendations in this report support the Your Council Priority and the Haringey Deal in 'getting the basics right' and ensuring the Council remains compliant with legislation.

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

Finance

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

Procurement

8.2. The Head of Procurement has prepared this report following consultation on the proposed changes to the Constitution with senior officers within the Council, legal services and the member Constitutional Working Group.

8.3. The Head of Procurement supports the recommendations proposed in this report and confirms the current version of the CSO's is outdated. The proposed amendments will align the CSO's with current legislation and ways of working.

Legal

8.4. The Head of Legal and Governance notes the contents of the report and sees no legal reasons preventing Members from approving the recommendations in the report.

8.5. Equality

N/A

9. Use of Appendices

9.1. Appendix 1 – Contract Standing Orders Revised July 2023 (clean copy)

9.2. Appendix 2 - Contract Standing Orders Revised July 2023 (with track changes from current version)

10. Local Government (Access to Information) Act 1985

N/A

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0. Statement of Principles

- 0.1 The Contract Standing Orders 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.
- 0.2 The Procurement Code of Practice provides more detail and shall govern Council procurement and contract procedures. The Head of Procurement shall maintain and issue the Procurement Code of Practice. Any procurement activity shall proceed in accordance with the Contract Standing Orders and the Procurement Code of Practice and all such other guidance issued by the Head of Procurement.
- 0.3 The Head of Procurement shall make the latest version of the Contract Standing Orders and the Procurement Code of Practice available to every Director, Member and officer of the Council. Directors, or officers acting on their behalf, shall apply the requirements of the Contract Standing Orders and the Procurement Code of Practice when engaging in any procurement activity.
- 0.4 Procurement activity shall be used (amongst other things) to achieve Best Value in accordance with the Council's statutory 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.
- 0.5 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 or approved objectives and shall conform to all relevant laws of England and Wales.
- 0.6 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.

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- 0.7 Directors must ensure that audit trails are in place for all procurement activity in accordance with the Procurement Code of Practice.
- 0.8 No Member of the Council shall enter into any contract on the Council's behalf.
- 0.9 No Member of the Council shall be permitted to become security under any agreement between the Council and a contractor employed by it.

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 an 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 Contract Standing Orders and the Procurement Code of Practice when letting contracts and raising orders with suppliers. Employees have a duty to report breaches of Contract Standing Orders to an appropriate senior manager and the Head of Audit & Risk Management.
- 1.03. Unless otherwise provided within these Contract Standing Orders or the Procurement Code of Practice or with the express approval of the Head of Procurement, all procurement should be conducted via the Corporate Procurement Systems, regardless of value.
- 1.04. Reference should be made to the Procurement Code of Practice for more detailed procurement procedures.

2. Definitions and Interpretation

- 2.01. These Contract Standing Orders are made pursuant to section 135 of the Local Government Act 1972 and shall come into force with this Constitution.

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2.02. Unless the context otherwise requires, in these Contract Standing Orders the terms below shall have the meanings ascribed to them:

- a) **“Approved Electronic Means”** means such electronic means of authenticating the formation of a contract, which may include the use of electronic signatures, positive approval through the use of check boxes or other similar means, as may be expressly approved by the Head of Legal and Governance from time to time or for a specific contract;
- b) **“Bids”** means Tenders and Quotations;
- c) **“Concession Contracts Regulations”** means the Concession Contracts Regulations 2016 (SI 2016/273), as amended from time to time;
- d) **“Contracts Finder”** means a web-based portal provided by or on behalf of the Cabinet Office;
- e) **“Corporate Procurement Systems”** includes the following:
 - The corporate sourcing solution, dynamic purchasing systems (DPS), contract management and performance management systems as referred to in the Procurement Code of Practice, or
 - Such other systems as may be approved by the Head of Procurement from time to time;
- f) **“Director”** means an employee of the Council holding a post designated as:
 - The Chief Executive
 - A member of the Strategic Leadership Team
 - A Director or Assistant Director;
- g) **“Director of Finance”** means the Councils most senior Finance Officer, as amended from time to time;
- h) **“Find a Tender Service”** means a web-based portal provided by or on behalf of the Cabinet Office or any successor as amended from time to time;
- i) **“Head of Legal and Governance”** means the Council most senior Legal Officer, as amended from time to time;

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- j) “**Head of Procurement**” means the Council most senior Procurement Officer, as amended from time to time;
- k) “**London Living Wage**” means as defined by the Living Wage Foundation (<https://www.livingwage.org.uk/what-real-living-wage>);
- l) “**Public Contract Regulations**” means the Public Contracts Regulations 2015 (SI 2015/102), as amended from time to time;
- m) “**Regulations**” means the Concession Contracts Regulations 2016, The Utilities Contracts Regulations 2016 and the Public Contracts Regulations, as amended from time to time.

2.03. In the event of any conflict between the law of England and Wales and Council policy, the requirements of the law of England and Wales shall prevail over Council policy.

2.04. In the event of any doubt as to the interpretation of these Contract Standing Orders or the Procurement Code of Practice, or as to the proper procedure to be followed, clarification should be sought from the Head of Procurement.

3. Roles & Responsibilities

3.01 The Cabinet (and Pensions Committee where relevant) will:

- a) hold Directors accountable for any decisions they make under their delegated authority or under these Contract Standing Orders;
- b) approve awards of contract valued at £500,000 (five hundred thousand pounds) or more;
- c) approve any variation or extension valued at £500,000 (five hundred thousand pounds) or more, whether or not such variation or extension was included in the original award in b) above;
- d) ensure that the award of any contract and any extension or variation with an aggregated value at £500,000 (five hundred thousand) 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;

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- e) Where an award of a contract and any extension or variation that has previously been approved under 3.01 d) above, following consultation with the Cabinet Member responsible for the relevant portfolio, a Director may approve any subsequent extensions and variations up to the aggregated value of £500,000 (five hundred thousand) and any such variation(s) or extension(s) will not be treated as a 'Key Decision';
- f) For the avoidance of doubt, where the additional cumulative value of all variations and extensions of the original key decision is £500,000 (five hundred thousand) or more, this will be treated as a 'Key Decision' and 3.01 d) will apply;
- g) Where a Director undertakes a decision in relation to 3.01 e) above, details of the extension or variation must be reported retrospectively via the quarterly financial update report to Cabinet.

3.02 Directors

Each Director has responsibility for all contracts let under his/her control. he/she is accountable to the Cabinet for the performance of his/her duties in relation to contract letting and management, which are:

- a) to ensure compliance with the law of England and Wales and Council Policy;
- b) to ensure value for money in all procurement matters;
- c) to ensure compliance with Contract Standing Orders 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 Contract Standing Orders 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 Contract Standing Orders;

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- g) to take immediate action in the event of a breach of Contract Standing Orders or the Procurement Code of Practice within his or her area;
- h) to keep: (i) copies of all concluded contracts as required by Regulation 83 of the Public Contract Regulations, and ensure electronic copies of such contracts are stored, 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 Regulation 84 of the Public Contract Regulations;
- i) to keep records of waivers of any provision of these Contract Standing Orders and forward a copy of such signed records to the Strategic Procurement;
- j) to make appropriate arrangements for the opening of bids and their secure retention so as to protect the integrity of the procurement process;
- k) 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 Contract Standing Orders;
- l) to ensure original sealed contract documents are held by the Head of Legal and Governance for safekeeping;
- m) to record all contracts valued at £10,000 or more in the Corporate Contracts Register;
- n) to ensure effective management of all contracts under his/her control and to a level deemed appropriate in regard to risk or value of each contract.
- o) 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.

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- p) to record and report on decisions taken under the Officer Scheme of Delegation in accordance with Part Three Section E - paragraphs 3.01 to 3.05 of the Councils Constitution. Procurement decisions including any contract award, variation and extension of £100,000 or more are mainly executive decisions and should be reported to Cabinet.

3.03 **Pensions Committee**

The Pensions Committee shall have the same powers and duties of the Cabinet specified in these Contract Standing Orders but limited to procurement decisions and award of contracts relating to the Pension Fund.

4. Scope of Contract Standing Orders

4.01. These Contract Standing Orders shall apply to all contracts for the procurement by the Council of works, goods and services (including concessions) unless otherwise expressly stated or these requirements are waived in accordance with Contract Standing Order 10.

4.02. Where the Council:

- a) secures funding from an external funding body, or
- b) intends to assign grant funding to an external body;

Contract Standing Order 17 and the forming of necessary agreements shall apply.

4.03. These Contract Standing Orders shall **not apply** to contracts falling within Regulation 10 of the Public Contract Regulations. 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).

4.04. These Contract Standing Orders shall **not apply** to contracts falling within Regulation 10 of the Concession Contracts Regulations. For the avoidance of doubt, this exclusion applies to (but not limited to) air transport and passenger transport services, certain contracts for legal services, certain financial services and debt finance and agreements for the sale of land (including leases).

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5. Public Procurement Directives

5.01. Where the value of a works, goods or services contract is equal to, or exceeds, the applicable threshold in relation to the Regulations, the provisions of those Regulations shall govern the tendering process and shall take precedence over the provisions of these Contract Standing Orders in the event of any conflict.

6. Contract Value and Aggregation

6.01. Directors must ensure that a pre-tender estimate of the total contract value is prepared and recorded in writing and in order to determine whether the thresholds under the Regulations apply.

6.02. Unless otherwise specifically provided and subject to Contract Standing Order 6.04, reference to total contract value or an estimated total contract value in these Contract Standing Orders means the aggregate value payable in pounds sterling exclusive of Value Added Tax over the entire contract period, including any extension periods as anticipated in the proposed contract.

6.03. 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 Contract Standing Orders or the Regulations.

6.04. In the case of Concession Contracts these are to be calculated in accordance with Regulation 9. (3) – (11) of the Concession Contract Regulations.

7. Framework, Consortia and Joint Procurement Arrangements

7.01. Subject to the provision of Contract Standing Order 7.02, these Contract Standing Orders shall **not apply** where the Council procures particular works, goods and/or services:

- a) as part of a group of public sector bodies contracting with one or more contractors (consortium arrangement), provided the contract standing orders of one of the public sector bodies constituting the group and/or where applicable the Regulations have been followed; or

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- b) by selecting one or more contractors from a Framework or similar arrangement (including approved lists and dynamic purchasing systems), established by a public sector body in accordance with the contract standing orders of that public sector body and/or where applicable the Regulations; or

7.02. The Council's decision to enter into a contract with the recommended Contractor must be made in accordance with Contract Standing Order 9.07.

7.03. The Council shall observe these Contract Standing Orders where it procures works, goods and/or services for the benefit, or on behalf of, other public bodies.

7.04. Where the Council is considering leading on any joint procurement activities with other contracting authorities, approval must be obtained in advance of any commitment to do so and on the basis of a robust business case from:

- (a) the Cabinet where the joint procurement is liable to result in a contract award that would involve a 'key decision' by the Council;

- (b) the Head of Procurement for non-key decisions.

8. Procedure for Contracts under £160,000

8.01. Contracts for works, goods and/or services with an estimated value below £160,000 (one hundred and sixty thousand pounds) must be procured via the Corporate Sourcing Solution except where Contract Standing Order 7.01 applies or where an alternate e-sourcing solution is used that has been pre-approved in writing by the Head of Procurement.

8.02. Where a contract for works, goods and/or services has an estimated value of less than £10,000 (ten thousand pounds), the relevant Director should act in the manner most expedient to the efficient management of the service, having kept a record for so doing.

8.03. Where a contract for goods or services has an estimated value of £10,000 (ten thousand pounds) or more, but less than £160,000 (one hundred and sixty thousand pounds), at least three competitive quotations should be obtained via the Corporate Sourcing Solution without the need for

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an advertisement or to follow the tender procedure. This activity will be undertaken under the management of the relevant Director without the need for the Head of Procurement to lead on it.

- 8.04. Where a contract for works has an estimated value of £10,000 (ten thousand pounds) or more, but less than £160,000 (one hundred and sixty thousand pounds), at least three competitive quotations should be obtained via the Corporate Sourcing Solution without the need for an advertisement or to follow the competitive tender procedure. This activity will be undertaken under the management of the relevant Director without the need for the Head of Procurement to lead on it.
- 8.05. The quotation procedure shall comply with Contract Standing Orders 9.02 to 9.05 and be managed by the relevant Director.
- 8.06. Where a pre-qualified Framework arrangement (including approved lists) exists in respect of the subject matter and prices have yet to be determined then CSO 9.01.2f applies.
- 8.07. The Head of Procurement may decide that processes in CSO 8 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 contractor which will meet best value criteria and/or ensure compliance with procurement law. The decision and process must be properly documented.
- 8.08. Where a contract with an estimated value of £25,000 (twenty five thousand pounds) or more is advertised, the contract opportunity must be published on Contracts Finder within 24 hours of the first advertisement. The Contracts Finder publication will comply with Regulation 110 of the Public Contract Regulations as applicable.
- 8.09. Where a purchasing card is used to procure goods, works or services it cannot be used to circumvent these Contract Standing Orders. The relevant approvals in accordance with these Contract Standing Orders must be in place prior to procuring the goods, works or services.

9. Procedure for Contracts valued at £160,000 or more

- 9.01. Except as otherwise expressly permitted by or under these Contract Standing Orders, in the case of contracts for works and contracts subject to

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the Light Touch Regime (Regulation 74 of the Public Contract Regulations or Regulation 19 of the Concession Contracts Regulations as applicable) with an estimated value of £160,000 (one hundred and sixty thousand pounds) or more but less than £500,000 (five hundred thousand pounds), at least three competitive quotations should be obtained via the Corporate Sourcing Solution, without the need for an advertisement or to follow the competitive tender procedure. This activity will be managed by the Head of Corporate Procurement.

9.01.1 Except as otherwise expressly permitted by or under these Contract Standing Orders, contracts for goods and/or services with an estimated value of £160,000 (one hundred and sixty thousand pounds) or more as well as contracts for works and contracts subject to the Light Touch Regime (Regulation 74 of the Regulations or Regulation 19 of the Concession Contracts Regulations as applicable) which have an estimated value of £500,000 (five hundred thousand pounds) or more must be let following publication of an appropriate (tender) advertisement.

9.01.2 Where tenders are to be invited the procedure to be followed shall be determined prior to advertising and be managed by the Head of Procurement and shall be one of the following:

- a) open tender procedure (all interested contractors submit a tender in response to an advertisement);
- b) restricted procedure, 2 (or more) stage process involving expressions of interest from contractors in response to an advertisement, with a selection of those contractors subsequently being invited to submit a tender;
- c) competitive procedure with negotiation, 2 (or more) stage process involving expressions of interest from contractors in response to an advertisement, with a selection of those contractors being invited to negotiate;
- d) competitive dialogue procedure, 2 (or more) stage process involving expressions of interest from contractors in response to an advertisement, followed by dialogue with a selection of those contractors to identify a solution (or solutions) which meets the Council's requirements, and an invitation to the selected contractors to

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submit tenders based on the solution/s resulting from the dialogue;

- e) innovation partnership procedure 2 (or more) stage process involving expressions of interest from contractors in response to an advertisement, followed by a competitive award procedure aimed at the development, and subsequent purchase, of an innovative product, service or works;
- f) where it is proposed to award a specific contract based on a framework agreement in which all the terms of the proposed contract are not laid down, a mini competition shall be held in which tenders shall be invited from all members of the framework agreement that are capable of carrying out the requirements of the specific contract;
- g) negotiated procedure without prior publication of an advertisement where the requirements of Regulation 32 of the Public Contract Regulations are made out. The Head of Procurement must first be consulted before this procedure is used.

9.01.3 Procurements requiring use of a qualitative selection questionnaire must comply with the Crown Commercial Services (CCS) guidance on the use of these questionnaires including any applicable guidance on the use of the Single Procurement Document (SPD) provided for in Regulation 59 of the Public Contract Regulations.

9.01.4 Prior approval must be obtained from the Head of Procurement to derogate from the CCS guidance referred to in 9.01.3. Any such derogation must be disclosed to the Cabinet Office.

9.02 Electronic communications, procurement documents, division into lots and receipt and opening of bids

9.02.1. Subject to the terms of Regulation 22 of the Public Contract Regulations, all communication and information exchange in relation to procurement shall be performed using electronic means of communication.

9.02.2. Subject to the terms of Regulation 53 of the Public Contract Regulations or 34 of the Concession Contract Regulations as applicable, 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,

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or the date on which an invitation to confirm interest was sent.

9.02.3. The Council may award a contract in the form of separate lots and may determine the size and subject matter of such lots. Where a contract is subject to the Public Contract Regulations, if the Council determines that it should not be subdivided into lots then in compliance with Regulation 46(2) of the Public Contracts Regulations it shall provide and retain an indication of the main reasons for its decision.

9.02.4 The approval of contract awards, variations and extensions may be evidenced within the Corporate Procurement Systems by electronic copies of signatures or through positive acceptance (i.e. tick box, yes /no indicator or other similar means of approval).

9.02.8 Electronic Bids received securely may be opened at the appointed date and time by one officer or appointed consultant.

9.02.9. The Head of Procurement must approve the training and seniority of all officers employed to open Bids and also the arrangements for ensuring the independence of such officers from the teams involved in the competitive process.

9.03 Abnormally Low, Late or Non-Compliant Bids

9.03.1. In respect of any contract that is subject to the Regulations, if the Council determines that a Bid is abnormally low then it shall ask the bidder to explain the prices or costs proposed in its Bid.

9.03.2. Records of any non-compliant Bids and of the date and time of receipt of any late tenders must be kept by officers.

9.03.3. Bids received late may only be considered if the other Bids have not yet been opened and:

- a) failure to comply is the Council's fault; or
- b) it is clear that the Bid was sent in such a way that in the normal course of events it would have arrived on time.

9.04 Dynamic Purchasing Systems

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- 9.04.1. Subject to Contract Standing Order 9.07.1, these Contract Standing Orders shall not apply where the Council procures particular works, goods and/or services under a Dynamic Purchasing System (DPS) where:
- a) A Dynamic Purchasing System (DPS) is used to carry out procurements in accordance with Regulation 34 of the Public Contract Regulations, with the prior approval of, and in accordance with a procedure specified by the Head of Procurement.
 - b) The Council operates its own Dynamic Purchasing System (DPS) for a works, goods, or service category, this must be used to carry out the procurements related to those categories, unless otherwise agreed by the Head of Procurement.
- 9.04.2. Electronic formation of individual contracts within the DPS is permitted, subject to Contract Standing Orders 9.08.8. and 9.08.9.

9.05. E-Auctions

In appropriate cases, the submission of prices for a bid may be conducted by e-auction in accordance with Regulation 35 of the Public Contract Regulations, with the prior approval of, and in accordance with a procedure specified by, the Head of Procurement.

9.06 Post Tender Clarifications/Confirmations

- 9.06.1. Except where the competitive procedure with negotiation referred to in Contract Standing Order 9.01.2c and 9.01.2g applies, negotiation after receipt of formal bids and before the award of contract is only permitted:
- a) in circumstances which do not breach the Regulations or put other contractors at a disadvantage, distort competition or adversely affect trust in the competitive process, and
 - b) if the prior authority of the Head of Procurement has been obtained.
- 9.06.2. All communication with contractors under this Contract Standing Order 9.06.1 must be in writing or recorded in writing.

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9.07 Bid Acceptance, Contract Award and Letters of Intent

9.07.1. Bids are to be accepted on the basis:

- a) either, if the contract value is above the applicable threshold pursuant to the Regulations, of the most economically advantageous tender (“MEAT”), except where provided otherwise by the Regulations and as determined by the application of the published award criteria; or
- b) if the contract value is below the applicable threshold pursuant to the Regulations, of either (i) MEAT, or (ii) lowest cost.
- c) A Director may award, assign, or novate contracts valued less than £500,000 (five hundred thousand pounds).
- d) All contracts valued at £500,000 (five hundred thousand pounds) or more at the time of award may only be awarded, assigned, or novated by the Cabinet.
- e) The award of any contract valued at £500,000 (five hundred thousand pounds) or more is 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.
- f) In accordance with Part 5 Section C of the Constitution, the award of spot contracts for care packages and contracts for the supply of energy to the Council are not “key decisions”.

9.07.2 Where a contract has been awarded, including by way of a call off from a Framework, with an estimated value of £25,000 or more, the award must be published on Find a Tender and Contracts Finder portals.

9.07.3 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.

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9.08. Conditions Applying to All Contracts:

- 9.08.1. The tender documents in respect of every contract to which the Regulations apply shall provide for the contract to include provisions enabling the Council to terminate the contract in each of the circumstances set out in Regulation 73 of the Public Contract Regulations or Regulation 44 of the Concession Contracts Regulations, as applicable.
- 9.08.2. The tender documents in respect of every contract to which the Regulations apply shall include a requirement that the Council may require the successful contractor to enter into a collateral contract in a form approved by the Head of Legal and Governance which provides for the allocation of risks between the parties where the contract has been declared ineffective by a court.
- 9.08.3. 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 Head of Legal and Governance or an officer acting under his/her delegated authority.

Valued £10,000 or more:

- 9.08.4. All contracts valued at £10,000 (ten thousand pounds) or more must be in writing by way of a document prepared, or on a basis approved, by the Head of Legal and Governance.
- 9.08.5. Every contract valued at £10,000 (ten thousand pounds) or more shall specify:
- a) the works, goods or services to be provided or executed;
 - b) the price to be paid or the precise method of its ascertainment and a statement of any discounts or other deductions; and
 - c) as appropriate, the start and finish dates, or delivery dates, and any maintenance or defects liability period;
 - d) compliance with the Council's insurance requirements. The

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requirement to comply with the Council's standard insurance requirements may only be waived with the Director of Finance approval;

- e) compliance with the Council's equality policy;
- f) compliance with regards to the protection of personal data.

9.08.6. 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 check for which his/her role is eligible prior to provision of the services being carried out by the relevant staff member and at appropriate intervals thereafter.

9.08.7. All computer software contracts shall contain a clause to the effect that use of the software by the Council's contractors shall not amount to use by a third party for which an additional software license might otherwise be required.

Valued £50,000 or more:

9.08.8. Every contract with a value of £50,000 (fifty thousand pounds) or more must, unless the Head of Legal and Governance and Director of Finance agree to the contrary, contain clauses to cover the following:

- a) compliance with all applicable legislation;
- b) a prohibition on assignment and/or subletting without the written consent of the Director;
- c) a provision allowing the Council to cancel the contract and recover any resulting loss from the contractor if the contractor does anything which is contrary to the Bribery Act 2010 or incites breach of Section 117 (2) of the Local Government Act 1972;
- d) a provision to ensure the Council is protected against the contractor's defective performance by default provisions which are appropriate to

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the contract;

- e) if the contractor is in breach of contract the Council can do any or all of the following:
 - i. determine all or part of the contract or determine the contractor's appointment;
 - ii. itself perform the contract in whole or in part;
 - iii. recover from the contractor any additional cost resulting from the completion or cancellation of the contract;
- f) If the contractor has obtained or received by whatever means any information which gives or is intended or likely to give the contractor any unfair advantage over any other tenderer (including the Council's own workforce) in relation to the tendering for, and award of, any works/services contract, that the Council shall be entitled to terminate that contract;
- g) It shall be a condition of any contract between the Council and any person (not being an Officer of the Council) who is required to manage a contract on the Council's behalf that, in relation to such contract, he/she shall comply in all respects with the requirements of these Contract Standing Orders as if he/she were an employee of the Council.

9.08.9. All contracts for works and services valued at £50,000 (fifty thousand pounds) and above must include provisions for the payment of London Living Wage.

9.08.10. A contract valued at less than £250,000 (two hundred and fifty thousand pounds) does not require sealing and should either be signed or electronically approved on behalf of the Council by the relevant 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 Head of Procurement may decide to have the contract executed under seal as a deed.

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Valued £250,000 or more:

9.08.11. A contract valued at £250,000 (two hundred and fifty thousand pounds) or more must be executed on behalf of the Council under seal as a deed. Where appropriate this may be undertaken electronically.

9.08.12. Every contract valued at £250,000 (two hundred and fifty thousand pounds) or more must contain clauses to cover the following:

- a) if it is a contract for works, that the Council may require the contractor to provide security for completing the contract in the form of a bond;
- b) that where the contractor is a subsidiary or group company, the contractor may be required to provide a parent or group company guarantee.
- c) or other means of surety as agreed by the Director of Finance or an officer acting under his/her delegated authority.

9.08.13. 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 Director of Finance or an officer acting under his/her delegated authority.

10. Waivers, Variations, Extensions and Novations

10.01 Waivers

10.01.1. Contract Standing Orders other than Contract Standing Order 5 (which relates to the Regulations) may be waived on the basis set out in CSO 10.01.2 by:

- a) the Cabinet where the contract value is £500,000 (five hundred thousand pounds) or more;
- b) a Director where the contract value is less than £500,000 (five hundred thousand pounds) (save that the Director shall not have authority to waive CSO 9.08).
- c) Any waiver valued at £160,000 or above must be agreed by the Head of

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Procurement prior to engaging the supply chain.

10.01.2. 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 Regulation 12 of the Public Contract Regulations or Regulation 17 of the Concession Contract Regulations as applicable; or
- b) the contract is one that the Council is permitted to reserve for certain economic operators in circumstances permitted by Regulation 77 of the Public Contracts Regulations or Regulation 24 of the Concession Contracts Regulations; 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 threshold pursuant to the Regulations and:
 - (i) 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 Contract Standing Orders is justifiable;
 - (ii) it is in the Council's overall interest; or
 - (iii) there are other circumstances which are genuinely exceptional.

10.01.3. Waiver requests must be approved before any related contract awards.

10.01.4. 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 Head of Procurement.

10.01.5. Where an additional waiver of Contract Standing Orders is sought in relation to the same individual contract, whereby the aggregated value of the contract increases to £500,000 (five hundred thousand pounds) or more, the waiver must be agreed by the Cabinet.

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10.02 Variations and Extension

10.02.1. Subject to the provisions of CSO 3.01 and the Regulations (in particular Regulation 72 of the Public Contract Regulations or Regulation 43 of the Concession Contracts Regulations (as applicable), compliance with Financial Regulations and subject to satisfactory outcomes of contract monitoring; the following may authorise an extension or variation to a contract:

- a) a Director provided the value of the extension or variation is less than £500,000 (five hundred thousand pounds);
- b) the Cabinet where the value is £500,000 (five hundred thousand pounds) or more.

10.02.2. All variations and extensions must be recorded in writing and an electronic copy retained by the business unit.

10.03 Novations (Transfers)

In circumstances permitted in Regulation 72 of the Public Contract Regulations or Regulation 43 of the Concession Contracts Regulations or where the value of a contract is below the applicable threshold pursuant to the Regulations the Council may agree to the novation or assignment of a contract.

11. Contract Termination

11.01. 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 taking into account Contract Standing Order 10.03 in cases of novation or Contract Standing Order 4.01 in cases that warrant the re-letting of the contract(s).

11.02. The decision to terminate a contract early in all other circumstances must be approved by a Director.

11.03. In all cases of contract termination for whatever reason where the awarded contract value was £500,000 (five hundred thousand pounds) or more a report must be presented at the earliest opportunity to Cabinet.

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12. Schools

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 Contract Standing Orders apply to all schools within the London Borough of Haringey with the exception of Academy and Trust Schools. A school's governing body shall have the powers and duties of the Cabinet specified in these Contract Standing Orders, except in relation to waivers (CSO 10.01).

13. Care Contracts for Individuals

Subject to Regulation 74 of the Public Contract Regulations and Regulation 19 of the Concession Regulations as applicable, Adults & Housing Services and the Children & Young People's Service care contracts may be 'block' contracts (where a number of beds, places or services are provided by the contractor at pre-agreed pricing schedules, to which the Council may refer users over the contract period) or 'spot' contracts (one-off contracts meeting an individual user's needs, or contracts where a number of beds, places or services are provided by the contractor without pre-agreed prices, such prices to be agreed upon each referral of a user over the contract period). The Directors of the Adult's, Health & Communities Services and the Children's Service will seek to optimise the overall best value for the Council. The following provisions shall apply to the Adult's, Health & Communities Services and the Children's Service care contracts:

- a) All Contract Standing Orders apply to block contracts;
- b) Where a spot contract has an estimated value of less than £160,000 (one hundred and sixty thousand pounds), CSO 8.02 and CSO 8.03 shall not apply, and the relevant Director should act in the manner most expedient to the efficient management of the service, having kept a record for so doing.
- c) Where a spot contract has an estimated value of £160,000 (one hundred and sixty thousand pounds) or more, CSO 9.01 shall apply.

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14. Alexandra Palace and Park

These Contract Standing Orders apply to the procurement of works, goods and services by or on behalf of Alexandra Palace and Park Charitable Trust on the following basis:

- a) The Chief Executive of APPCT shall have the powers and duties of a Director specified in Contract Standing Orders;
- b) The Alexandra Palace and Park Board and Panel shall have the powers and duties of the Cabinet and a Cabinet Member specified in these Contract Standing Orders;
- c) In the event of any conflict, the requirements of the Charities Act 1993, any regulations made under that Act or charity law in general shall prevail over the provisions of Contract Standing Orders.

15. Disposal of assets

- 15.01. Where Council assets (other than land & buildings) are to be disposed of because they are surplus to requirements, damaged or obsolete, reasonable endeavors must be undertaken to realise the residual value of the assets.
- 15.02. Assets having little or no realisable value may be disposed of as waste with the approval of the relevant Head of business unit, provided that the disposal shall be in favour of recycling wherever possible.
- 15.03. In respect of assets to be disposed of having an estimated value of less than £10,000 (ten thousand), the Director concerned should act in the manner most expedient to the efficient management of the service, having kept a record for so doing.
- 15.04. Assets recommended for disposal with an estimated value of £10,000 (ten thousand pounds) or more, shall be disposed of in such a manner as to secure best value.
- 15.05. Disposal of assets valued at £250,000 (two hundred and fifty thousand pounds) or more must be reported to the Cabinet.

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15.06. Under no circumstances shall disposal of Council assets be made to employees or Members of the Council without the prior approval of the relevant Director.

16. Urgent Decisions/Decisions Required in-between Cabinet Meetings

16.01. These provisions apply where action needs to be taken between meetings of the Cabinet or in cases of urgency and that action would be outside the powers given to a Director under these Contract Standing Orders.

16.02. Decisions reserved to Members under these Contract Standing Orders will ordinarily be taken at a Cabinet meeting. Notwithstanding this, the Leader may take any such decision between meetings of the Cabinet, including decisions that have become urgent, and the Leader may also allocate any such decision whether urgent or not to the Cabinet Member having the relevant portfolio responsibilities or to a Committee of the Cabinet.

16.03 The provisions of the Access to Information Procedure Rules at Part 4 of this Constitution will apply. All key decisions should be listed on the forward plan accordingly. Where a decision is urgent, rules 16 and 17 within the Access to Information Procedure Rules will apply.

17. Application of CSOs to Grants

Approval for Receipt of Grants by the Council from External Bodies

17.1 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 9.07 (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).

17.2 The Council's requirements in respect of execution of contracts as deeds (CSO 9.08.9) 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.

Approval for Payment of Grants from the Council to External Bodies

- 17.3 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 9.07 (i.e. the Director may approve awards of grants valued less than £500,000. For approval of award of grants valued at £500,000 or more, a Cabinet decision is required).

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0. Statement of Principles

0.1 The Contract Standing Orders provide the ~~framework rules~~constitutional basis for the Council's procurement of works, goods and services. Following them will assist ~~to ensure~~in ensuring statutory compliance, value for money, propriety and the proper spending of public money.

0.2 The Procurement Code of Practice provides more detail and shall govern Council ~~tendering~~procurement and contract procedures. The Head of Procurement shall maintain and issue the Procurement Code of Practice. Any procurement activity shall proceed in accordance with the Contract Standing Orders and the Procurement Code of Practice and all such other guidance issued by the Head of Procurement.

0.3 The Head of Procurement shall make the latest version of the Contract Standing Orders and the Procurement Code of Practice available to every Director, Member and officer of the Council. Directors, or officers acting on their behalf, shall apply the requirements of the Contract Standing Orders and the Procurement Code of Practice when engaging in any procurement activity.

0.4 Procurement activity shall be used (amongst other things) to achieve Best Value in accordance with the Council's statutory 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 the optimal combination of economy, efficiency and effectiveness.

0.5 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 or approved objectives and shall conform to all relevant ~~law~~laws of England and Wales ~~and of the European Union~~.

0.6 ~~0.6~~—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.

~~0.7~~—

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[0.7](#) Directors must ensure that audit trails are in place for all procurement activity in accordance with the Procurement Code of Practice.

~~0.8~~[0.8](#) No Member of the Council shall enter into any contract on the Council's behalf.

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~~0.9.0.9~~ No Member of the Council shall be permitted to become security under any agreement between the Council and a contractor employed by it.

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 ~~are provided.~~ Efficient use of resources ~~in order~~ to achieve Best Value is therefore an 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 Contract Standing Orders and the Procurement Code of Practice when letting contracts and raising orders with suppliers. Employees have a duty to report breaches of Contract Standing Orders to an appropriate senior manager and the Head of Audit & Risk Management.
- 1.03. Unless otherwise provided within these Contract Standing Orders or the Procurement Code of Practice or with the express approval of the Head of Procurement, all ~~procurements~~[procurement](#) should be conducted via the Corporate Procurement Systems, regardless of value.
- 1.04. Reference should be made to the Procurement Code of Practice for more detailed procurement procedures.

2. Definitions and Interpretation

- 2.01. These Contract Standing Orders are made pursuant to section 135 of the Local Government Act 1972 and shall come into force with this Constitution.
- 2.02. Unless the context otherwise requires, in these Contract Standing Orders the terms below shall have the meanings ascribed to them:

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- a) “**Approved Electronic Means**” means such electronic means of authenticating the formation of a contract, which may include the use of electronic signatures, [positive approval through the use of check boxes or other similar means](#), as may be expressly approved by the ~~Assistant Director~~[Head](#) of ~~Corporate~~[Legal and](#) Governance from time to time or for a specific contract;

- b) “**Bids**” means Tenders and Quotations;

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- c) **“Concession Contracts Regulations”** means the Concession Contracts Regulations 2016 (SI 2016/273), as amended from time to time;
- d) **“Contracts Finder”** means a web-based portal provided by or on behalf of the Cabinet Office;
- e) **“Corporate Procurement Systems”** ~~means any one of~~includes the following:
- ~~the Corporate Contract Repository being the Wax Digital Contract Management and Supplier Relationship Systems;~~
 - ~~the Corporate Dynamic Purchasing System (DPS) being the Council’s web-based dynamic purchasing system currently provided by adam-HTT (as amended);~~
 - ~~the Corporate Sourcing Solution being the Wax Digital Sourcing Solution;~~
 - or suchThe corporate sourcing solution, dynamic purchasing systems (DPS), contract management and performance management systems as referred to in the Procurement Code of Practice, or
 - Such other systems as may be approved by the Head of Procurement from time to time;
- f) **“Director”** means an employee of the Council holding a post designated as:
- The Chief Executive
 - A member of the Strategic Leadership Team
 - A Director or Assistant Director;
- ~~g) “EU” means the European Union;~~
- g) “Director of Finance” means the Councils most senior Finance Officer, as amended from time to time;
- h) “Find a Tender Service “ means a web-based portal provided by or on behalf of the Cabinet Office or any successor as amended from time to time;
- i) “Head of Legal and Governance” means the Council most senior Legal Officer, as amended from time to time;

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j) “Head of Procurement” means the Council most senior Procurement Officer, as amended from time to time;

k) “London Living Wage” means as defined by the Living Wage Foundation (<https://www.livingwage.org.uk/what-real-living-wage>);

h)l) “Public Contract Regulations” means the Public Contracts Regulations 2015 (SI 2015/102), as amended from time to time;

i)m) “Regulations” means the Concession Contracts Regulations 2016, [The Utilities Contracts Regulations 2016](#) and the Public Contracts Regulations, as amended from time to time.

2.03. In the event of any conflict between ~~EU law~~, the law of England and Wales and Council policy, the requirements of ~~EU law shall prevail over the law of England and Wales and the requirements of the~~ law of England and Wales shall prevail over Council policy.

2.04. In the event of any doubt as to the interpretation of these Contract Standing Orders or the Procurement Code of Practice, or as to the proper procedure to be followed, clarification should be sought from the Head of Procurement.

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3. Roles & Responsibilities

3.01 The Cabinet (and Pensions Committee where relevant) will:

- a) hold Directors accountable for any decisions they make under their delegated authority or under these Contract Standing Orders;
- b) approve awards of contract valued at £500,000 (five hundred thousand pounds) or more;
- c) approve any variation or extension valued at £500,000 (five hundred thousand pounds) or more, whether or not such variation or extension was included in the original award in b) above;
- d) ensure that the award of any contract and any extension or variation with an aggregated value at £500,000 (five hundred thousand) or more is treated as a ~~'key decision'~~'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.
- e) Where an award of a contract and any extension or variation that has previously been approved under 3.01 d) above, following consultation with the Cabinet Member responsible for the relevant portfolio, a Director may approve any subsequent extensions and variations up to the aggregated value of £500,000 (five hundred thousand) and any such variation(s) or extension(s) will not be treated as a 'Key Decision'.
- f) For the avoidance of doubt, where the additional cumulative value of all variations and extensions of the original key decision is £500,000 (five hundred thousand) or more, this will be treated as a 'Key Decision' and 3.01 d) will apply.
- g) Where a Director undertakes a decision in relation to 3.01 e) above, details of the extension or variation must be reported retrospectively via the quarterly financial update report to Cabinet.

3.02 Directors

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Each Director has responsibility for all contracts let under his/her control. he/she is accountable to the Cabinet for the performance of his/her duties in relation to contract letting and management, which are:

- a) to ensure compliance with ~~EU law~~, the law of England and Wales and Council Policy;
- b) to ensure value for money in all procurement matters;
- c) to ensure compliance with Contract Standing Orders 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 Contract Standing Orders 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 Contract Standing Orders;
- g) to take immediate action in the event of a breach of Contract Standing Orders or the Procurement Code of Practice within his or her area;

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- h) to keep: (i) copies of all concluded contracts as required by Regulation 83 of the Public Contract Regulations, and ensure electronic copies of such contracts are stored ~~in the Council's Corporate Contract Repository~~, 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 Regulation 84 of the Public Contract Regulations;
- i) to keep records of waivers of any provision of these Contract Standing Orders and forward a copy of such signed records to the ~~Corporate Strategic~~ Procurement ~~Unit~~;
- j) to make appropriate arrangements for the opening of bids and their secure retention so as to protect the integrity of the procurement process;
- k) 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 Contract Standing Orders;
- l) to ensure original sealed contract documents are held by the ~~Assistant Director~~Head of ~~Corporate Legal and~~ Governance for safekeeping;
- m) to record all contracts valued at £10,000 or more in the Corporate Contracts ~~Repository~~Register;
- n) to ensure effective management of all contracts under his/her control and to a level deemed appropriate in regard to risk or value of each contract.
- o) 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.
- p) to record and report on decisions taken under the Officer Scheme of Delegation in accordance with Part Three Section E - paragraphs

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3.01 to 3.05 of the Councils Constitution. Procurement decisions including any contract award, variation and extension of £100,000 or more are mainly executive decisions and should be reported to Cabinet.

⇒

3.03 **Pensions Committee**

The Pensions Committee shall have the same powers and duties of the Cabinet specified in these Contract Standing Orders but limited to procurement decisions and award of contracts relating to the Pension Fund.

4. **Scope of Contract Standing Orders**

4.01. These Contract Standing Orders shall apply to all contracts for the procurement by the Council of works, goods and services (including concessions) unless otherwise expressly stated or these requirements are waived in accordance with Contract Standing Order 10.

4.02. Where the Council:

- a) secures funding from an external funding body, or
- b) intends to assign grant funding to an external body;

Contract Standing Order 17 and the forming of necessary agreements shall apply.

4.03. These Contract Standing Orders shall **not apply** to contracts falling within Regulation 10 of the Public Contract Regulations. 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).

4.04. These Contract Standing Orders shall **not apply** to contracts falling within Regulation 10 of the Concession Contracts Regulations. For the avoidance of doubt, this exclusion applies to (but not limited to) air transport and passenger transport services, certain contracts for legal services, certain financial services and debt finance and agreements for the sale of land (including leases).

5. **EU Public Procurement Directives**

~~5.01.~~ ~~5.01~~—Where the value of a works, goods or services contract is equal to, or exceeds, the applicable threshold in relation to the Regulations, the provisions of those Regulations shall govern the tendering process and shall take precedence over the provisions of these Contract Standing Orders in the event of any conflict.

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6. Contract Value and Aggregation

- 6.01. Directors must ensure that a pre-tender estimate of the total contract value is prepared and recorded in writing and in order to determine whether the thresholds under the Regulations apply.
- 6.02. Unless otherwise specifically provided and subject to Contract Standing Order 6.04, reference to total contract value or an estimated total contract value in these Contract Standing Orders means the aggregate value payable in pounds sterling exclusive of Value Added Tax over the entire contract period, including any extension periods as anticipated in the proposed contract.
- 6.03. A contract's value must not be artificially under or ~~over~~ [estimated](#)~~overestimated~~ or divided into two or more separate contracts with the intention of avoiding the application of Contract Standing Orders or the Regulations.

~~6.04.~~ [6.04](#)—In the case of Concession Contracts these are to be calculated in accordance with Regulation 9. (3) – (11) of the Concession Contract Regulations.

7. Framework, Consortia and Joint Procurement Arrangements

- 7.01. Subject to the provision of Contract Standing Order 7.02, these Contract Standing Orders shall **not apply** where the Council procures particular works, goods and/or services:
- a) as part of a group of public sector bodies contracting with one or more contractors (consortium arrangement), provided the contract standing orders of one of the public sector bodies constituting the group and/or where applicable the Regulations have been followed; or
 - b) by selecting one or more contractors from a Framework or similar arrangement (including approved lists and dynamic purchasing

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systems), established by a public sector body in accordance with the contract standing orders of that public sector body and/or where applicable the Regulations; or

~~e) by selecting one or more contractors from ConstructionLine in accordance with the criteria applicable to the project.~~

7.02. The Council's decision to enter into a contract with the recommended Contractor must be made in accordance with Contract Standing Order 9.07.

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7.03. The Council shall observe these Contract Standing Orders where it procures works, goods and/or services for the benefit, or on behalf of, other public bodies.

~~7.04.~~ ~~7.04~~—Where the Council is considering leading on any joint procurement activities with other contracting authorities, approval must be obtained in advance of any commitment to do so and on the basis of a robust business case from:

(a) the Cabinet where the joint procurement is liable to result in a contract award that would involve a ‘key decision’ by the Council;

~~(b) the Chief Operating Officer, after consultation with the Leader of the Council, in other cases.~~

(b) the Head of Procurement for non-key decisions.

8. Procedure for Contracts under £160,000

8.01. Contracts for works, goods and/or services with an estimated value below £160,000 (one hundred and sixty thousand pounds) must be procured via the Corporate Sourcing Solution except ~~whereby~~where Contract Standing Order 7.01 applies or where an alternate e-sourcing solution is used that has been pre-approved in writing by the Head of Procurement.

8.02. Where a contract for works, goods and/or services has an estimated value of less than £10,000 (ten thousand pounds), the relevant Director should act in the manner most expedient to the efficient management of the service, having kept a record for so doing.

8.03. Where a contract for goods or services has an estimated value of £10,000 (ten thousand pounds) or more, but less than £160,000 (one hundred and sixty thousand pounds), at least three competitive quotations should be obtained via the Corporate Sourcing Solution without the need for an advertisement or to follow the tender procedure. This activity will be undertaken under the management of the relevant Director without the need for the Head of Procurement to lead on it.

8.04. Where a contract for works has an estimated value of £10,000 (ten thousand pounds) or more, but less than £160,000 (one hundred and sixty

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thousand pounds), at least three competitive quotations should be obtained via the Corporate Sourcing Solution ~~or via ConstructionLine~~ without the need for an advertisement or to follow the competitive tender procedure. This activity will be undertaken under the management of the relevant Director without the need for the Head of Procurement to lead on it.

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- 8.05. The quotation procedure shall comply with Contract Standing Orders 9.02 to 9.05 and be managed by the relevant Director.
- 8.06. Where a pre-qualified Framework arrangement (including approved lists) exists in respect of the subject matter and prices have yet to be determined then CSO 9.01.2f applies.
- 8.07. The Head of Procurement may decide that processes in CSO 8 are not appropriate in order to secure value for money for the Council and to ensure general ~~EU~~ procurement law principles are complied with. If that is the case, he/she may determine another process of selecting a contractor which will meet best value criteria and/or ensure compliance with ~~EU~~ procurement law. The decision and process must be properly documented.
- 8.08. Where a contract with an estimated value of £25,000 (twenty five thousand pounds) or more is advertised, the contract opportunity must be published on Contracts Finder within 24 hours of the first advertisement. The Contracts Finder publication will comply with Regulation 110 of the Public Contract Regulations as applicable.

8.09. ~~Where a purchasing card is used to procure goods, works or services it cannot be used to circumvent these Contract Standing Orders. The relevant approvals in accordance with these Contract Standing Orders must be in place prior to procuring the goods, works or services.~~

9. Procedure for Contracts valued at £160,000 or more

9.01. Except as otherwise expressly permitted by or under these Contract Standing Orders, in the case of contracts for works and contracts subject to the Light Touch Regime (Regulation 74 of the Public Contract Regulations or Regulation 19 of the Concession Contracts Regulations as applicable) with an estimated value of £160,000 (one hundred and sixty thousand pounds) or more but less than £500,000 (five hundred thousand pounds), at least three competitive quotations should be obtained via the Corporate Sourcing Solution ~~or via ConstructionLine~~, without the need for an advertisement or to follow the competitive tender procedure. This activity will be managed by the Head of Corporate Procurement.

9.01.1 Except as otherwise expressly permitted by or under these Contract

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Standing Orders, contracts for goods and/or services with an estimated value of £160,000 (one hundred and sixty thousand pounds) or more as well as contracts for works and contracts subject to the Light Touch Regime (Regulation 74 of the Regulations or Regulation 19 of the Concession Contracts Regulations as applicable) which have an estimated value of £500,000 (five hundred thousand pounds) or more must be let following publication of an appropriate (tender) advertisement.

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9.01.2 Where tenders are to be invited the procedure to be followed shall be determined prior to advertising and be managed by the Head of Procurement and shall be one of the following:

- a) open tender procedure (all interested contractors submit a tender in response to an advertisement);
- b) restricted procedure, 2 (or more) stage process involving expressions of interest from contractors in response to an advertisement, with a selection of those contractors subsequently being invited to submit a tender;
- c) competitive procedure with negotiation, 2 (or more) stage process involving expressions of interest from contractors in response to an advertisement, with a selection of those contractors being invited to negotiate;
- d) competitive dialogue procedure, 2 (or more) stage process involving expressions of interest from contractors in response to an advertisement, followed by dialogue with a selection of those contractors to identify a solution (or solutions) which meets the Council's requirements, and an invitation to the selected contractors to submit tenders based on the solution/s resulting from the dialogue;
- e) innovation partnership procedure 2 (or more) stage process involving expressions of interest from contractors in response to an advertisement, followed by a competitive award procedure aimed at the development, and subsequent purchase, of an innovative product, service or works;
- f) where it is proposed to award a specific contract based on a framework agreement in which all the terms of the proposed contract are not laid down, a mini-competition shall be held in which tenders shall be invited from all members of the framework agreement that are capable of carrying out the requirements of the specific contract;
- g) negotiated procedure without prior publication of an advertisement where the requirements of Regulation 32 of the Public Contract

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Regulations are made out. The Head of Procurement must first be consulted before this procedure is used.

- 9.01.3 Procurements requiring use of a qualitative selection questionnaire must comply with the Crown Commercial Services (CCS) guidance on the use of these questionnaires including any applicable guidance on the use of

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the ~~European~~ Single Procurement Document (~~ESPD~~~~SPD~~) provided for in Regulation 59 of the Public Contract Regulations.

9.01.4 Prior approval must be obtained from the Head of Procurement to derogate from the CCS guidance referred to in 9.01.3. Any such derogation must be disclosed to the Cabinet Office.

9.02 Electronic communications, procurement documents, division into lots and receipt and opening of bids

9.02.1. Subject to the terms of Regulation 22 of the Public Contract Regulations, all communication and information exchange in relation to procurement shall be performed using electronic means of communication.

9.02.2. Subject to the terms of Regulation 53 of the Public Contract Regulations or 34 of the Concession Contract Regulations as applicable, 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.

9.02.3. The Council may award a contract in the form of separate lots and may determine the size and subject-matter of such lots. Where a contract is subject to the Public Contract Regulations, if the Council determines that it should not be subdivided into lots then in compliance with Regulation 46(2) of the Public Contracts Regulations it shall provide and retain an indication of the main reasons for its decision.

9.02.4 The approval of contract awards, variations and extensions may be evidenced within the Corporate Procurement Systems by electronic copies of signatures ~~;~~ or through positive acceptance (i.e tick box, yes /no indicator or other similar means of approval).

~~9.02.5 Due to the nature of works documentation, if Bids cannot be submitted electronically, contractors must be informed that their Bids will only be considered if they are:~~

~~a) sent in a plain envelope or parcel with a label on which is printed either with the word "Tender" or "Quotation" followed by the subject of the contract; and~~

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- ~~b) contained in a sealed envelope or parcel which does not show the identity of the contractor in any way; and~~
- ~~c) delivered to the place and by the date and time stated in the invitation.~~

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~~9.02.6. Bids must be kept safe until the date and time for their opening by the officers given this duty by the Director or Head of Procurement, whichever is responsible for managing the process.~~

~~9.02.7. Non-electronic Bids must be opened at the same time in the presence of two officers, one of whom has had no involvement in the process. These officers shall be responsible for properly recording the price, duration of any works and all other relevant details of each opened Bid.~~

9.02.8 Electronic Bids received securely may be opened at the appointed date and time by one officer or appointed consultant.

9.02.9 The Head of Procurement must approve the training and seniority of all officers employed to open Bids and also the arrangements for ensuring the independence of such officers from the teams involved in the competitive process.

9.03 Abnormally Low, Late or Non Compliant Bids

9.03.1. In respect of any contract that is subject to the Regulations, if the Council determines that a Bid is abnormally low then it shall ask the bidder to explain the prices or costs proposed in its Bid.

9.03.2. Records of any non-compliant Bids and of the date and time of receipt of any late tenders must be kept by officers.

9.03.3. Bids received late may only be considered if the other Bids have not yet been opened and:

- a) failure to comply is the Council's fault; or
- b) it is clear that the Bid was sent in such a way that in the normal course of events it would have arrived on time.

9.04 Dynamic Purchasing Systems

~~9.04.1. In appropriate cases, Subject to Contract Standing Order 9.07.1, these Contract Standing Orders shall not apply where the Council procures particular works, goods and/or services under a Dynamic Purchasing System (DPS) may be where:~~

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9.04.1.a) A Dynamic Purchasing System (DPS) is used to carry out procurements in accordance with Regulation 34 of the Public Contract Regulations, with the prior approval of, and in accordance with a procedure specified by, the Head of Procurement.

9.04.2.b) WhereThe Council operates its own Dynamic Purchasing System (DPS) for a DPS is to be works, goods, or service category, this must be used to carry out a procurement this must be done through the Corporate DPS procurements related to those categories, unless prior written agreement from otherwise agreed by the Head of Procurement has been obtained.

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~~9.04.3~~9.04.2. Electronic formation of individual contracts within the DPS is permitted, subject to Contract Standing Orders 9.08.8. and 9.08.9.

9.05. E-Auctions

In appropriate cases, the submission of prices for a bid may be conducted by e-auction in accordance with Regulation 35 of the Public Contract Regulations, with the prior approval of, and in accordance with a procedure specified by, the Head of Procurement.

9.06 Post Tender Clarifications/Confirmations

9.06.1. Except where the competitive procedure with negotiation referred to in Contract Standing Order 9.01.2c and 9.01.2g applies, negotiation after receipt of formal bids and before the award of contract is only permitted:

- a) in circumstances which do not [breach the Regulations or](#) put other contractors at a disadvantage, distort competition or adversely affect trust in the competitive process, and
- b) if the prior authority of the Head of Procurement has been obtained.

9.06.2. All communication with contractors under this Contract Standing Order 9.06.1 must be in writing or recorded in writing.

9.07 Bid Acceptance, Contract Award and Letters of Intent

9.07.1. Bids are to be accepted on the basis:

- a) either, if the contract value is above the applicable threshold pursuant to the Regulations, of the most economically advantageous tender ([“MEAT”](#)), [except where provided otherwise by the Regulations and](#) as determined by the application of the published award criteria ([“MEAT”](#)); or
- a) b) if the contract value is below the applicable threshold pursuant to the Regulations, of either (i) MEAT, or (ii) lowest cost.
- c) A Director may award, assign, or novate contracts valued less than

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£500,000 (five hundred thousand pounds).

- d) All contracts valued at £500,000 (five hundred thousand pounds) or more at the time of award may only be awarded, assigned, or novated by the Cabinet.

- e) The award of any contract valued £500,000 (five hundred thousand pounds) or more is 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.](#)

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~~Council's Forward Plan and comply with the other procedures in that regard set out in the Constitution.~~

- f) In accordance with Part 5 Section C of the Constitution, the award of spot contracts for care packages and contracts for the supply of energy to the Council are not “key decisions”.

9.07.2 Where a contract has been awarded, including by way of a call off from a Framework ~~(but not by way of a contract placed under a DPS)~~, with an estimated value of £25,000 or more, the award must be published on [Find a Tender and Contracts Finder portals](#).

~~9.07.3~~ 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

~~9.07.3~~ £100,000 or 10% of the total contract price, whichever is the higher value.

9.08. Conditions Applying to All Contracts:

9.08.1. The tender documents in respect of every contract to which the Regulations apply shall provide for the contract to include provisions enabling the Council to terminate the contract in each of the circumstances set out in Regulation 73 of the Public Contract Regulations or Regulation 44 of the Concession Contracts Regulations, as applicable.

~~9.08.1A.~~

~~9.08.2.~~ The tender documents in respect of every contract to which the Regulations apply shall include a requirement that the Council may require the successful contractor to enter into a collateral contract in a form approved by the ~~Assistant Director~~[Head of Corporate Legal and Governance](#) which provides for the allocation of risks between the parties where the contract has been declared ineffective by a court.

~~9.08.3.~~ ~~9.08.1B.~~ 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 ~~Assistant Director~~[Head of Corporate Legal and Governance](#) or an officer acting under his/her delegated authority.

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Valued £10,000 or more:

~~9.08.2-9.08.4.~~ 9.08.4. All contracts valued at £10,000 (ten thousand pounds) or more must be in writing by way of a document prepared, or on a basis approved, by the ~~Assistant Director~~Head of ~~Corporate~~Legal and Governance.

~~9.08.3-9.08.5.~~ 9.08.5. Every contract valued at £10,000 (ten thousand pounds) or more shall specify:

- a) the works, goods or services to be provided or executed;
- b) the price to be paid or the precise method of its ascertainment and a statement of any discounts or other deductions; and
- c) as appropriate, the start and finish dates, or delivery dates, and any maintenance or defects liability period;
- d) compliance with the Council's insurance requirements. The requirement to comply with the Council's standard insurance requirements may only be waived with the Chief Director of Finance Officer's approval;
- e) compliance with the Council's equality policy;
- f) compliance with regards to the protection of personal data.

~~9.08.4-9.08.6.~~ 9.08.6. 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 check for which his/her role is eligible prior to provision of the services being carried out by the relevant staff member and at appropriate intervals thereafter.

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~~9.08.5-9.08.7.~~ 9.08.7. All computer software contracts shall contain a clause to the effect that use of the software by the Council's contractors shall not amount to use by a third party for which an additional software licence might otherwise be required.

Valued £50,000 or more:

~~9.08.6.~~ Every contract with a value of £50,000 (fifty thousand pounds) or more must, unless the ~~Assistant Director~~Head of ~~Corporate~~Legal and Governance and ~~Chief~~

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9.08.8. Director of Finance~~Officer~~ agree to the contrary, contain clauses to cover the following:

- a) compliance with all applicable legislation;
- b) a prohibition on assignment and/or subletting without the written consent of the Director;
- c) a provision allowing the Council to cancel the contract and recover any resulting loss from the contractor if the contractor does anything which is contrary to the Bribery Act 2010 or incites breach of Section 117 (2) of the Local Government Act 1972;
- d) a provision to ensure the Council is protected against the contractor's defective performance by default provisions which are appropriate to the contract;
- e) if the contractor is in breach of contract the Council can do any or all of the following:
 - i. determine all or part of the contract or determine the contractor's appointment;
 - ii. itself perform the contract in whole or in part;
 - iii. recover from the contractor any additional cost resulting from the completion or cancellation of the contract;
- f) If the contractor has obtained or received by whatever means any information which gives or is intended or likely to give the contractor any unfair advantage over any other tenderer (including the Council's own workforce) in relation to the tendering for, and award of, any works/services contract, that the Council shall be entitled to terminate that contract;
- g) It shall be a condition of any contract between the Council and any person (not being an Officer of the Council) who is required to manage a contract on the Council's behalf that, in relation to such contract, he/she shall comply in all respects with the requirements of these Contract Standing Orders as if he/she were an employee of the Council.

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9.08.9. All contracts for works and services valued at £50,000 (fifty thousand pounds) and above must include provisions for the payment of London Living Wage.

~~9.08.7.~~ A contract valued at less than £250,000 (two hundred and fifty thousand pounds) does not require sealing and should either be signed or electronically approved on behalf of the Council, by ~~both~~ the relevant Director and by the Head of the relevant business unit, ~~or authenticated by Approved Electronic Means. However, if~~ 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

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[9.08.10.](#) a high risk of significant latent defects, then the Head of Procurement may decide to have the contract executed under seal as a deed.

Valued £250,000 or more:

~~9.08.8-9.08.11.~~ A contract valued at £250,000 (two hundred and fifty thousand pounds) or more must be executed on behalf of the Council under seal as a deed. Where appropriate this may be undertaken electronically.

~~9.08.12.9.08.09.~~ Every contract valued at £250,000 (two hundred and fifty thousand pounds) or more must contain clauses to cover the following:

- a) if it is a contract for works, that the Council may require the contractor to provide security for completing the contract in the form of a bond;
- b) that where the contractor is a subsidiary or group company, the contractor may be required to provide a parent or group company guarantee.
- c) [9.08.10. or other means of surety as agreed by the Director of Finance or an officer acting under his/her delegated authority.](#)

[9.08.13.](#) 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 Director of Finance](#)~~Officer~~ or an officer acting under his/her delegated authority.

10. Waivers, Variations, Extensions and Novations

10.01 Waivers

10.01.1. Contract Standing Orders other than Contract Standing Order 5 (which relates to the Regulations) may be waived on the basis set out in CSO 10.01.2 by:

- a) the Cabinet where the contract value is £500,000 (five hundred thousand pounds) or more;
- b) a Director where the contract value is less than £500,000 (five hundred thousand pounds) (save that the Director shall not have

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authority to waive CSO 9.08).

- c) Any waiver valued at £160,000 or above must be agreed by the Head of Procurement prior to engaging the supply chain.

10.01.2. 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 Regulation 12 of the Public Contract Regulations or Regulation 17 of the Concession Contract Regulations as applicable; or

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~~Contract Regulations or Regulation 17 of the Concession Contract Regulations as applicable; or~~

- b) the contract is one that the Council is permitted to reserve for certain economic operators in circumstances permitted by Regulation 77 of the Public Contracts Regulations or Regulation 24 of the Concession Contracts Regulations; or
- c) the circumstances of the proposed contract award are covered by a relevant legislative exemption (~~whether under EU law or~~ the law of England and Wales); or
- d) the value of the contract is below the applicable threshold pursuant to the Regulations and:
 - (i) 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 Contract Standing Orders is justifiable;
 - (ii) it is in the Council's overall interest; or
 - (iii) there are other circumstances which are genuinely exceptional.

10.01.3. Waiver requests must be approved before any related contract awards, ~~variations or extensions.~~

10.01.4. 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 Head of Procurement.

10.01.5. Where an additional waiver of Contract Standing Orders is sought in relation to the same individual contract, whereby the aggregated value of the contract increases to £500,000 (five hundred thousand pounds) or more, the waiver must be agreed by the Cabinet.

10.02 Variations and Extension

10.02.1. Subject to the provisions of CSO 3.01 and the Regulations (in particular Regulation 72 of the Public Contract Regulations or Regulation 43 of the

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Concession Contracts Regulations (as applicable), compliance with Financial Regulations and subject to satisfactory outcomes of contract monitoring; the following may authorise an extension or variation to a contract:

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- a) a Director provided the value of the extension or variation is less than £500,000 (five hundred thousand pounds);
- b) the Cabinet where the value is £500,000 (five hundred thousand pounds) or more.

10.02.2. All variations and extensions must be recorded in writing and an electronic copy ~~maintained within the Council's Corporate Contract System~~retained by the business unit.

10.03 Novations (Transfers)

In circumstances permitted in Regulation 72 of the Public Contract Regulations or Regulation 43 of the Concession Contracts Regulations or where the value of a contract is below the applicable threshold pursuant to the Regulations the Council may agree to the novation or assignment of a contract.

11. Contract Termination

11.01. 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 taking into account Contract Standing Order 10.03 in cases of novation or Contract Standing Order 4.01 in cases that warrant the re-letting of the contract(s).

11.02. The decision to terminate a contract early in all other circumstances must be approved by a Director.

11.03. In all cases of contract termination for whatever reason where the awarded contract value was £500,000 (five hundred thousand pounds) or more a report must be presented at the earliest opportunity to Cabinet.

12. Schools

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 Contract Standing Orders apply to all schools within the London Borough of Haringey with the

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exception of Academy and Trust Schools. A school's governing body shall have the powers and duties of the Cabinet specified in these Contract Standing Orders, except in relation to waivers (CSO 10.01).

13. Care Contracts for Individuals

Subject to Regulation 74 of the Public Contract Regulations and Regulation 19 of the Concession Regulations as applicable, Adults & Housing Services and the Children & Young People's Service care contracts may be 'block' contracts (where a number of beds, places or services are provided by the contractor at pre-agreed pricing schedules, to which the Council may refer users over the contract period) or 'spot' contracts (one-off contracts meeting an individual user's needs, or contracts where a number of beds, places or services are provided by the contractor without pre-agreed prices, such prices to be agreed upon each referral of a user over the contract period). The Directors of the ~~Adult & Housing~~~~Adult's, Health & Communities~~ Services and the ~~Children & Young People's~~~~Children's~~ Service will seek to optimise overall best value for the Council. The following provisions shall apply to the ~~Adults & Housing~~~~Adult's, Health & Communities~~ Services and the ~~Children & Young People's~~~~Children's~~ Service care contracts:

- a) All Contract Standing Orders apply to block contracts;
- b) Where a spot contract has an estimated value of less than £160,000 (one hundred and sixty thousand pounds), CSO 8.02 and CSO 8.03 shall not apply, and the relevant Director should act in the manner most expedient to the efficient management of the service, having kept a record for so doing.
- c) Where a spot contract has an estimated value of £160,000 (one hundred and sixty thousand pounds) or more, CSO 9.01 shall apply.

14. Alexandra Palace and Park

These Contract Standing Orders apply to the procurement of works, goods and services by or on behalf of Alexandra Palace and Park Charitable Trust on the following basis:

- a) The Chief Executive of APPCT shall have the powers and duties of a Director specified in Contract Standing Orders;
- b) The Alexandra Palace and Park Board and Panel shall have the

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powers and duties of the Cabinet and a Cabinet Member specified in these Contract Standing Orders;

- c) In the event of any conflict, the requirements of the Charities Act 1993, any regulations made under that Act or charity law in general shall prevail over the provisions of Contract Standing Orders.

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15. Disposal of assets

- 15.01. Where Council assets (other than land & buildings) are to be disposed of because they are surplus to requirements, damaged or obsolete, reasonable endeavours must be undertaken to realise the residual value of the assets.
- 15.02. Assets having little or no realisable value may be disposed of as waste with the approval of the relevant Head of ~~Business Unit~~business unit, provided that the disposal shall be in favour of recycling wherever possible.
- 15.03. In respect of assets to be disposed of having an estimated value of less than £10,000 (ten thousand), the Director concerned should act in the manner most expedient to the efficient management of the service, having kept a record for so doing.
- 15.04. Assets recommended for disposal with an estimated value of £10,000 (ten thousand pounds) or more, shall be disposed of in such a manner as to secure best value.
- 15.05. Disposal of assets valued at £250,000 (two hundred and fifty thousand pounds) or more must be reported to the Cabinet.
- 15.06. Under no circumstances shall disposal of Council assets be made to employees or Members of the Council without the prior approval of the relevant Director.

16. Urgent Decisions/Decisions Required in-between Cabinet Meetings

- 16.01. These provisions apply where action needs to be taken between meetings of the Cabinet or in cases of urgency and that action would be outside the powers given to a Director under these Contract Standing Orders.
- 16.02. Decisions reserved to members under these Contract Standing Orders will ordinarily be taken at a Cabinet meeting. Notwithstanding this, the Leader may take any such decision between meetings of the Cabinet, including decisions that have become urgent, and the Leader may also allocate any such decision whether urgent or not to the Cabinet Member

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having the relevant portfolio responsibilities or to a Committee of the Cabinet.

- 16.03 The provisions of the Access to Information Procedure Rules at Part 4 of this Constitution will apply. All key decisions should be listed on the forward plan accordingly. Where a decision is urgent, rules 16 and 17 within the Access to Information Procedure Rules will apply.

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17. Application of CSOs to Grants

Approval for Receipt of Grants by the Council from External Bodies

- 17.1 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 9.07 (i.e. the Director may approve receipt of a grant valued less than £500,000. For approval of receipt of grants valued at £500,000 or more, a Cabinet decision is required).
- 17.2 The Council's requirements in respect of execution of contracts as deeds (CSO 9.08.9) 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~~[business unit](#) or authenticated by Approved Electronic Means.

Approval for Payment of Grants from the Council to External Bodies

- 17.3 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 9.07 (i.e. the Director may approve awards of grants valued less than £500,000. For approval of award of grants valued at £500,000 or more, a Cabinet decision is required).

Report for: Standards Committee 27th of June 2023

Title: Responses to three of the recommendations arising from the independent review of the Council's arrangements for property negotiations, acquisitions, and disposals or intended transactions

Authorised by: Fiona Alderman Head of Legal and Governance & Monitoring Officer

Lead Officer: Ayshe Simsek Democratic Services and Scrutiny Manager
0208 489 2929 ayshe.simsek@haringey.gov.uk

Ward(s) affected: All

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

1. Describe the issue under consideration

- 1.1 The Action Plan for the Independent review of the Council's arrangements for property negotiations, acquisitions, and disposals or intended transactions, approved at Cabinet on the 18th of April 2023 indicated that constitutional related actions would be going forward to the Standards Committee in June/ October 2023 & Full Council in July/ November 2023.
- 1.2 This report responds to the recommendation that the Council issue additional guidance on the role of Council appointees to voluntary sector organisations, reminding them of their role as stewards of public funds and assets is attached at Appendix 1. The advice provided by the Monitoring Officer on Outside bodies includes additional wording on the role as stewards of public funds. The Action Plan indicates that existing guidance will be reviewed and new guidance or amendments as required will be implemented. This has been updated in consultation with the Constitution Review Working Group. The review identified a need for training for members and officers relating to this area. This took place on 15th of June 2023. There is an action to look to having a Signed declaration of having read new guidance and this is planned for implementation following Council approval in July.
- 1.3 The response to recommendation that the Council review guidance to councillors meeting with landowners, contractors etc when not in their capacity as ward councillors, is attached at Appendix 2. This has been compiled by considering the seven principles of public life, the Planning Protocol of the Council and LGA guidance on ethical governance. The action plan agreed by the Cabinet on the 18th of April, indicates an initial document to Standards in June, Council in July and then Standards in October and Council in November 2023. The Constitution Working Group comments are included in this guidance.

- 1.4 The response to recommendation that further information on the Leader's powers are included in the Constitution are attached and this shows some additional wording added to the Protocol for Decision Making to provide consistency and support for good decision making. There will be officer training on decision making reports managed by Legal services and supported by Democratic services, Procurement Team and Policy team where these additions will be highlighted. The Asset Management Plan action plans, also identifies a full review of property related processes. This review will inform any required further updates to Section D and part 5 of the Constitution, in November from a service perspective and will come to Standards in October .

2. Cabinet Member Introduction

N/A

3. Recommendations

- 3.1 To consider and recommend the adoption of Appendix 1 – Advice on Outside Bodies to full Council on the 17th of July 2023.
- 3.2 To consider and recommend the adoption of Appendix 2 -- Guidance for Councillors on contact with third parties and stakeholders. to full Council on the 17th of July 2023.
- 3.3 To consider and recommend the adoption of Appendix 3(track changes) and Appendix 4(final version) of updates to the Part 5 Section D, Protocol for Decision Making, to full Council on the 17th of July 2023.

4. Reason for recommendations

- 4.1 To respond to the Action Plan for the Independent review of the Council's arrangements for property negotiations, acquisitions, and disposals or intended transactions, approved at Cabinet on the 18th of April 2023 indicated that constitutional related actions would be going forward to the Standards Committee in June/ October 2023 & Full Council in July/November 2023.

5. Alternative Options

None - As this report and appendices are a requirement of the Action Plan arising from the independent review of the Council's arrangements for property negotiations, acquisitions, and disposals or intended transactions, approved at Cabinet on the 18th of April 2023.

4. Background information

- 4.1 As set out in paragraphs 1.1 to 1.4. The cross-party Constitution Working Group has been consulted on and commented on the appendices put forward for approval.

5. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Finance

- 5.1 There are no direct financial implications arising as a result of The Review recommendations. Any changes in practice, as a result of the implementation of the recommendations will of course improve the financial efficiency of the Council.

Head of Legal and Governance & Monitoring Officer

These are set out within the report.

Equalities

The council has a Public Sector Equality Duty 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

The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.

The recommendations relate to governance changes to allow for different approvals mechanisms for decisions relating to property to be created. The rationale behind these changes is to ensure that asset management decisions are sufficiently robust, transparent and take into account all of the relevant and necessary information. As enabling processes and actions for service delivery and improved financial management, it is considered that implementing these recommendations in and of themselves will have a neutral equality impact, as they will not have any disproportionate impact on groups which share protected characteristics.

6. Use of Appendices

Appendix 1 – Advice on Outside Bodies

Appendix 2 – Guidance for Councillors on contact with third parties and stakeholders.

Appendix 3 – Section 5 Part D Protocol for Decision Making (Track Changes)

Appendix 4 - Section 5 Part D Protocol for Decision Making (published version)

7. Local Government (Access to Information) Act 1985

7.1 Background documents:

- *Haringey Council's Constitution*

7.2 The background papers are located at George Meehan House , Wood Green, London N22 8JZ.

7.3 To inspect them or to discuss this report further, please contact Ayshe Simsek on 0208 489 2929.

GUIDANCE FOR COUNCILLORS ON MEMBERSHIP OF OUTSIDE BODIES

Introduction

All public office holders are both servants of the public and stewards of public resources and should approach their role on an outside body with Nolan's seven principles of public life, in mind considering if their actions convey:

selflessness, honesty, Integrity, objectivity, accountability, openness, leadership.

This guidance is intended to help Councillors understand their duties, when appointed to outside bodies, navigate their significant legal responsibilities and how to handle the conflicts of interest that can arise.

It is not a fully comprehensive guide, so if you have any queries, you can obtain further advice from the Monitoring Officer.

1. General

1.1 Membership on outside bodies can take various forms and it would be prudent to establish the capacity in which you are appointed. The first question is whether you are appointed by the Council, or in some other capacity. If you are not appointed by the Council to a particular position, you do not owe the Council any duties in relation to the way in which you carry on your membership of the outside body. However, the normal rules on declaring interests apply, and you will need to add this membership to your Register of Interest under the section of any body exercising functions of a public nature, or any body directed to charitable purposes. You will need to consider whether your role gives you a prejudicial interest in relation to any Council business or could be considered as you having a bias in decision making as set out in paragraphs 9.7 and 9.8. The remainder of this guidance covers the case where you are appointed by the Council.

1.1.2 The Council has the following categories of outside bodies:

- Association Bodies
- Statutory bodies
- Community Associations
- Partnership Bodies
- Trusts

1.1.3 If you are appointed by the Council to the above category outside bodies, this may be either:

- a) As a member of the management committee, board of directors, or committee of trustees of the outside body. Here, you will not only be representing the interests of the Council, but you will also have duties to the outside body and a role in its governance. If you serve in a decision-making capacity or have a position of general control or management on the outside body, whether company, trust or other association, you owe duties and responsibilities to that body which are separate and distinct from your duties owed to the Council. On

occasion, it is likely that duties owed to the outside body and to the Council, will conflict e.g. if you are the treasurer of an outside body that has applied to the Council for grant funding. The rest of this guidance gives more detail on this.

- b)** As an 'observer', or an ordinary member, or undertaking a Monitoring role, facilitating exchanges of views or information as an extension of your Council duties, but taking no part in the outside body's management or governance, other than to attend and vote at annual or general meetings. Here, you will be mainly concerned with representing the Council and will not have responsibilities for governance of the body.
- c)** Please also consider if you are called a Trustee or a Management committee member as it could be likely you are also a company director and you will need to consider the guidance below on company directors.

1.1.4 Community Organisations are other groups, which are not charitable trusts or limited companies, are classified in legal terms as "unincorporated associations". An unincorporated organisation may be charitable and may register as a charity. It has no separate legal identity apart from its members. The rules governing the members' duties and liabilities will be set out in a Constitution, which is simply an agreement between the members as to how the organisation will operate. Usually, the Constitution will provide for a management committee to be responsible for the everyday running of the organisation.

1.1.5 Management Committee members must act within the Constitution and must take reasonable care in exercising their powers. Any individual member of the management committee who acts outside the authority given to him or her will be personally liable and will not be entitled to an indemnity unless the action is subsequently ratified by the management committee or all the members of the organisation.

1.1.6 Most Association bodies are Joint Committees of the Association of London Government or the Local Government Association set up by agreement between the Councils concerned. There are also statutory bodies on which Haringey must be represented like the North London Waste Authority which comprises representatives of 7 constituent Boroughs. These bodies will have their own legal status, Constitution, code of conduct and officer support. Members will be appointed in a full voting capacity with power to take decisions on behalf of the body. Members will owe a primary duty to the body, when acting on its business, rather than to Haringey Council. They should make up their own minds on the merits of any decision, taking into account any professional advice they receive, as distinct from feeling bound by the interests of Haringey.

- 1.1.7 Partnership Boards may be companies, unincorporated associations or more usually informal groupings without any Constitution or other legally enforceable rules.

Where they are informal groupings then decision making is usually indicative and dependent on ratification by constituent bodies. In these circumstances, Members or officers on these boards must take care not to pre-empt the Council's decision-making as this could lead to challenges on the basis that the Council's discretion has been fettered.

2. What sort of roles does this guidance apply to?

- 2.1 This guidance applies where you are: a director of a company in which the Council has an interest; a member of another authority; a trustee of a charity; or a member of the management board for an unincorporated body.
- 2.2 The various roles will give you responsibilities to the organisation, and to the Council in so far as you are fulfilling a role for the Council, and this creates potential conflicts.
- 2.3 Your responsibilities will depend on the type of body in which you become involved. The main types are as follows:
- a) **Companies:** Companies are separate legal entities. They are set up by their owners who may be either shareholders or guarantors. Liability of company owners is limited to the value of their shares or by guarantee. Directors of companies have a duty to the company to act properly and in good faith. If not, they can incur personal liability, particularly if the company becomes insolvent. The activities and operation of companies are regulated by their Memorandum and Articles of Association and also by company law.
 - b) **Unincorporated Associations:** Unincorporated associations are informal organisations. The members regulate their relationship by agreement, such as a membership agreement or the rules of the club or association. Because the association has no legal existence separate from its members, the liability of the members is not limited. Each member can incur personal responsibility for liabilities incurred on behalf of the association, and relies on the membership agreement to be able to recover his/her costs from the other members.
 - c) **Charities: A charity is an organisation which**
 - (a) is established for charitable purposes only, and
 - (b) falls to be subject to the control of the High Court in the exercise of its jurisdiction with respect to charities.

Some companies and unincorporated associations are established for charitable purposes. A charity gains relief from corporation tax, VAT and business rates, but is subject to stricter regulation by the Charity

Commissioners, to ensure that it is properly managed and that it is spending its money properly on the charitable objects. As a trustee of a charity, you have a duty to act in the best interests of the charity and can be personally liable if you breach that duty. When appointed to a charity, it is sensible at the outset to establish the insurance and indemnity position. The organisation should have an induction session for new Councillors and if they do not take this forward please contact Democratic services to query this.

3. Some other key points to consider at the outset

- 3.1 Make sure you are given a clear statement of what is expected of you if you are going to be nominated. The Council should be able to obtain this from the organisation involved.
- 3.2 **The duty to act in the interests of the outside body** - Being on an outside body can bring many benefits to the Council, the organisation and the community, but it will sometimes create conflicts with your work as a Councillor. For Council Members, it will have to be included as one of your interests in the Members' Register of Interests. You will have a personal interest in Council business referring to it, and sometimes a prejudicial interest where finances or regulatory matters are concerned. You will need to be sure that involvement with the organisation will not prevent you from fully participating in your work as a Councillor, particularly in areas that interest you, or, where you need to represent the community who elected you. If you have any queries or concerns about this particular potential conflict of interest, please contact the Monitoring Officer to talk through the membership of the body and work as a Councillor.
- 3.3 On the other hand, you will also need to make sure that you are able to commit enough time and attention to the organisation. You will want to make a meaningful contribution to their work too. If you cannot attend meetings very often, or are often conflicted out of participating, you will not be able to give the support that the organisation needs, and this will reflect badly upon the Council and upon you. It is best not to be appointed if you cannot participate fully.
- 3.4 **Conflict with your role as a Councillor** - As a member of the organisation's management committee, as a director of a company, or as a trustee, you will not only be representing the interests of the Council, but you will also owe duties and responsibilities towards the organisation. You will have to exercise your own best judgement in the best interests of the outside body and you cannot just take instructions from the Council although you may take account of the Council's wishes. Where the Council's wishes may conflict with the best interests of the outside body you must nevertheless, if taking decisions for that outside body, act in its best interests. **Therefore, where the Council's interests and the outside body's interests conflict it is better not to involve yourself in the decision-making.**
- 3.5 **Indemnities:** Councillors who participate in external bodies may be indemnified in relation to liabilities they incur in that capacity, though this is subject to certain limitations, which are set out in more detail at paragraphs 8.1 to 8.4 below.

4. Duties and Responsibilities of Councillors on Outside Bodies

- 4.1 The following is a summary of the main duties and responsibilities of Councillors who are nominated by the Council to the most common types of outside body. The main principles of the obligations applying to company directors also apply to trustees and members of management committees. If you are in doubt about your duties and responsibilities, you may seek advice from the Monitoring Officer. In many cases, however, it will be more appropriate to seek advice from the advisers to the body involved, as they will have access to the rules and protocols of the body.

5. Companies

- 5.1 A company is a separate legal entity which can hold property in its own right, enter into contracts, employ staff and sue, and be sued, in its own name. The company is distinct from its members, who may be either shareholders or guarantors. The Council itself may be a member of the company, either a shareholder or guarantor.
- 5.2 If the body is a limited company, and you are asked to be involved, it is likely that you will be appointed as a company director. The duties of a company director are now set out in the Companies Act 2006, which codifies the existing common law and equitable principles. The management of a company is usually the responsibility of the Board of Directors. Directors' powers are usually set out in the company's Articles of Association. Another important document is the Memorandum of Association, which sets out the Company's objectives and powers.
- 5.3 The duties of a company director are not the same as your responsibilities as a Councillor. Basically, when involved in company business, the company **must** come first. Directors must act in the interests of the company, and not in the interests of other parties, including shareholders.
- 5.4 **Directors' Responsibilities** are:
- a) **To promote the success of the company**, A director's primary duty is to act in good faith, in the best interests of the organisation and its objects. All directors owe a fiduciary duty to their company, which means they owe loyalty to the company and a duty of care to act in the best interests of the company, having regard to the interests of the members or shareholders of the company, the company's employees, and creditors. This includes having regard to the likely long-term consequences of decisions, the interests of employees, fostering relationships with suppliers and customers and others, the impact of operations on the community and environment, maintaining a reputation for high standards of business conduct, and acting fairly between members of the company.
 - b) **To exercise care, diligence and skill**, using your own knowledge, skill and experience, together with the care, skill and diligence which may reasonably be expected of a person who is carrying out the functions of a director. So a director with significant experience must exercise the appropriate level of

diligence in exercising their duties in line with their higher level of expertise. Although directors are not bound to attend all meetings of directors, attendance should be as frequent as possible and directors should ensure that they are reasonably informed at all times.

- c) **Not to exceed powers.** A company director must act in accordance with the company's Constitution, and exercise powers for the purposes for which they were given.
 - d) **To comply with the Companies Acts** in relation to the keeping of accounts, ensure that the relevant returns are made to the Registrar of Companies. Failure to do so will incur fines and persistent default can lead to disqualification as a director.
 - e) **To avoid conflicts of interest.** A director must avoid a situation in which he or she has, or may have, a direct or indirect interest which conflicts, or could conflict, with the interests of the company. This duty applies particularly to transactions between a director and a third party in relation to the exploitation of any property, information or opportunity.
 - f) **To exercise independent judgement.** A director nominated by the Council cannot, for example, simply vote in accordance with the Council's instructions. To do so would be a breach of duty. The director must act in the company's interests.
 - g) **Not to accept benefits from third parties.** A company director must not accept any benefit from a third party (whether monetary or otherwise) which has been conferred because of the fact that he or she is a director. This is based on the established principle that a director must not make a secret profit as a result of being a director. This duty applies unless the acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.
 - h) **To declare an interest in a proposed transaction or arrangement with the company.** A company director who has either a direct or an indirect interest in a proposed transaction or arrangement with the company must declare the 'nature and extent' of that interest to the other directors before the company enters into the transaction.
- 5.5 **Directors' Liabilities:** If a director fails to carry out his/her duties, action can be brought for breach of duty, either by the company itself, or by a liquidator if the company goes into liquidation, or with the consent of the court, by a shareholder. Such actions are unlikely where the company is properly controlled by the directors.
- 5.6 Some important considerations are:
- a) It is not always easy to reconcile the various factors which must be taken into account when reaching a major decision. The important thing as a director is to show that you are aware of and have taken account of the relevant factors, and have exercised due care and diligence in giving them all fair consideration.
 - b) It may be difficult to be certain whether benefits may be regarded as giving rise to a conflict of interest. If you are unsure take advice from the company's secretary.

- c) Make sure you are aware of the company's Constitution; its Memorandum and Articles of Association, so that you know what it can and cannot do. You must take this into account when making decisions, as well as any shareholder decisions that are relevant.
- d) Be diligent, and make sure you are well informed about the company's affairs. Make sure you are well briefed when taking up the role, and that you receive regular briefings throughout your term of office.
- e) Attend training and briefing sessions.
- f) Ensure insurance is in place.
- g) Some Board decisions may be reviewed on a future occasion. Make sure detailed minutes show that all necessary factors have been considered when major decisions are being taken. Obtain expert advice where necessary e.g. regarding impact of a decision on the environment. Take legal advice where there are doubts about a director's duty in relation to a particular matter.

5.7 **Local Authority Controlled and Influenced Companies:**

There are special rules that affect companies in which Councils have major interests. These are 'regulated' companies for the purposes of the Local Government and Housing Act 1989. They are in effect controlled by (more than 50% interest) or subject to a Council's influence (20% interest plus business relationship) because of its level of interest, either individually, or with a group of other authorities. They will generally be subject to the local government capital finance regime and special propriety controls. However, so far as Members who are involved are concerned, there are some additional requirements that need to be complied with as follows:

- a) Remuneration that Councillors receive from the company should not exceed that received from a local authority for a similar role, and it should be declared;
- b) To provide information to Councillors about their activities as required by the local authority (unless it is confidential); and
- c) To cease to be a director immediately if disqualified as a Councillor.

6. **Unincorporated Associations**

- 6.1 "Unincorporated associations" have no separate identity from their members. The rules governing the members' duties and liability will be set out in a Constitution, which is simply an agreement between the members as to how the organisation will operate. Usually, the Constitution will provide for a management committee to be responsible for the everyday running of the organisation. Management Committee members must act within the Constitution and must take reasonable care in exercising their powers. An unincorporated organisation may be charitable and may register as a charity.
- 6.2 If you are involved in a decision making capacity or have a position of general control or management on an unincorporated body, as the body has no separate corporate status, any liabilities will fall upon you personally. Councillors appointed to such bodies should familiarise themselves with the Constitution to understand the nature of their role, responsibilities and liabilities, and should assess the risk of personal liability, and the extent to which it has been covered by insurance.

7. Charities:

7.1 A charity is an organisation which operates for the public benefit and exclusively charitable purposes, either for:

- the relief of poverty and human suffering
- the advancement of education
- the advancement of religion
- another purpose for the benefit of the community

7.2 A number of useful publications are available on the Charity Commission's website at www.charitycommission.gov.uk.

Publication CC3 - 'The Essential Trustee -What you Need to Know' is a useful guide <https://www.gov.uk/government/publications/the-essential-trustee-whatyou-need-to-know-cc3>. Those who are responsible for the control and administration of a charity are referred to as its *trustees*, even where the organisation is a company limited by guarantee and even though they are not strictly trustees. A charity may also be unincorporated.

7.3 Trustees of a charity retain personal liability and can only delegate to the extent that the Constitution authorises them so to do.

7.4 **Charitable Trustees' Responsibilities** are:

- a) To act in accordance with the charity's trust deed or governing document.
- b) To protect the charity's assets.
- c) To comply with the Charities Acts, and the Trustee Act 2000.
- d) Trustees must not make a private profit from their position. They cannot receive remuneration without the sanction of the Charity Commission.
- e) To perform their duty with the standard of care which an ordinary, prudent businessperson would show. Higher standards are required of professionals, and in relation to investment matters.
- f) Charitable trustees must ensure that the information relating to the charity and trustees is registered with the Charity Commissioners and that annual accounts, reports and returns are completed and sent.
- g) Trustees are under a duty to ensure compliance with all relevant legislation (e.g. in relation to tax and land matters).

7.5 **Charitable Trustees' Liabilities:** Generally, a trustee may incur personal liability if he/she:-

- acts outside of the scope of the trust deed
- falls below the required standard of care
- acts otherwise than in the best interests of the charity, in a way which causes loss to the charity fund
- makes a personal profit from the trust assets

- 7.6 In such circumstances the trustee will be in breach of trust and will incur personal liability for losses incurred. If in doubt, always consult the Charity Commissioner. You may avoid personal liability for breach of trust if you act in accordance with their advice.
- 7.7 Trustees can incur personal liabilities for contracts they enter into in the name of the charity. They will normally be entitled to be reimbursed from charitable funds for liabilities and expenses properly incurred by them. If the charity is a company, the trustees will be protected from liabilities incurred in the day-to-day running of the charity in the normal course of events, but will be personally liable if they commit a breach of trust, as stated above.

8. Indemnities

- 8.1 Councillors who participate in external bodies may be indemnified in relation to liabilities they incur in that capacity, though this is subject to certain limitations.
- 8.2 Indemnity by the outside body:
- a) Directors: Directors cannot be indemnified by the company against liability for negligence, default, breach of duty and trust. Companies can however purchase insurance to protect directors against claims of negligence, default, breach of duty and trust. Those appointed as directors should ensure that appropriate insurance is in place. Companies can, if their Articles of Association allow, provide for directors to be indemnified for the costs of defending such a claim if they are granted relief by the court or acquitted.
 - b) Trustees: Provided a charitable trustee acts properly, and within his/her powers, indemnity can be given from the trust fund. Trustees can take out insurance to protect themselves from personal liabilities, but not for criminal
 - c) acts such as fraud. If the premiums are to be paid out of the charitable funds, the consent of the Charity Commissioner will be needed.
 - d) Unincorporated Associations: Members may be entitled to an indemnity if they act in accordance with the Constitution of the association and are not at fault. However, regard must be had to the terms of the Constitution. The Constitution will determine whether insurance can be paid for by the organisation.
- 8.3 Indemnity by the Council: The Council may provide an indemnity where Councillors are acting on an outside body at the request of the Council, and provided:
- the appointment was made by the Council, or
 - the nomination was made by the Council, and
 - the appointment was specifically approved for the purpose of the indemnity.
- 8.4 The indemnity the Council can provide is subject to limitations. In general terms, if a Councillor is acting properly, within their powers and in good faith, the power to indemnify will usually apply. However, the Council cannot, for

example, provide an indemnity in relation to any action or failure by any Member which constitutes a criminal offence, or for any action or failure by any Member which is the result of fraud, or other deliberate wrongdoing or recklessness on the part of the Member. When you are serving on an outside body, the Council's indemnity will only apply after any indemnity or insurance from the body itself. There are further limitations and it is advisable to be clear about the scope of the Council indemnity that may be available to you. You can seek further advice on indemnity from the Monitoring Officer.

9. Code of Conduct – Councillors' Interests

- 9.1 **Code of Conduct:** All Councillors are subject to the Council's Code of Conduct for Members. You will find a copy of the full Code in the Constitution. When Councillors act as representatives of the Council on another *authority*, they must comply with the other authority's Code of Conduct. However, when Councillors act as the Council's representative on any other sort of outside body, they must comply with the Council's Code of Conduct unless it conflicts with the lawful obligations of the other body.
- 9.2 The Register of Personal Interests requires members to tell the Monitoring Officer in writing, within 28 days of taking office, or within 28 days of any change to your Register of Personal Interests, of any interests which fall within the categories set out in the Code of Conduct. These categories include your membership or position of control or management in any other bodies to which you are appointed or nominated by the Council.
- 9.3 This means that if you are present at a meeting when an item of business arises which relates to or affects an outside body to which you have been appointed, you must declare that you have a personal interest, and the nature of that interest, before the matter is discussed or as soon as it becomes apparent to you.
- 9.4 An exemption can apply where your interest arises solely from your membership of, or position of control or management on:
- any other body to which you were appointed or nominated by the authority
 - any other body exercising functions of a public nature (for example another local authority).

In these exceptional cases, provided that you do not have a prejudicial interest, you only need to declare your interest if and when you speak on the matter. However, this type of situation is not common and it is important to keep in mind the public perception of your participation in the meeting and decision making. Often the public will assume that a position of control or participation on the body will mean that you have a bias to that organisation and it may be prudent to recuse yourself from the business item.

- 9.5 You will also have a *prejudicial interest* in Council business affecting the outside body if:
- the matter being considered affects the financial position of the outside body; or

- relates to an approval, consent, licence, permission or registration affecting the outside body e.g. an application for planning permission.
- 9.6 If you have a prejudicial interest in a matter under discussion you must declare it. You must then leave the meeting room, unless members of the public are allowed to make representations, answer questions or give evidence about the matter. If that is the case, you can make your representations etc., but must leave the room immediately after doing so. The Code of Conduct supports your role as a community advocate and enables you, even with a prejudicial interest, to represent your community and speak on issues that are important to them and to you.
- 9.7 **Bias:** Where you might be inclined to the view that you have no prejudicial interest, your duties as a director, or trustee, or member of a management committee may well be regarded, on an objective appraisal, as giving rise to a legitimate fear of lack of impartiality, especially having regard to the desirability of maintaining public confidence. Participation in the decision making at a Council committee meeting by a Councillor who is biased potentially invalidates the decision.
- 9.8 Where membership of the outside body is on an advisory or consultative basis, bias will not be assumed from mere membership. However, once the outside body has a line which is being advocated by you, this could potentially be viewed as bias, and the Council's decision on the issue could be vulnerable to challenge if you participate in those circumstances. It will depend on the facts, and in such circumstances, advice should be sought from the Monitoring Officer.

Updated 19 June 2023

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Guidance for Councillors on contact with third parties and stakeholders.

This guidance responds to the independent review of the Council's arrangements for property negotiations, acquisitions, and disposals or intended transactions and the recommendation concerning: a review of guidance to councillors meeting with landowners, contractors etc when not in their capacity as ward councillors.

The guidance also provides a sense of what is deemed 'proper' and 'improper' contact to help councillors be able to advocate on behalf of their constituents without concern and also understand where there is a need to consider that some contact could be judged as 'improper'.

- Contact is deemed as: face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communications
- in electronic and social media communication, posts, statements, and comments.

When undertaking council decision making activity and community advocate or leadership roles, it is essential to keep in mind the seven principles in public life. All public office holders are servants of the public and stewards of the public resources and consider before each activity whether they are taking actions which convey; selflessness, honesty, Integrity, objectivity, accountability, openness, leadership. These rules underpin 'proper' contact. It is useful to consider these, [before, during or after an interaction outlined above] if a fair minded and informed observer, having considered the facts, concludes that the interaction was fair and appropriate.

An 'improper' contact from a third party may contain the following themes:

- The Nolan Principles are obviously compromised
- Trying to obtain an unfair financial or resource advantage
- Seeking unfair influence
- Biased to a particular outcome of a planned decision
- The purpose of the approach is unclear and not documented
- There is an unwillingness to let you seek guidance or share information on the approach with professionals and officers
- Could lead to a misuse of your public position
- Your response would indicate that you are taking advantage of opportunities provided to you as a councillor to further your own or others' private interests or to disadvantage anyone unfairly

The information below is some key advice to consider as a decision maker and advocate for your ward and community, maintaining the integrity and reputation of the council.

Decision maker

All Members of the council, regardless of their committee or cabinet role, will discourage any contractor, applicant or agent, or other interested party, such as a landowner in the borough from approaching them directly in any way in relation to their activities. 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.

If an approach is received by a Member from a contractor, an applicant or agent or other interested party in relation to a particular council decision, or use of a physical council asset then the Member will:

- (a) Inform 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 decision or proposals is considered by the decision maker;
- (c) Disclose the fact and nature of such an approach to the Monitoring Officer.

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

Where a Member of the Council receives written representations directly in relation to a forthcoming decision, procurement activity, commissioning activity, regeneration decision or use of a council asset, or any decision where an unfair advantage is being sought the Member will pass the correspondence to the appropriate Director without a reply.

In the case of significant meeting required between members and an external partner or key local stakeholder on a forthcoming strategic matter, the director should be in attendance and there be an adequate written record of the meeting so as to enable the Member to disclose the fact of such a meeting.

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

When councillors are considering developing sites it either owns or intends to acquire or receive, they may receive exempt information as defined by paragraphs 1 to 6 of, part 1 Schedule 12A of the Local Government Act 1972 and this must not be

shared as would be a breach of the Members code of conduct. The type of information which is exempt is:

- Information relating to any individual.
- Information which is likely to reveal the identity of an individual.
- Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Community Advocate

Meetings and discussions with constituents, businesses, community groups and local stakeholders are an important part of a Ward Member's functions, and this guidance is not intended to harm those contacts unnecessarily. The guidance does not prevent Members from listening to local concerns, giving factual information about access to planning service, property services or regeneration activities or commissioning services from directing residents to other sources of information or assistance. The key question to consider, in these community contacts, is the impact of what the party is seeking. Give consideration if what they are seeking gives them financial advantage and that you could be seen as having an unfair influence on the decision-making process. Consider your response in the context of the future public perception of this contact and outcome. For any property, grant, development, or financial discussions, whether planned or unpredicted in a community setting, it is prudent to compile a short note of the discussion and forward this to your party Chief Whip.

Gifts and Hospitality

Please note that you should record a gift or hospitality you are offered in your role as a member of the Council, from a person, with an estimated value of at least £25 and above, in your Register of Interest form. These should be recorded within 28 days of being offered. Democratic Services will send you a quarterly reminder to include any updates on your register and the section for recording gifts and hospitality is on page 7.

As set out in the Constitution, Part 5 Codes and Protocols, Section A - Member Code of Conduct, these declarations are deemed personal interests. Please note that a 'person' includes a natural person and also a legal person in the form of a company, a charitable, other incorporated body or an unincorporated association.

Councillors should not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.

Please also register any significant gift or hospitality that you have been offered but have refused to accept.

Hospitality can be defined as any food, drink, accommodation, or entertainment freely provided or heavily discounted.

You should ask yourself whether you would have received the gift or hospitality if you were not on the local authority. If you are in doubt as to the motive behind an offer of a gift or hospitality, we recommend that you register it or speak to the Monitoring Officer before deciding whether to accept it.

Part Five, Section D

Protocol for Decision-Making

This part set out provisions with respect to proceedings of the Executive (the Leader, Individual Cabinet members, the Cabinet and Cabinet Committees) and Non-Executive Committees and Sub-Committees.

This protocol is incorporated into the terms and conditions of employment of officers; and breach of this Protocol shall be a breach of the Members' Code of Conduct.

The Executive (the Leader, individual Cabinet members, the Cabinet, and Cabinet Committees), and a Non-Executive Committee or Sub-Committee should approach decision making in accordance with the principles set out in Article 12.02:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights in particular, giving consideration to such issues at an early stage in the process;
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes.

The Executive (the Leader, individual Cabinet members, the Cabinet, and Cabinet Committees), and a Non-Executive Committee or Sub-Committee shall not take any decision until the following requirements have been complied with:

- 1.1. All decisions shall be allocated by the Leader to the Cabinet or Cabinet Member or delegated to a Committee or Sub-Committee.
- 1.2. No decision shall be taken except upon a written report in accordance with this Protocol.
- 1.3. A Director shall prepare a written report which shall be the subject of consultation with

PART FIVE – CODES AND PROTOCOLS

Section D–Protocol for Decision-Making

- (a) the Chief Finance Officer and the Monitoring Officer (except to the extent that they agree otherwise in respect of certain clauses of report)
- (b) other professional Officers of the Council as appropriate
- (c) service Directors whose service may be affected by the proposal.

1.4. Unless the Democratic Services Manager agrees any exceptions, the written report shall set out:

- (a) the body proposing to take the decision
- (b) the issue to be decided
- (c) an executive summary of the issue, where the length of the report so requires for clarity
- (d) any recommended restrictions upon the publication of the report or public attendance at the making of the final decision,
- (e) the facts upon which any decision must be based
- (f) comments of the Assistant Director of Corporate Governance on any legal implications or legislative requirements, including any HRA issues
- (g) any policy of the Authority relating to the issue
- (h) any relevant national or regional guidance
- (i) the options available to the decision-making body
- (j) the reasons for the decision
- (k) the staffing implications of the issue
- (l) the Chief Finance Officer’s comments on the financial implications
- (m) any consultations undertaken, the views of any consultees and a summary of any other representations received
- (n) any implications for any other areas of the Authority’s activities
- (o) any equalities implications
- (p) the comments of any other professional officer or Service Director where appropriate
- (q) whether or how the proposals will contribute to the delivery of climate change mitigation (reducing carbon and energy impacts) and climate change adaptation (minimising the risks and impacts in a changing climate).
- (r) if an executive matter, the Cabinet Portfolio which the issue falls within
- (s) the electoral areas which are particularly affected by the issue under consideration
- (t) the recommendation in respect of the proposed decision and the reasons supporting the recommendation
- (u) the place, date and time at which the body proposes to make its decision
- (v) a list of any background papers

PART FIVE – CODES AND PROTOCOLS

Section D–Protocol for Decision-Making

1.5. At least 5 clear days before the proposed date and time for taking the final decision, the Democratic Services Manager shall send a copy of the report, or arrange for a copy of the report to be sent to all Members of the decision-making body.

1.6. The requirements for consultation and public participation set out above are to be regarded as a minimum, and officers are responsible for determining when further consultation and public participation would be appropriate.

4.6.1.7. Urgent Decisions

Where the Director is of the opinion that a relevant decision should be made urgently in order to prevent or reduce the risk of damage to persons or property or to the interests of the Authority, and that the urgency of the matter is such that it is not practicable to complete the decision-making process set out above or to comply with the Access to Information Procedure Rules in Part 4, the decision may be deemed “urgent”:

- (a) In order for an executive decision to be deemed urgent, the “General Exception” or “Special Urgency” procedures set out in the Access to Information Procedure Rules must be followed.
- (b) the Director shall use his/her best endeavours, as far as the urgency of the matter permits, to consult those persons whom he/she would have been required to consult had the full decision-making process been followed; and
- (c) the decision-making body shall have the power to take that relevant decision, notwithstanding that the full procedure has not been followed;
- (d) urgent executive decisions shall be taken in the manner prescribed at Part 4 Section F;
- (e) urgent non-executive decisions may also be taken in the manner prescribed at paragraph 5.01 (b) of Part 3 Section E Section 1;
- (f) These urgency procedures should only be used in cases of genuine urgency and should not be abused, for example, in attempting to put right failures in forward planning.

1.8 Where there is a change in approach to a previous executive or non-executive decision which is not consistent with the previous decisions made, a report should be compiled in accordance with section 1.4 above. This would include decisions taken forward by the Leader of the Council in accordance with Article 7.01 and Part Three Section C of the Council's Constitution. Where this is a key decision or a decision made by a non-executive committee, advice should be immediately sought as

PART FIVE – CODES AND PROTOCOLS
Section D–Protocol for Decision-Making

appropriate from the Council's Statutory Officers. In addition, the Monitoring Officer will provide advice on the decision making process to be followed as set out above and in accordance Part 4 Section D of the Council's Constitution.

Part Five, Section D

Protocol for Decision-Making

This part set out provisions with respect to proceedings of the Executive (the Leader, Individual Cabinet members, the Cabinet and Cabinet Committees) and Non-Executive Committees and Sub-Committees.

This protocol is incorporated into the terms and conditions of employment of officers; and breach of this Protocol shall be a breach of the Members' Code of Conduct.

The Executive (the Leader, individual Cabinet members, the Cabinet, and Cabinet Committees), and a Non-Executive Committee or Sub-Committee should approach decision making in accordance with the principles set out in Article 12.02:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights in particular, giving consideration to such issues at an early stage in the process;
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes.

The Executive (the Leader, individual Cabinet members, the Cabinet, and Cabinet Committees), and a Non-Executive Committee or Sub-Committee shall not take any decision until the following requirements have been complied with:

- 1.1. All decisions shall be allocated by the Leader to the Cabinet or Cabinet Member or delegated to a Committee or Sub-Committee.
- 1.2. No decision shall be taken except upon a written report in accordance with this Protocol.
- 1.3. A Director shall prepare a written report which shall be the subject of consultation with

PART FIVE – CODES AND PROTOCOLS

Section D–Protocol for Decision-Making

- (a) the Chief Finance Officer and the Monitoring Officer (except to the extent that they agree otherwise in respect of certain clauses of report)
- (b) other professional Officers of the Council as appropriate
- (c) service Directors whose service may be affected by the proposal.

1.4. Unless the Democratic Services Manager agrees any exceptions, the written report shall set out:

- (a) the body proposing to take the decision
- (b) the issue to be decided
- (c) an executive summary of the issue, where the length of the report so requires for clarity
- (d) any recommended restrictions upon the publication of the report or public attendance at the making of the final decision,
- (e) the facts upon which any decision must be based
- (f) comments of the Assistant Director of Corporate Governance on any legal implications or legislative requirements, including any HRA issues
- (g) any policy of the Authority relating to the issue
- (h) any relevant national or regional guidance
- (i) the options available to the decision-making body
- (j) the reasons for the decision
- (k) the staffing implications of the issue
- (l) the Chief Finance Officer’s comments on the financial implications
- (m) any consultations undertaken, the views of any consultees and a summary of any other representations received
- (n) any implications for any other areas of the Authority’s activities
- (o) any equalities implications
- (p) the comments of any other professional officer or Service Director where appropriate
- (q) whether or how the proposals will contribute to the delivery of climate change mitigation (reducing carbon and energy impacts) and climate change adaptation (minimising the risks and impacts in a changing climate).
- (r) if an executive matter, the Cabinet Portfolio which the issue falls within
- (s) the electoral areas which are particularly affected by the issue under consideration
- (t) the recommendation in respect of the proposed decision and the reasons supporting the recommendation
- (u) the place, date and time at which the body proposes to make its decision
- (v) a list of any background papers

PART FIVE – CODES AND PROTOCOLS

Section D–Protocol for Decision-Making

1.5. At least 5 clear days before the proposed date and time for taking the final decision, the Democratic Services Manager shall send a copy of the report, or arrange for a copy of the report to be sent to all Members of the decision-making body.

1.6. The requirements for consultation and public participation set out above are to be regarded as a minimum, and officers are responsible for determining when further consultation and public participation would be appropriate.

1.7. Urgent Decisions

Where the Director is of the opinion that a relevant decision should be made urgently in order to prevent or reduce the risk of damage to persons or property or to the interests of the Authority, and that the urgency of the matter is such that it is not practicable to complete the decision-making process set out above or to comply with the Access to Information Procedure Rules in Part 4, the decision may be deemed “urgent”:

- (a) In order for an executive decision to be deemed urgent, the “General Exception” or “Special Urgency” procedures set out in the Access to Information Procedure Rules must be followed.
- (b) the Director shall use his/her best endeavours, as far as the urgency of the matter permits, to consult those persons whom he/she would have been required to consult had the full decision-making process been followed; and
- (c) the decision-making body shall have the power to take that relevant decision, notwithstanding that the full procedure has not been followed;
- (d) urgent executive decisions shall be taken in the manner prescribed at Part 4 Section F;
- (e) urgent non-executive decisions may also be taken in the manner prescribed at paragraph 5.01 (b) of Part 3 Section E Section 1;
- (f) These urgency procedures should only be used in cases of genuine urgency and should not be abused, for example, in attempting to put right failures in forward planning.

1.8 Where there is a change in approach to a previous executive or non-executive decision which is not consistent with the previous decisions made, a report should be compiled in accordance with section 1.4 above. This would include decisions taken forward by the Leader of the Council in accordance with Article 7.01 and Part Three Section C of the Council’s Constitution. Where this is a key decision or a decision made by a non-executive Committee, advice should be immediately sought as appropriate

PART FIVE – CODES AND PROTOCOLS
Section D–Protocol for Decision-Making

from the Council's Statutory Officers. In addition, the Monitoring Officer will provide advice on the decision making process to be followed as set out above and in accordance Part 4 Section D of the Council's Constitution.

Report for: Licensing Committee

Title: Changes to the protocol for Licensing Sub-Committees

Report authorised by: Fiona Alderman, Head of Legal and Monitoring Officer,
fiona.alderman@haringey.gov.uk, 020 8489 2929

Lead Officer: Michelle Williams, Principal Lawyer,
michelle.williams@haringey.gov.uk, 020 8489 3857

Ward(s) affected: All

1. Describe the issue under consideration

- 1.1 The Council's Licensing Procedure Rules ("the Protocol") and the Summary Procedure rules need to be updated to allow Licensing Sub-Committees to operate efficiently and in keeping with the needs of Licensing Sub-Committees.
- 1.2 In particular the Protocol needs to reflect that hearings under the Licensing Act 2003 are being held remotely, to introduce a time limit for oral representations before the Sub-Committee so that hearings do not overrun and to change the order of the speakers on applications.

2. Cabinet Member Introduction

Not applicable.

3. Recommendations

The Licensing Committee is asked:

- 3.1 To agree the updated Licensing Protocol attached at Appendix 1.
- 3.2 To agree the updated Licensing Hearings Procedure Summary attached at Appendix 2.
- 3.3 To agree updated Licensing Hearings Review Procedure Summary attached at Appendix 3.
- 3.4 To agree the updated Gambling Act 2005 Hearings Procedure Summary attached at Appendix 4.

4. Reasons for decision

- 4.1 To support the efficient discharge of licensing functions as set out within Part 3, Section B of the Council's constitution by clarifying the procedure for remote hearings.

- 4.2 To formalise standardised speaking processes.

5. Alternative options considered

- 5.1 An alternative would be to continue with the current protocol and procedures but they do not set out the procedure for remote hearings. This has been discounted because for those participating at hearings the procedure needs to be clear.
- 5.2 The Licensing Sub Committee could continue to have no time limits for speakers, however, that would typically allow any application being heard to potentially run beyond the 10:00 pm terminal hour for Council business. The Chair has discretion to extend the hearing beyond 10 p.m. but that should not be a frequent occurrence. Without a time limit there may need to be a continuance of the hearing on another day.

6. Background information

- 6.1 Parliament passed the Coronavirus Act 2020 on 25th March 2020 in response to the Covid 19 pandemic. Section 78 of that Act authorised Regulations (the Flexibility of Local Authority and Police and Crime Panels Meetings (England and Wales) Regulations 2020 which enabled Local Authorities to hold Committee meetings remotely or virtually.
- 6.2 Hertfordshire County Council and others issued proceedings and sought a declaration from the Courts that Council meetings could continue virtually or remotely after the expiry of the 2020 Act. The Divisional Court in the case of Hertfordshire County Council and others v Secretary of State for Housing, Communities and Local Government [2001] EWHC 1093 (Admin) decided that Council meetings held under the Local Government Act 1972 could not continue remotely. The decision did not however touch on local authorities acting in their capacity as licensing authorities, holding meetings under the Licensing Act 2003 and Gambling Act 2005. Section 101(15) of the Local Government Act 1972 specifically excludes meetings to discharge functions under the Licensing Act 2003 from the normal meetings under the 1972 Act.
- 6.3 Hearings under the Gambling Act 2005 returned to being held in person in Haringey because the Local Government Act 1972 does not specifically exclude them but hearings under the Licensing Act 2003 and Licensing Act 2003 (Hearings) Regulations 2005 continued to be held remotely in Haringey.
- 6.4 In April 2003, the Magistrates Court in the case of Walk Safe Security Limited v London Borough of Lewisham, decided that continuing to hold Licensing Act 2003 hearings remotely is lawful and that the Licensing legislation enables Local Authorities to decide for themselves whether to hold meetings remotely or in person. Whilst this decision is not legally binding, it helps to clarify the

legal position and Local Authorities should have a clear protocol for holding remote hearings, that clarifies any uncertainties.

- 6.5 It is proposed to continue to hold Licensing Act 2003 hearings remotely and the Protocol has been updated to reflect that hearings will be held remotely unless the Chair decides that it is in the interests of justice for the meeting to be held in person.

Licensing Sub Committees

- 7.1 The Council is obliged by virtue of the Licensing Act 2003 (“the 2003 Act”) to establish a Licensing Committee consisting of at least 10 but no more than 15 Members. All matters save for those expressly discharged by Full Council relating to the discharge of the Council’s licensing functions under the Licensing Act 2003 are referred to the Licensing Committee.
- 7.2 The Licensing Committee establishes Licensing Sub-Committees to conduct hearings.
- 7.3 The Licensing Sub-Committee follows the Protocol for hearings under The Licensing Act 2003 and The Gambling Act 2005 and also follows the Licensing hearings procedure rules hearings summary for these hearings.
- 7.4 The Protocol and Procedure Summaries were last updated around 2014 and now need to reflect the current practice.
- 7.5 It is proposed that those making representations at a Licensing Sub-Committee will be allowed to speak for five minutes with the Chair having discretion to extend the time where appropriate.
- 7.6 The updated protocol also more clearly arranges the speaking order so that the applicant is the first contributing participant to address the Sub- Committee.

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

Chief Finance Officer

- 8.1 There are no financial implications arising from the recommendations in this report.

Head of Legal & Governance (Monitoring Officer)

- 8.2 The Legal Comments are contained within the body of the report.

9. Equalities

9.1 The Council has a public sector equality duty under S149 of the Equality Act 2010 to have due regard to need to:

- tackle discrimination and victimisation of persons that share the characteristics protected under S4 of the Act. These include the characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation;
- advance equality of opportunity between people who share those protected characteristics and people who do not;
- foster good relations between people who those characteristics and people who do not.

The proposals carry no implications for any aspect of the duty outlined above.

10. Use of Appendices

Appendix 1: Local Licensing Procedure Rules For Hearings Under The Licensing Act 2003 and The Gambling Act 2005

Appendix 2: Licensing Sub-Committee Hearings Procedure Summary

Appendix 3: Licensing Sub-Committee Review Hearings Procedure Summary

Appendix 4: Licensing Committee Procedure Summary – Gambling Act 2005 – Hearings Regulations

11. Local Government (Access to Information) Act 1985

11.1 Not applicable.

HARINGEY COUNCIL – LOCAL LICENSING PROCEDURE RULES FOR HEARINGS UNDER THE LICENSING ACT 2003 AND THE GAMBLING ACT 2005

A. Interpretation

- I. “Acts” means the Licensing Act 2003 and the Gambling Act 2005.

“Applicant” means a natural person or other legal entity making any application or initiating any procedure or giving any notice for any form of licence, certificate, consent or determination in accordance with the Acts.

“Application” means any type of application, procedure or notice for any form of licence, certificate, consent or determination for which provision is made under the Acts.

“Chair” means the Chair of the Licensing Committee or Licensing Sub-Committee determining the relevant application.

“Committee clerk” means the officer(s) instructed by the Head of Legal and Governance and Democratic Services to attend Licensing Sub-Committee meetings to take the minutes and assist with the proper running of the meetings.

“Council” means the Council of the London Borough of Haringey.

“Gambling hearing” means a hearing by a Sub-Committee to determine an application under the Gambling Act 2005.

“Hearing” means a Gambling hearing or a Licensing Hearing as appropriate to the application.

“Hearings Regulations” means The Licensing Act 2003 (Hearings) Regulations 2005 (S.I. 2005 no. 44) in relation to licensing hearings and The Gambling Act (Proceedings of Licensing Committees and Sub-Committees) (England and Wales) Regulations 2007 in relation to gambling hearings.

“Interested party” has the meaning prescribed in the Acts.

“Legal representative” means the officer(s) instructed by the Head of Legal and Governance to attend Licensing Sub-Committee meetings to advise on matters of law and procedure.

“Licensing hearing” means a hearing by a Sub-Committee to determine an application under the Licensing Act 2003 which can be held in person or remotely.

“Licensing Committee” means the Council’s statutory Licensing Committee under the Acts.

“Licensing representative” means the officer(s) instructed by the Assistant Director, Environment and Resident Experience to administer application procedures and to attend Licensing Sub-Committee meetings to advise on licensing matters and gambling matters.

“Licensing Service” means the Council department responsible for administering the Council’s functions under the Acts.

“Member” means Haringey Councillor appointed to serve as a Member of the Licensing Committee or a Licensing Sub-Committee as the context requires.

“Notice” means any notice made in accordance with the Acts, or Regulations made thereunder, in relation to an application.

“Objector” means each interested party, other person, responsible authority, other natural person or legal entity who/which has made a relevant representation or an objection or given any notice in relation to any application.

“Other person” has the meaning prescribed under the Licensing Act 2003 as amended.

“Party/Parties” means the applicant(s) and/or the objector(s) in relation to any particular application.

“Premises” means any premises, land, vessel, vehicle or moveable structure in respect of which an application is made.

“Relevant Representation” means any relevant representation made in accordance with the Acts, or Regulations made thereunder, in relation to an application.

“Responsible authority” has the meaning prescribed in the Acts.

“Sub-Committee” means a Licensing Sub-Committee to which the Licensing Committee of the Council has delegated powers to determine applications.

“Ward Councillor” means a Haringey Councillor representing a Ward within which are located any premises that are the subject of an application.

B. Scope and Application

2. These Rules apply to all applications and hearings made in accordance with the Acts, or Regulations made thereunder. These Rules should be read and interpreted in conjunction the Hearings Regulations and the Acts.
3. The Committee Procedure Rules contained in Part Four, Section B of the Constitution do not apply when the Licensing Sub-Committee is conducting a hearing except in so far as they relate to the appointment of Substitute Members (Rule 6).
4. All hearings will be held in person except for Licensing hearings which will be held remotely, unless the Chair of the Licensing Sub-Committee considers it in the interests of justice to hold the meeting in person e.g. if any of the parties do not have access to technology or would be disadvantaged if the hearing was held remotely.

C. Pre-Hearing Procedure

5. The Licensing Service will notify the relevant Ward Councillors of each application, notice or relevant representation relating to premises within their Ward within 2 working days of receiving such application, notice or relevant representation. This requirement is in addition to any requirement arising under the Hearings Regulations.
- 6.. The Licensing Service may seek to mediate between the parties to an application with a view to securing: -
 - (a) the withdrawal of any relevant representation or notice, or
 - (b) the agreement of the parties that a hearing is unnecessary.
7. If, in any case, the parties agree that a hearing is unnecessary, the Licensing representative, , shall decide whether the Council consider that a hearing is unnecessary to determine the application and shall give notice of that decision to the parties forthwith.
8. In any case where it has been decided that a hearing is necessary, the Sub-Committee shall consider the application_at a hearing in accordance with these Rules.
9. Subject to Rule 4, Licensing hearings will take place remotely via Microsoft Teams.
10. Prior to the remote hearing a link will be sent by the Committee Clerk to all parties to enable those parties to attend the virtual meeting.
11. The link will be posted on the Council's website to enable members of the public to observe the meeting, however they will not be allowed to speak at the meeting.

12. Parties may submit a written version of their oral representations by email at least 48 hours before the licensing hearing is due to start. Although voluntary, these written submissions will assist the Sub-Committee in the conduct of the hearing and decision making process.

13. Parties will be required to log in 10 minutes before the start of the meeting. The Committee Clerk can be contacted in case of technical difficulties and contact details will be provided to the parties.

D. Membership and Quorum for Hearings

14. Where an application relates to premises within a Ward, then a Ward Councillor shall not take part in the decision upon that application as a Member.

15. So far as practicable, hearings will be arranged so that the Sub-Committee determining the application does not include Members representing any Ward in which premises affected by the application are located.

16. A Councillor who has participated in a decision by the Council to make any application, or to support or assist an application made by another person, shall not participate in decision-making on the application in question as a Member of the relevant Sub-Committee.

17. The quorum for any hearing of a Sub-Committee shall be three Members.

18.

18. If any Member needs to leave during the hearing the Chair will adjourn the meeting until they return.

E. Attendance at Hearings

18A. Only applicants and Parties that have made a valid representation or their named representative/substitute or witness will be allowed by the Chair to speak at the hearing.

F. Non-Attendance at Hearings

19. Where a party has not notified the Council that he/she does not intend to attend or to be represented at a hearing, and that party fails to attend the hearing then the Sub-Committee may either: -

- (a) adjourn the hearing to a specified date where it considers this to be necessary in the public interest, or
- (b) hold the hearing in the party's absence.

20. Normally, a party who fails to attend a hearing in the circumstances described in Rule 19 above, will be allowed one further opportunity to attend the hearing adjourned to a specified date.
21. Where an adjournment is granted, the Licensing representative shall make every reasonable endeavour to contact the party who failed to attend by telephone or in person in order to warn them of the new date for the adjourned hearing and the likelihood that the application will be determined in that party's absence in the event of further failure to attend.

G. Calling Witnesses

22. Where a party wishes to call a witness to give evidence at a hearing that party must give written notice to the Licensing Service of this intention no later than ten working days before the date of the hearing stating: -
 - (a) the name of the witness, and
 - (b) a brief description of the point or points upon which the witness' evidence may assist the Sub-Committee in making its decision on the application.
23. Where a party has given notice under Rule 22, the Licensing Service shall forthwith communicate this notice to the other party/parties, if possible by electronic means or by the most rapid practicable alternative means.
24. Where a party has given notice under Rule 22, the Sub-Committee shall consider at the commencement of the hearing whether it will permit the party to call the witness for the purpose(s) notified. Such permission shall not be unreasonably withheld at a hearing where there has not been full compliance with Rule 22.

H. Documentary Evidence

25. Where a party wishes to rely upon documentary evidence at a hearing that party must give written notice to the Licensing Service of this intention no later than ten working days before the date of the hearing. This notice shall be accompanied by six copies for the Council and sufficient additional copies of all the relevant documentary evidence for each other party made known to the notifying party. Compliance with this Rule is especially important in relation to documents that are not easy to photocopy because, for example, they are coloured or not A4 size.
26. Where a party has given notice under Rule 25, the Licensing Service shall forthwith communicate all the relevant documentary evidence to the other party/parties if possible by electronic means or by the most rapid practicable alternative means.
27. Where a party has complied fully with Rule 25, that party shall have the right to have the relevant documentary evidence admitted and, subject to the provisions of the Hearings Regulations, the Sub-Committee shall take such evidence into account in making its decision.
28. In any case where a party wishes to rely upon documentary evidence but has not fully complied with Rule 25, then at the commencement of the hearing the Sub-Committee shall follow this procedure: -
 - (a) the Chair shall establish whether the other party/parties consent to the documentary evidence being admitted, and
 - (b) if all the other parties so consent, then the documentary evidence shall be treated as if Rule 27 applied to it, or
 - (c) if any party does not so consent, and the documentary evidence has only been made available to all the parties at the hearing, then the Sub-Committee shall generally refuse to admit it, or
 - (d) if any party does not so consent, and the documentary evidence has been made available to all the parties before the hearing but there has not been full compliance with Rule 25, then the Sub-Committee shall decide whether to admit the documentary evidence nonetheless, and
 - (e) in making its decision under Rule 28(d), the Sub-Committee shall have regard to any reasons given for the late production of the documentary evidence, or other non-compliance with Rule 25.
 - (f) in making its decision under Rule 28(d), the Sub-Committee shall consider how far any other party may be prejudiced by the late production of the documentary evidence, or other non-compliance with Rule 25, and also the extent of the prejudice to the party seeking to rely upon the evidence if its admission is refused.
 - (g) in making its decision under Rule 28(c) and/or 28(d), the Sub-Committee shall consider whether it would be desirable in the public interest to adjourn the hearing for any period of time, or to another date, in order to allow any other party a reasonable opportunity to consider the documentary evidence.

- (h) in making its decisions under Rules 28(d) and 28(g) above, the Sub-Committee shall consider any representations by the parties and the advice of its legal representative.
29. Where a party wishes to rely upon documentary evidence at a hearing but considers that any details of that evidence should be treated as confidential, for example the name or address of the signatory of a letter, then the party may exclude such confidential details from any documentary evidence sent to the Licensing Service under Rule 25. This Rule does not apply to any notice given or relevant representation made, since the originator must state his/her name and address in order for it to be valid.
30. In any case where confidential details are excluded under Rule 29, the Licensing Service must be informed that a request will be made by the party under Rule 37. If permission is refused under Rule 38, the whole or part of the relevant documentary evidence may be excluded from consideration. If permission is granted to exclude any confidential details, this may affect the weight to be given to the rest of the related evidence under Rule 55.
31. Where a party wishes to rely upon a model, or any form of evidence that cannot be photocopied, at a hearing that party must give written notice to the Licensing Service of this intention no later than ten working days before the date of the hearing. The party seeking to rely upon such evidence shall indicate in the notice, so far as practicable, the nature of that evidence and the purpose(s) of producing it.
32. Where a party has given notice under Rule 31 the Licensing Service shall forthwith communicate all relevant information about the evidence to the other party/parties if possible by electronic means or the most rapid practicable alternative means.
33. Rules 25 to 28 shall be applied to evidence of the type described in Rule 31 with a presumption that such evidence will be admitted if it materially helps the Sub-Committee to understand relevant issues between the parties at the hearing.

I. Petitions

34. Petitions shall on each page state their purpose and contain a warning to potential signatories that they are liable to be made public and that a copy will be supplied to other parties to the application. Each person signing should print their name and address legibly. At the end a petition must state the name(s) and address(es) of the persons circulating the petition and the dates on which this took place.
35. A petition must comply with Rule 34 unless the Sub-Committee decide to waive compliance with any requirement(s) for a good reason. A petition shall also be treated as documentary evidence and Rules 25 to 28 shall apply.

J Private Hearings and Confidential Evidence

36. In accordance with the Hearings Regulations, hearings shall take place in public unless a decision to the contrary is made under Rule 38 in any case.
37. Where a party or a witness consider that any giving of evidence, or part of any evidence, or part of a hearing, should be held in private, then the party or their witness shall make such request to the Chair at the commencement of the hearing.
38. The Sub-Committee may decide to exclude members of the public from any part of a hearing and/or treat any evidence as confidential where the Sub-Committee consider that the public interest in preserving the confidentiality of any evidence outweighs the public interest in that part of the hearing taking place in public.
39. For the purposes of Rule 38, a party, a witness and any person assisting or representing a party, may be excluded from any part of a hearing or from hearing or seeing any particular evidence. Where the Sub-Committee decide to hold part of a hearing in private, a party and/or his/her representative shall only be excluded in exceptional circumstances.
40. Where the Sub-Committee decide to hold part of a hearing in private, the officers of the Licensing Service shall only be excluded in exceptional circumstances. The Committee Clerk and legal representative shall not be excluded.
41. Before making any decision under Rules 38 or 40, the Sub-Committee shall consider the advice of its legal representative.
42. Where any part of a hearing takes place in private, the hearing will be adjourned immediately thereafter for a period of time sufficient to enable the Committee clerk to prepare a fair summary of the evidence and proceedings heard in private. This summary will exclude all details that the Sub-Committee, acting with the advice of its legal representative, consider should remain confidential. Upon the resumption of the hearing, the summary will be read out publicly in the presence of all the parties.
43. Rules 36 to 42 shall apply as nearly as may be practicable to documentary evidence where, with the consent of the Sub-Committee, confidential details may be disclosed to the Sub-Committee but excluded from disclosure to the public or persons mentioned in Rule 39.
44. Rules 36 to 42 shall apply, as nearly as may be practicable, where a witness wishes to disclose his/her name and/or address or other details only to the Sub-Committee and Council officers but not to the public or persons mentioned in Rule 39.

45. Whenever any evidence or information has been treated as confidential under Rules 36 to 44, the Sub-Committee shall consider whether to alter the weight given to that evidence in accordance with Rule 55.

K. Commencement of the Hearing

46. At the commencement of each hearing the Sub-Committee shall follow this procedure but may omit or abridge any step or Rule as appropriate -
- (a) The Chair will introduce him/herself and invite the Members and officers to introduce themselves
 - (b) The Chair will invite the parties to introduce themselves and their representatives (if any)
 - (c) The Chair will invite Members to disclose any contacts they may have had before the hearing with the parties or lobbyists for them which do not constitute a personal, prejudicial or disclosable pecuniary interest in accordance (see the guidance contained in section Q).
 - (d) If any party fails to attend the hearing, the Sub-Committee shall decide whether to proceed with the hearing in the absence of that party or whether to adjourn the hearing to another date. The Sub-Committee shall have regard to Rules 19 and 20 and Regulations 12 and 20 of the Hearings Regulations in making such decisions.
 - (e) The Chair will explain the procedure to be followed by reference to these Rules and the Summary procedure for that hearing.
 - (f) The Chair will suggest the order of the topic headings for discussion at the hearing and will then invite the comments of the parties. In the light of such comments the Sub-Committee will confirm the order of the topic headings or amend them.
 - (g) The Chair will ascertain whether there are any requests by any of the parties to call a witness and the Sub-Committee will then determine any such request under Rule 24.
 - (h) The Chair will ascertain whether there is likely to be a request from any of the parties to cross-examine a witness called by another party and, if so, the reasons given for seeking a cross-examination. The Sub-Committee will then determine whether to allow such cross-examination in the interests of establishing relevant facts.
 - (i) The Chair will ascertain whether there are any requests by any of the parties to produce documentary evidence, including models etc., and whether there has been full compliance with Rules 25 to 32. In the event of any non-compliance these Rules, the Sub-Committee shall decide whether to admit the evidence and/or adjourn the hearing under Rules 28 to 33.
 - (j) The Chair will ascertain whether there are any requests by any of the parties to treat any evidence as confidential or to hear any of the evidence, or hold any part of the hearing, in private. If so, the Sub-Committee shall decide the request under Rules 38 to 44.
 - (k) In any case where the Licensing Service has informed a party that there are particular points on which the Sub-Committee will need clarification, the Chair will then invite the party to provide such clarification.

L. Procedure and Evidence at Hearing

47. For remote hearings all Members and parties must have their cameras on for the duration of the hearing.
48. All Members and parties should mute their microphones until invited to speak by the Chair and only one person should speak at any one time. If anyone wishes to speak during the hearing they should press the raise my hand button on the menu bar and wait to be called by the Chair.
49. In accordance with Hearings Regulations, the hearing shall take the form of a discussion led by the Chair. With permission of the Chair the other Members of the Sub-Committee may ask questions of the parties, their representatives and witnesses and may lead the discussion on specific topics or points. When making their initial representation, each representative/party will be given 5 minutes to address the Sub-Committee with the Chair having the discretion to extend this time limit if appropriate..
50. The hearing shall follow the order of the topic headings determined under Rule 46 (f) unless there is a good reason to depart from this agreed by the Sub-Committee.
51. The Chair, or Member leading the discussion, shall endeavour to ensure that each party has a reasonable opportunity to explain their case under each topic heading. The parties, their representatives and witnesses have a duty to make their evidence and comments succinct and relevant to the issues under discussion.
52. A party shall not be permitted to cross-examine another party or their witness unless this has been allowed under Rule 46 (h). If a party has concerns relating to the evidence or comments of another party or their witness, this should be explained to the Sub-Committee so that the Chair can question the other party/witness about these concerns before completing that topic heading.
53. Where permission has been given to a party to call a witness, that witness may give evidence in one or more stages when the discussion covers the appropriate topic heading(s). Normally, a witness will be invited by the Chair to make a statement. The witness will then be subject to cross-examination by the other party/parties if this has been allowed under Rule 46 (h). Then the Sub-Committee may question the witness. A party shall not re-examine his/her own witness except with the consent of the Chair to clarify a significant point in earlier evidence.
54. At the end of each topic heading the Chair shall invite the Licensing Service or legal representative to make any comments that they may consider necessary. With the consent of the Chair, these officers may question parties or witnesses directly or put their questions through the Chair.

55. Strict legal rules of evidence shall not apply. However, in considering what weight to place on the evidence or comments of any party or witness, the Sub-Committee shall have regard to the extent to which information was: -
- (a) within a witness' direct knowledge, and
 - (b) clearly and specifically related to the points at issue in the hearing, and
 - (c) tested by questioning.
56. The Chair shall be responsible for the orderly conduct of the hearing. If during any party Member or a party loses their connection during a remote hearing, the meeting will be adjourned until they are able to rejoin and any evidence or representation they have missed will be rerun.
57. The Chair may require any person to be silent and if necessary may mute their microphone during a remote meeting. The Chair may regulate the order in which persons speak at the hearing. The Chair will endeavour to prevent remarks which are repetitious or irrelevant or which amount to unsubstantiated offensive allegations against any person, present or not.
58. After a warning the Chair may require any person at the hearing who is considered to be behaving in a disruptive manner to leave the meeting and may prohibit his/her return except on compliance with specified conditions. For a remote hearing the Chair may exclude a person from the hearing by muting their microphone or by removing them from the meeting. This can be for a period or for the remainder of the hearing. A person excluded from a hearing under this Rule may put in writing any information or submission they intended for the hearing. For a remote hearing this may be done by way of an e-mail to the Committee Clerk. The Sub-Committee must take any such information into account in reaching its decision.
- 59.. The Chair on his/her own motion may indicate the decision of the Sub-Committee on any procedural matter within the scope of these Rules notwithstanding that the decision is stated in these Rules to be that of the Sub-Committee. This is subject to the right of any Member, who makes an immediate request, to have the matter put to the vote of the Sub-Committee as a whole. Rules 69 will apply to such a vote.
60. In accordance with the Hearings Regulations, each party has the right to make a closing address to the Sub-Committee in order to summarise his/her case at the end of the hearing. Unless the applicant consents to a different order, the applicant shall have the right to make the final address.
61. Each party must be allowed an equal maximum period of time to make a closing address. Normally, the Chair will invite each party to state how much time that party will require. However, the Sub-Committee may fix a greater or lesser maximum time for each closing address provided that this is reasonable in relation to the weight and complexity of the issues at the hearing.

M. Time Limit for Hearings

62. At 9.30 p.m. the Chair must ask the Sub-Committee to agree –
 - (a) to continue the hearing in hand and, if necessary, to suspend these Rules so as to allow it to continue for a reasonably short time beyond 10.00 p.m. when this is necessary to complete the hearing and advisable in the interests of fairness, or
 - (b) to adjourn the hearing until a date to be fixed.
63. Hearings shall not normally continue later than 10.00 p.m. and no new hearing shall be commenced after 10.00 p.m.
64. To facilitate hearings concluding before 10.00 p.m. for all hearings the Chair may impose time limits for representations or closing addresses.

N. Decision Making

65. At the end of a hearing the Sub-Committee may confer publicly or in private and announce its decision on the application(s) immediately.
66. The decision(s) will be summarised in writing and the Sub-Committee will return to the public meeting so that the Committee clerk can read out the decision(s) in the presence of all the parties and their representatives.
67. The Sub Committee may give its decision at the end of the hearing. This is most likely where it relates to a TENS application, summary review,
68. Alternatively, the Sub-Committee may provide the decision in writing within 5 working days commencing with the day of the hearing.
69. In any case, and whether or not Rule 65 applies, the Sub-Committee may retire with the Committee clerk and legal representative to deliberate in private.
70. The Sub-Committee, if making a decision at that time, must reach their decision by a majority vote.
71. If the Sub-Committee require any clarification of matters of fact before reaching their decision(s), and the decision is being made immediately, the Sub-Committee shall return to the public meeting and put questions to the parties, their witnesses or the Licensing representative in the presence of all the parties and their representatives.
72. If the legal representative gives legal advice on any point(s) material to the Sub-Committee's decision(s), this advice will be summarised and read out by the legal representative in public before the Committee Clerk reads out the decision(s).

O. Waivers and Irregularities

73. The Chair may agree to waive any of these Rules, including any time limit, in the case of any individual application where he/she considers that there is good reason to do so. Excepted from this power to waive are Rules 14 to 17 (inclusive). Any permanent variation of these Rules must be decided by the Licensing Committee.
74. Any irregularity arising from any failure to comply with any provision of these Rules before the Sub-Committee has made a determination shall not of itself render the proceedings void.
75. In any case of such an irregularity the Sub-Committee shall, if Members consider that any person may have been prejudiced as a result of the irregularity, take such steps as Members think fit to cure the irregularity before reaching a determination of the application(s). In any such case the Sub-Committee shall consult the legal representative before deciding upon any steps to cure the irregularity.
76. In any case where it appears after the Sub-Committee's determination that the decision has been vitiated by incorrect information or any procedural or legal error, the Legal Representative shall advise the Chair of this and of the steps necessary to remedy the problem. With the consent of the Chair, the Sub-Committee may reconvene to take the steps advised and/or to amend its decision. With the consent of the Chair in an appropriate case, the Members of the Sub-Committee may signify their consent to any steps advised and/or any amended decision without reconvening in person. When the legal representative so advises, the parties affected shall be invited to a reconvened hearing or, where appropriate, to signify their consent to any steps proposed without attending in person.

P. Councillors who are not Members of the Licensing Sub-Committee

77. A Councillor, who is not a Member of the Sub-Committee determining the application in question, may participate in the hearing but only if the Councillor is an objector who has made relevant representations in accordance with the Hearings Regulations and the Acts, or if the Councillor has been asked to attend by a party in order to act as a witness or a representative for that party.

Q. Cases Remitted by the Magistrates on Appeal

78. On an appeal to the Magistrates Court, the Court may remit the case to the Council for it to determine in accordance with the Direction of the Court. The Chair of the Licensing Committee on legal advice may wish the Council to contest that Direction by further legal proceedings. If not, the Chair will receive advice from the Head of Legal Services on how to comply with the Direction of the Court and will be requested to agree the appropriate procedure. So far as possible, these Rules will apply to any further hearing with

such modifications as are advised to secure compliance with the Direction of the Court.

R. Guidance: Councillors' Participation in Hearings and Members' Interests

1. It is the responsibility of individual Councillors to disclose any interest they may have when sitting as a Member of or participating in a Licensing Sub-Committee hearing.

The Council's Code of conduct for Members defines three categories of Members' interests:

- Disclosable pecuniary interests (DPI's)
- Prejudicial interests
- Personal interests

These are explained in detail at sections 4 to 6 and Appendix A of the Members' Code.

2. Whenever a Councillor, sits as a Member of the Sub-Committee, or intends to participate in a hearing in accordance with Rule 65, the Councillor must consider whether s/he has a personal interest or a prejudicial interest or a DPI and make any declaration and/or withdraw from the hearing as required.
3. If the Member has a DPI or a prejudicial interest in the application s/he must declare the existence and nature of that interest and withdraw from the meeting without discussing or voting on the application. Failure to disclose a DPI is a criminal offence (see Appendix B to the Members Code)
4. Where a Councillor has a personal interest in the decision on the application being determined by the Licensing Sub-Committee, although s/he is not obliged under the Member's Code to make a disclosure of that personal interest to the meeting, s/he should disclose the nature of the interest because of the quasi judicial functions of the sub-committee. If a Member has a personal interest (which does not constitute a DPI or prejudicial interest) s/he can participate in debate and vote on determination of the application. However, due to the quasi judicial functions of the sub-committee, a Councillor should avoid doing so where there is a real possibility of actual or perceived bias. The test is what a fair minded and informed observer would conclude and not the views of the Councillor concerned.
5. Any Councillor who has a prejudicial interest in an application (which does not constitute a DPI) may attend the hearing but only for the purpose of making representations, answering questions or giving evidence relating to the application and provided that the public have not been excluded from the hearing or that part of it. The Member must withdraw from the meeting immediately after the matters permitted above are completed and must not seek improperly to influence any decision about the application. A Member who has a prejudicial interest in an application may prefer to be represented at the hearing by an agent or a fellow Ward Councillor who is not a Member of

the Sub-Committee and who would not be required to leave the meeting before the decision.

6. A Councillor, who is a Member of the Sub-Committee determining the application in question, will have a prejudicial interest (as well as a personal interest) in that application if the he/she makes a relevant representation by way of objection to it and may well have a prejudicial interest if he/she has otherwise been involved in supporting or opposing the application. Any Member of a Sub-Committee who has a prejudicial interest for these or other reasons under the Members' Code must not participate in the decision upon the application and must not be present at the hearing except as provided in the preceding paragraph.
7. Sections 9 and 10 of the Members' Code explain in more detail how an interest affects your participation at meetings.

S. Guidance: Prior Contacts, Lobbying of Members and Expressions of Opinion by Members

1. If a Member of a Sub-Committee is approached by a party, a party's representative or a lobbyist for or against an application to be determined by that Sub-Committee, then the Member must: -
 - (i) explain that s/he cannot discuss the matter, and
 - (j) refer the person(s) to another Councillor who is not a Member of the Sub-Committee or to the Licensing Service who can give further information on the process of dealing with the application, and
 - (k) keep an adequate written record of the approach, and
 - (l) disclose the fact of the approach before the hearing in accordance with Rule 39(c).
2. If a Member of a Sub-Committee receives any written representation either supporting or opposing an application to be determined by that Sub-Committee, then the Member shall pass the representation to the Licensing Service for appropriate action.
3. Where a Member of a Sub-Committee has had any form of personal or business involvement with a party to an application, which is to be determined by the Sub-Committee, or with any person closely connected to a party, then the Member must consider whether such involvement could give rise to an interest which should be declared at the hearing and/or requires them to withdraw in accordance with the guidance contained in section Q. If there is any doubt on this matter, the Member must seek the advice of the Monitoring Officer or the legal representative.
4. A Member of a Sub-Committee must avoid expressing any personal opinion about the merits of an application to be determined by that Sub-Committee and must not take any action that would bring into question the Member's capacity to consider the application objectively.
5. A Member of a Sub-Committee must not accept any gift, favour or free hospitality that could be seen as connected to any application to be determined by that Sub-Committee.
6. Members of Sub-Committees are not to be influenced by party political factors or pressures when determining any application.

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ICENSING SUB-COMMITTEE HEARINGS PROCEDURE SUMMARY

INTRODUCTION

All licensing hearings under the Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations 2005 will be remote hearings unless the Chair determines that it is in the interests of justice to hold the meeting in person.

Remote hearings will take place via Microsoft Teams. All parties who wish to participate will need to ensure that they are set up to use Microsoft Teams. Prior to the meeting a link will be sent by the Committee Clerk X to all parties to enable those parties to attend the virtual meeting.

The link will be posted on the Council's website to enable members of the public to observe the meeting although they will not be allowed to speak at the meeting.

Parties are required to log in 10 minutes before the start of the meeting. the committee clerk's contact details are nazyer.choudhury@haringey.gov.uk, 0208 489 3321 in case of technical difficulties.

All parties must have their cameras on for the duration of the meeting.

All parties should mute their microphones until invited to speak by the Chair and only one person should speak at any one time. If you wish to speak during the hearing simply press the raise my hand button on the menu bar and wait to be called by the Chair.

As a general rule, each party will be given a maximum of 5 minutes to present their representation, which can be extended at the Chair's discretion.

Procedure at the hearing

1. The Chair introduces him/herself and invites other Members, Council officers, Police, Applicant and Objectors to do the same.
2. The Chair invites Members to disclose
 - i) any prior contacts (before the hearing) with the parties or representations received by them; and separately
 - ii) any declarations of interest.
3. The Chair explains the procedure to be followed by reference to this summary which will be distributed in advance.

NON-ATTENDANCE BY PARTY OR PARTIES

4. If one or both of the parties fails to attend, the Chair decides whether to:
 - (i) grant an adjournment to another date, or
 - (ii) proceed in the absence of the non-attending party.
 Normally, an absent party will be given one further opportunity to attend.

TOPIC HEADINGS

5. The Chair suggests the "topic headings" for the hearing. In the case of the majority of applications for variation of hours, or other terms and conditions, the main topic is:

Whether the extensions of hours etc. applied for would conflict with the four licensing objectives i.e.

- (i) the prevention of crime and disorder,
- (ii) public safety,

(iii)	the prevention of public nuisance, and
(iv)	the protection of children from harm.
6.	The Chair invites comments from the parties on any other topic headings to be discussed.
WITNESSES	
7.	The Chair asks whether there are any requests by a party to call a witness and decides any such request.
8.	Only if a witness is to be called, the Chair then asks if there is a request by an opposing party to “cross-examine” the witness. The Chair then decides any such request.
DOCUMENTARY EVIDENCE	
9.	The Chair asks whether there are any requests by any party to introduce late documentary evidence.
10.	If so, the Chair will ask the other party if they object to the admission of the late documents.
11.	If the other party do object to the admission of documents which have only been produced by the first party at the hearing, then the documents shall not generally be admitted.

12.	If the other party object to documents produced late but before the hearing, the following criteria shall be taken into account when the Chair decides whether or not to admit the late documents:
(i)	What is the reason for the documents being late?
(ii)	Will the other party be unfairly taken by surprise by the late documents?
(iii)	Will the party seeking to admit late documents be put at a major disadvantage if admission of the documents is refused?
(iv)	Is the late evidence really important?
(v)	Would it be better and fairer to adjourn to a later date?
THE LICENSING OFFICER'S INTRODUCTION	
13.	The Licensing Officer introduces the report explaining, for example, the existing hours, the hours applied for and the comments of the other Council Services or outside official bodies. This should be as "neutral" as possible between the parties.
14.	The Licensing Officer can be questioned by Members and then by the parties.
15.	<u>The hearing takes the form of a discussion led by the Chair. The Chair can vary the order as appropriate but it should include:</u>
(i)	<u>an introduction by the Applicant or representative</u>
(ii)	<u>questions put by Members to the Applicant</u>
(iii)	<u>questions put by the Objectors to the Applicant</u>
(iv)	<u>an introduction by the Objectors' main representative</u>
(v)	<u>questions put by Members to the Objectors</u>
(vi)	<u>questions put by the Applicant to the Objectors</u>
CLOSING ADDRESSES	
16.	The Chair asks each party how much time is needed for their closing address, if they need to make one.
17.	Generally, the Objectors make their closing address before the Applicant who has the right to the final closing address.
THE DECISION	
18.	Members retire with the Committee Clerk and legal representative to consider their decision including the imposition of conditions.
19.	The decision will be confirmed in writing within five working days of the hearing.

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APPENDIX 3

LICENSING SUB-COMMITTEE REVIEW HEARINGS PROCEDURE SUMMARY	
INTRODUCTION	
<p>All licensing hearings under the Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations 2005 will be remote hearings unless the Chair determines that it is in the interests of justice to hold the meeting in person.</p> <p>Remote hearings will take place via Microsoft Teams. All parties who wish to participate will need to ensure that they are set up to use Microsoft Teams. Prior to the meeting a link will be sent by the Committee clerk to all parties to enable those parties to attend the virtual meeting.</p> <p>The link will be posted on the Council's website to enable members of the public to observe the meeting although they will not be allowed to speak at the meeting.</p> <p>Parties are required to log in 10 minutes before the start of the meeting. The committee clerk's contact details are nazyer.choudhury@haringey.gov.uk. 0208 489 3321 in case of technical difficulties.</p> <p>All parties must have their cameras on for the duration of the meeting All parties should mute their microphones until invited to speak by the Chair and only one person should speak at any one time. If you wish to speak during the hearing simply press the raise my hand button on the menu bar and wait to be called by the Chair.</p> <p>As a general rule, each party will be given a maximum of 5 minutes to present their representation, which can be extended at the Chair's discretion.</p>	
Procedure at the hearing	
1.	The Chair introduces himself and invites other Members, Council officers, the Premises Licence Holder, representatives of responsible authorities, interested parties and the Review Applicant to do the same.
2.	The Chair invites Members to disclose <ul style="list-style-type: none"> i) any prior contacts (before the hearing) with the parties or representations received by them; and separately any declarations of interest.
3.	The Chair explains the procedure to be followed by reference to this summary which will be distributed in advance.
NON-ATTENDANCE BY PARTY OR PARTIES	
4.	If one or both of the parties fails to attend, the Chair decides whether to: <ul style="list-style-type: none"> (i) grant an adjournment to another date, or (ii) proceed in the absence of the non-attending party. <p>Normally, an absent party will be given one further opportunity to attend.</p>
TOPIC HEADINGS	
5.	The Chair suggests the "topic headings" for the hearing which would normally relate to the the four licensing objectives i.e.

(i) the prevention of crime and disorder,	
(ii) public safety,	
(iii) the prevention of public nuisance, and	
(iv) the protection of children from harm.	
6. The Chair invites comments from the parties on any other topic headings to be discussed.	
WITNESSES	
7. The Chair asks whether there are any requests by a party to call a witness and decides any such request.	
8. Only if a witness is to be called, the Chair then asks if there is a request by an opposing party to “cross-examine” the witness. The Chair then decides any such request.	
DOCUMENTARY EVIDENCE	
9. The Chair asks whether there are any requests by any party to introduce late documentary evidence.	
10. If so, the Chair will ask the other party if they object to the admission of the late documents.	
11. If the other party do object to the admission of documents which have only been produced by the first party at the hearing, then the documents shall not generally be admitted.	

12.	If the other party object to documents produced late but before the hearing, the following criteria shall be taken into account when the Chair decides whether or not to admit the late documents:	
(i)	What is the reason for the documents being late?	
(ii)	Will the other party be unfairly taken by surprise by the late documents?	
(iii)	Will the party seeking to admit late documents be put at a major disadvantage if admission of the documents is refused?	
(iv)	Is the late evidence really important?	
(v)	Would it be better and fairer to adjourn to a later date?	
THE LICENSING OFFICER'S INTRODUCTION		
13.	The Licensing Officer introduces the report explaining, for example, the existing hours, the hours sought to be varied and the comments of the other Council Services or outside official bodies. This should be as "neutral" as possible between the parties.	
14.	The Licensing Officer can be questioned by Members and then by the parties.	
THE HEARING		
15.	This takes the form of a discussion led by the Chair. The Chair can vary the order as appropriate but it should include:	
(i)	<u>an introduction by the Review Applicant's main representative</u>	
(ii)	<u>questions put by Members to the Review Applicant</u>	
(iii)	<u>questions put by the Premises Licence Holder to the Review Applicant</u>	
(iv)	<u>an introduction by the Premises Licence Holder</u>	
(v)	<u>questions put by Members to the Premises Licence Holder</u>	
(vi)	<u>questions put by the Review Applicant to the Premises Licence Holder</u>	
CLOSING ADRESSES		
16.	The Chair asks each party how much time is needed for their closing address, if they need to make one.	
17.	Generally, the Review Applicant makes their closing address before the Premises Licence Holder, who has the right to the final closing address.	
THE DECISION		
18.	Members retire with the Committee Clerk and legal representative to consider their decision including the imposition of conditions.	
1.	19. The decision is confirmed in writing within five working days of the hearing.	

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COMMITTEE PROCEDURE – GAMBLING ACT 2005 – (Proceedings of Licensing Committees and Sub-Committees (Premises Licences and Provisional Statements (England and Wales) Regulations SI 2007 / 173

Each application that comes before this committee will be treated on its own merits, and this licensing authority will take its decision based upon the requirement to aim to permit the use of premises for gambling in so far as this licensing authority think it:

- In accordance with any relevant code of practice
- In accordance with Gambling Commission guidance
- Reasonably consistent with the licensing objectives of the Gambling Act 2005
- In accordance with this licensing authority's Statement of Principles

THE PROCEDURE OF THE COMMITTEE IS AS FOLLOWS:

1. Chair opens the meeting, introduces members of the committee and officers present and explains the procedure to be followed.
2. The Licensing officer outlines the details of the application, any representations received and / or reasons why the licensing authority proposes to attach / exclude conditions, with relevance to the Gambling Commission's guidance, the licensing objectives, and / or the licensing authority's Statement of Principles, highlighting what the committee should have regard to / take into consideration and drawing attention to any other matters that may require clarification or discussion.
3. Members and the parties/representatives may ask any relevant questions of officer.
4. Chair invites applicant (or representative) to address the Committee (includes calling any 'witnesses').
5. When making their initial representation, each representative/party will be given 5 minutes to address the Sub-Committee with the Chair having the discretion to extend this time limit if appropriate..
- 6.
7. Members ask relevant questions of applicant / 'witness'.
8. Parties that made representations to ask relevant questions of applicant / 'witness'.
9. Parties making relevant representations invited to address Committee.
10. Members ask relevant questions of party.
11. Applicant / other parties making representations / officer ask relevant questions of party.
12. Officer of the licensing authority to ask relevant questions of applicant / 'witness' (where the licensing authority proposes to attach / exclude conditions or there is some other issue requiring clarification/discussion).
13. Officer of the licensing authority invited to address the committee (where the licensing authority proposes to attach / exclude conditions or there is some other issue requiring clarification/discussion).
14. Members ask relevant questions of officer.
15. Applicant / parties making representations ask relevant questions of officer.
16. All parties invited to summarise (if they so wish).
17. Chair asks all parties if they are satisfied that they have had the opportunity to say everything that they wish to.
18. Members of the Committee retire to reach a decision with the Committee Clerk and legal representative.

19. The decision is confirmed in writing within five working days of the hearing.
- 20.

PLEASE NOTE

- Changes of committee membership (if any) will be given at the beginning of the meeting.
- Hearings may proceed even if one of the parties is absent. All notices and representations received from absent parties will be considered.
- Documentary evidence produced at the hearing will only be considered with agreement of all parties present.
- In cases where a decision cannot be given at the end of the hearing, the decision will normally be made within 5 working days after the day of the hearing and that the parties will be notified in writing.
- Parties have a right to appeal to the Magistrates Courts, within 21 days of notification of the decision.
- The committee may on occasion find it necessary to exclude members of the press and public based upon the reasons set-out in SI 2007 / 173 article 8 which are if any unfairness to a party is likely to result from a public hearing, or there is a need to protect the commercial or other legitimate interests of a party.
- The hearing is intended to take the form of a discussion led by the committee and cross-examination is not encouraged unless the committee considers that it is required for the application to be properly considered.
- The committee has the right to exclude any parties disrupting the hearing or require him / her to meet certain conditions for him / her to continue to take part in the hearing. Any person excluded in this manner is able to submit information in writing to the committee before it finishes.

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Report for: Standards Committee 27th of June 2023

Title: Haringey Petitions Scheme Update

Authorised by: Fiona Alderman Head of Legal and Governance & Monitoring Officer

Lead Officer: Ayshe Simsek Democratic Services and Scrutiny Manager
0208 489 2929 ayshe.simsek@haringey.gov.uk

Ward(s) affected: All

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

1. Describe the issue under consideration

- 1.1 The Petitions Scheme was implemented in 2010 and updated in 2011 to meet the requirements of the Local Democracy, Economic Development and Construction Act 2009 which imposed a duty on local authorities to respond to petitions. The requirements of the Act in relation to petitions has been repealed. For the majority of local authorities, processes for dealing with petitions were already in place and petitions submitted to a local authority by a body of its citizens were usually presented to the full Council. Some councils have removed or amended the provisions regarding petitions from their Constitutions following the repeal of the statutory requirements, while others have retained the schemes.
- 1.2 To note that prior to 2009, there was an existing provision for petitions under the local government Act 1972. This allows a petition to be handed in at a meeting of the Council or its Committees. The petition would be handed to the chair and noted as received with a response provided at the next meeting of the Council or Committee. This provision has always continued and is contained in the Council's Standing Orders.
- 1.3 There is also a separate legislation covering petitions on referendums and changes in local authority governance. This is under Local Authorities (Referendums) (Petitions) (England) Regulations 2011 - Regulations 4, 5, 7, 8, 11, 13, 14.
- 1.4 In Haringey the petitions scheme operates outside of the Constitution and information on the scheme is included on the Council's website.
- 1.5 Taking account the recent comments from residents about the configuration and understanding of the process around petitions set out on our web pages and the recent increase in the number of e- petitions, it was felt important to review the

petitions scheme and ensure it was clear to the public and responded to democratic expectations and requirements. The review also considered if any of the detail of the scheme should be included in the Constitution as it can need to be referred to at Council meetings.

- 1.6. There has been research into other boroughs which have similar schemes with consideration given to the practicalities and past use of the scheme. This report was considered and commented on by the Constitution Review Working Group. A summary of the proposed changes to the scheme outlined in track changes is as follows and was accepted and informed by the Constitution Working Group:
- 1.7 The option of calling officers to give evidence at a meeting has been deleted as over the last 13 years this option has not been requested or number of signatures required for this option not been met.
- 1.8 Making clear, at the start of the scheme, that both paper and electronic versions of petitions are accepted.
- 1.9 Including clearer information on who can sign a petition.
- 1.10 Outlining that there are 3 options for submitting a petition and how each option works. Currently, this information is combined, and Democratic Services get a lot of queries about application of a paper petition and e petition processes.
- 1.11 Adding in a clause that states that matters which are subject to legal proceedings cannot be taken forward in a petition.
- 1.12 Making clear when a petition cannot relate to exempt information.
- 1.13 Having an additional clause that if a petition is raising substantially similar issues and requesting the same action as a petition currently running on the e petition website / or paper petition handed in, the Council also reserve the right to reject this. This includes additional wording suggested by the CWG to make clear that this is added to ensure the Council can hear as many voices as possible.
- 1.14 Reducing the number of options available concerning a response to a petition from 11 to 4. This takes into account resources of the Council and considers the current use of the scheme. We can usually have between 30 to 50 responses to a local neighbourhood issue but then can get over 2000 signatures for LTN petitions, Tree preservation and climate action related issues.
- 1.15 Including the option for responses provided by officers [usually where the issues has between 30 to 100 signatures] to be referred to the Corporate Feedback team, if felt that the petition was not dealt with in accordance with the scheme.
- 1.16 Including a more comprehensive section on submitting an e- petition. This includes stating that the views expressed in the petitions do not necessarily reflect those of the Council.
- 1.17 Considering e – petitions collated on a national website such as change.org.uk.

- 1.18 Inclusion of a privacy notice on data. As suggested by the CWG, there will be additional web pages as well setting out the safeguarding of information of under 18's signing petitions and also attending meetings to present petitions.
- 1.19 The acknowledgement to the petition setting out what the Council plans to do was deleted as often it is not known how many signatures will be collated for an e -petition. If the petition is complete, then we will advise the options.
- 1.20 Adding a maximum hosting period of 3 months for e -petitions. This is felt to be an appropriate time to allow an issue to be responded to with signatures and a response from the Council. The current scheme is silent on extensions, and this allows clarity on the maximum period for a petition.

- 1.21 The CWG recommended that the provision of a Council debate on a petition which has over 2643 signatures [1% of the borough population] should be added to the Council Committee procedure rules as set out at Appendix 2.

2. Cabinet Member Introduction

N/A

3. Recommendations

- 3.1 To consider the changes to the Petitions Scheme set out at Appendices 1 to 3 and recommend adoption to Full Council on the 17th of July 2023.

4. Background information

- 4.1 As set out in paragraphs 1.1 to 1.21.

- 4.2 The Haringey Deal outlines that the Council need to work harder to hear the voices that are too often overlooked. Some residents face real barriers to join in council consultations and decision-making activities and to make their voices heard. To promote use of this scheme and participation in council meetings, Democratic services could further attend community network meetings and the Multi Faith Forum to promote the use of this scheme and enable communities to say where they want to see a change in policy. Leaflets in local languages could also be compiled and distributed providing a simplified version of the petitions scheme and how to access this.

5. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities) Finance

- 5.1 There are no financial implications arising from this change in scheme.

Head of Legal and Governance & Monitoring Officer

These are set out within the report.

6. Use of Appendices

Appendix 1 – Haringey Petitions Scheme track changes

Appendix 2 – Haringey Petitions Scheme without track changes

Appendix 3 - Changes to Council Standing Orders.

7. Local Government (Access to Information) Act 1985

7.1 Background documents:

- *Haringey Council's Constitution*

7.2 The background papers are located at George Meehan House, Wood Green, London N22 8JZ.

7.3 To inspect them or to discuss this report further, please contact Ayshe Simsek on 0208 489 2929.

Appendix 1

Haringey Petition Scheme

The council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the council will receive an acknowledgement from the council within 10 working days of receipt. ~~This acknowledgement will set out what we plan to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition. We accept both paper and e-petitions. The requirements of the Councils petition scheme apply to both paper and e-petitions. E-Petitions can either use the Councils system which can be found on the Council's website, or one of the many national websites available, however please check that these meet the requirements of the Councils petition scheme before using them.~~

To raise or sign a petition, you should be an interested party who lives, works or studies in Haringey, including those under the age of 18.

Any individual can sign a petition and may be any age and should provide an address which shows that they live, work or study in Haringey or lives on a Haringey -owned out borough estate or in temporary accommodation provided by the borough. You can only sign a petition once.

The council reserves the right to make any further checks it considers necessary to ensure the validity of the signatures. A random check will be carried out on very large petitions, such as referred to below, to ensure they are valid.

Submission of a petition

~~There are three options~~ available for submission of a ~~petition~~petition.
You can submit a petition to the council ~~for~~ by:

Option 1 - Sending a paper petition to:

Democratic Services
George Meehan House
294 High Road
Wood Green N22 8JZ

~~Or~~ E-mailing an electronic (scanned) copy of the petition to petitions@haringey.gov.uk

Option 2 Presenting your petition to a meeting of the council.*

Option 3 Starting an e petition on the Haringey council website:-

*Dates of Council meetings can be found via the meetings calendar on the Council website. If you would like to present your petition to the council please contact Ayshe Simsek (details below) at least 5 working days before the meeting (e.g. Friday for a meeting on the Monday 10 days later) and the process will be explained to you. Further details of how to present a petition to full Council are outlined later in this scheme.

[With regards to Option 1, p](#)Please submit the original copy of the petition. Please also note that the council reserves the right to validate petition signatures and addresses [for options 1,2, and 3.](#)

[What are the guidelines for submitting a petition which applies to Option 1, Option 2 and Option 3?](#)

Petitions submitted to the council must include:

- A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take
- The name, address and signature of any person supporting the petition.

Petitions should be accompanied by contact details, including the name, address , *email* and phone number of the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser and the other petitioners, other than their name, will not be placed on the website. However, the Council may be obliged to disclose the street where petitioners live, in the event of a Freedom of Information Act request or following a requirement under another statutory requirement. If the petition does not identify a petition organiser, we will attempt to contact one of the signatories to the petition to agree who should act as the petition organiser.

What will the council do when it receives my petition?

Where contact details have been supplied, an acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. *If this is an e-petition* it will also be published on our website.

If we are in a position to carry out the action in your petition then our acknowledgement may confirm the actions we have undertaken and the petition will be closed. If the petition has enough signatures to trigger a council debate, [or a senior officer giving evidence](#), then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

To ensure that people know what we are doing in response to the petitions we receive the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition. All sensitive personal details will be removed from any related correspondence.

Are there any circumstances in which my petition will not be accepted?

Petitions which are considered to be vexatious, abusive, defamatory, offensive frivolous or otherwise inappropriate will not be accepted and no action will be taken.

- In order to avoid contempt of court or prejudice to the Council's position, and duplicating procedures where established processes already exist.
- Petitions which are considered to be vexatious, abusive defamatory, offensive, frivolous or otherwise inappropriate will not be accepted and no action will be taken.
- Any matter that does not engage the council's responsibilities including, matters which relate to the proceedings of a political party, and matters that are the subject of electoral law.
- Petitions which relate to any matter that is, or is likely to be, the subject of legal proceedings. This includes petitions which the Monitoring Officer considers would put the Council at risk of constituting a contempt of court, or any petition which is asking the Council to do anything unlawful.
- Names or clearly identifies an employee of the authority or any matter relating to an individual
- Involves the disclosure of confidential or exempt information as defined under Schedule 12A to the Local Government Act 1972 (as amended by the Local Authorities (Access to information)
- Does not relate to an issue upon which the council has powers or duties or on
- which it has shared delivery responsibilities.

Additionally, raising similar issues as a petition submitted in the last 6 months. This is to allow as many voices in the community to be heard.

~~We also reserve the right to reject petitions where they are substantially the same as a petition which has been submitted to the Council in the past 6 months.~~ We will explain the reasons for this in our acknowledgement of the petition. The Monitoring Officer will make the final ruling on this.

In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply. If a petition does not follow the guidelines set out above, the council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, alternative procedures to this scheme will apply.

How will the council respond to petitions?

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition
- considering the petition at a council meeting
- ~~holding an inquiry into the matter~~
- ~~undertaking research into the matter~~
- ~~holding a public meeting~~
- ~~holding a consultation~~
- ~~holding a meeting with petitioners~~
- referring the petition for consideration by the council's overview and scrutiny committee*
- ~~calling a referendum~~
- ~~writing to the petition organiser setting out our views about the request in the petition~~
- *Responding in writing and setting out the actions to be taken*

*The Overview and Scrutiny Committee is a committee of councillors who are responsible for scrutinising the work of the council – in other words, the overview and scrutiny committee has the power to hold the council's decision makers to account.

In addition to these steps, the council will consider all specific actions it can potentially take on issues highlighted in a petition.

If your petition is about something over which the council has no direct control (for example the local railway station or hospital) we will consider making representations on behalf of the community to the relevant body. The council works with a large number of local partners and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if the petition calls for conflicts with council policy), then we will set out the reasons for this to you.

If your petition is about something that a different council is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other council, but could involve other steps. In any event we will always notify you of the action we have taken.

[Presenting a Petition to a meeting of the ~~Petitions to full Council~~Council Option 2](#)

The ~~Deputy Head of Local Democracy & Member Services~~ Democratic Services and Scrutiny Manager should be notified of any Petitions by 10 a.m. five clear days in advance of the Council meeting e.g. Friday for a meeting on the Monday 10 days later. The petition will be handed to the Mayor [or Chair](#), and recorded as received by the ~~Deputy Head of Local Democracy & Member Services~~ Democratic Services and Scrutiny Manager without any further debate. [If this is presented at a full Council meeting or Cabinet meeting.](#) ~~t~~The relevant Cabinet member should report the Council's response to the petition at the next ordinary

meeting of the Council. [If a petition is presented at a Committee meeting, the Chair should report a response to the petition at the next ordinary meeting.](#) A copy of this response will be sent to the Petitioner.

If a petition contains more than ~~2,200~~ [2643](#) signatures it will trigger a debate by the full Council, unless it is ~~a petition asking for a senior council officer to give evidence at a public meeting.~~ This [applies to options 1, 2 and 3 for submitting a petition and](#) means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the ~~following~~ next *available* meeting. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of 15 minutes. The council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. Where the issue is one on which the ~~council executive are~~ *Cabinet* are required to make the final decision, the council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website, [in the minutes of the meeting.](#)

[Option 3 – Submitting an e – petition](#)

[Our e-petition system allows you to easily collect signatures via the internet, in addition to paper petitions and instead of paper petitions.](#)

[Democratic Services facilitate the e- petition system and will support addition of petition to the council website and adherence to the requirements for submission of petitions as set out above.](#)

[To submit an e-petition you will need to register on the Council’s petition page. Registration is simple requiring a few details in case we need to contact you.](#)

[On the e-petition page, select ‘submit a new petition’ and follow the prompts from there. Your online form will be submitted to the Democratic services and Scrutiny Team.](#)

[You must let us know when you would like your e-Petition to go live on the website.](#)

[All approved e-petitions will be hosted on the council’s website for a maximum of three months.](#)

[Please note that it is possible to have the same petition in paper form and e-petition form at the same time, although signatories should only sign one copy of the petition. The paper version will be checked against the e-petition version and any duplicate names will be removed.](#)

[The Council accepts no liability for the petitions on these web pages. The views expressed in the petitions do not necessarily reflect those of the Council.](#)

The Council will acknowledge receipt of a petition within ten working days. In all cases the relevant Cabinet member and senior officer (at Assistant Director level) will be informed, if the petition relates to a particular part of the Borough, then we will also notify the local ward councillors.

Officer evidence

Your petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

If your petition contains at least 1,100 signatures, the relevant senior officer will give evidence at a public meeting of the council's Overview and Scrutiny Committee. A list of the senior staff that can be called to give evidence can be found on the Council's website. You should be aware that the overview and scrutiny committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition—for instance if the named officer has changed jobs. The committee may also decide to call the relevant councillor to attend the meeting. Committee members will ask the questions at this meeting, but you will be able to suggest questions to the chair of the committee by contacting Trevor Gripps (details below) up to 5 working days before the meeting.

Trevor Gripps
Democratic Services Manager (Scrutiny)
7th Floor, River Park House
225 High Road
Wood Green
N22 8HQ
scrutiny@haringey.gov.uk

Tel. 020 8489 6922

What can I do if I feel my petition has not been dealt with properly?

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request [a review of the steps that the Council has taken in response to your petition.](#)

If your petition was considered and a response given by Officers then please send your concerns to the Council via the Council's Corporate Feedback Team which can be accessed via the Council's website. If you remain dis-satisfied you can submit a complaint to the Local Government and Social Care Ombudsman.

If your petition was considered and debated at either an Overview & Scrutiny meeting, or Full Council, then please request a referral to the Chair of OSC who will consider how best to respond, depending on the nature of the concerns, please email makingyourvoiceheard@haringey.gov.uk

~~that the council's Overview and Scrutiny Committee review the steps that the council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review, if the petition organiser gives a short explanation of the reasons why the council's response is not considered to be adequate.~~

~~The committee will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the council executive and arranging for the matter to be considered at a meeting of the full council.~~

~~Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website.~~

~~There is no further internal right of appeal within the Council.~~

~~Officers who can be called to Scrutiny~~

~~Your petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job.~~

~~If your petition contains at least 1,100 signatures, the relevant senior officer will give evidence at a public meeting of the council's Overview and Scrutiny Committee.~~

~~The posts that can be petitioned to give evidence are:~~

~~Kevin Crompton – Chief Executive~~

~~Stuart Young – Assistant Chief Executive (People and Organisational Development) and interim Assistant Chief Executive (Policy, Performance, Partnerships and Communication)~~

~~Julie Parker – Director of Corporate Resources~~

~~Peter Lewis – Director of Children and Young People's Service~~

~~Mun Thong Phung – Director of Adult, Culture and Community Services~~

~~Niall Bolger – Director of Urban Environment~~

~~If the petition relates to the well being of the borough but is not directly related to the work of a council officer we will, where possible, work with partners to respond.~~

~~Please send your petition to:~~

~~Ian Christie~~

~~Feedback and Information Manager~~

~~7th Floor, River Park House~~

~~225 High Road~~

~~Wood Green~~

~~N22 8HQ~~

[Or email a scanned copy of the petition to petitions@haringey.gov.uk.](mailto:petitions@haringey.gov.uk)

[The details you give us are needed to validate your support and your details will not be published on the website. The Council may contact you in relation to any petitions you have signed, unless you have requested not to be contacted when signing the Petition.](#)

[London Borough of Haringey is the data controller for personal information collected in respect of both the Council's E-petition facility and for paper petitions.](#)

[For our privacy notice please click here or ask for an accessible copy](#)

[Personal details will automatically be removed 4 years after the closing date of the petition. However, should you wish your name to be removed before this time please contact the Democratic services and Scrutiny Team via makingyourvoice heard@haringey.gov.uk](#)

[You have rights in respect of your data including; the right to access; the right to object to our use of your data; the right to have inaccurate personal data erased, blocked or destroyed. For more details please see our privacy notice.](#)

Appendix 1

Haringey Petition Scheme

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Or e-mailing an electronic (scanned) copy of the petition to petitions@haringey.gov.uk

Option 2 Presenting your petition to a meeting of the council.

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With regards to Option 1, please submit the original copy of the petition. Please also note that the council reserves the right to validate petition signatures and addresses for options 1,2, and 3.

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What will the council do when it receives my petition?

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If we are in a position to carry out the action in your petition, then our acknowledgement may confirm the actions we have undertaken, and the petition will be closed. If the petition has enough signatures to trigger a council debate, then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

To ensure that people know what we are doing in response to the petitions we receive the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition. All sensitive personal details will be removed from any related correspondence.

Are there any circumstances in which my petition will not be accepted?

Petitions which are considered to be vexatious, abusive, defamatory, offensive frivolous or otherwise inappropriate will not be accepted and no action will be taken.

- In order to avoid contempt of court or prejudice to the Council's position, and duplicating procedures where established processes already exist,
- Petitions which are considered to be vexatious, abusive defamatory, offensive, frivolous or otherwise inappropriate will not be accepted and no action will be taken.

- Any matter that does not engage the council's responsibilities including, matters which relate to the proceedings of a political party, and matters that are the subject of electoral law.
- Petitions which relate to any matter that is, or is likely to be, the subject of legal proceedings. This includes petitions which the Monitoring Officer considers would put the Council at risk of constituting a contempt of court, or any petition which is asking the Council to do anything unlawful.
- Names or clearly identifies an employee of the authority or any matter relating to an individual.
- Involves the disclosure of confidential or exempt information as defined under Schedule 12A to the Local Government Act 1972 (as amended by the Local Authorities (Access to information))
- Does not relate to an issue upon which the council has powers or duties or on which it has shared delivery responsibilities.

Additionally, raising similar issues as a petition submitted in the last 6 months. This is to allow as many voices in the community to be heard as possible.

We will explain the reasons for this in our acknowledgement of the petition. The Monitoring Officer will make the final ruling on this.

In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case, we will explain the reasons and discuss the revised timescale which will apply. If a petition does not follow the guidelines set out above, the council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, alternative procedures to this scheme will apply.

How will the council respond to petitions?

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition.
- considering the petition at a council meeting
- referring the petition for consideration by the council's overview and scrutiny committee*
- Responding in writing and setting out the actions to be taken

*The Overview and Scrutiny Committee is a committee of councillors who are responsible for scrutinising the work of the council – in other words, the overview and scrutiny committee has the power to hold the council's decision makers to account.

In addition to these steps, the council will consider all specific actions it can potentially take on issues highlighted in a petition.

If your petition is about something over which the council has no direct control (for example the local railway station or hospital) we will consider making representations on behalf of the community to the relevant body. The council works with a large number of local partners and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if the petition calls for conflicts with council policy), then we will set out the reasons for this to you.

If your petition is about something that a different council is responsible for, we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other council but could involve other steps. In any event we will always notify you of the action we have taken.

Presenting a Petition to a meeting of the Council Option 2

Democratic Services and Scrutiny Manager should be notified of any Petitions by 10 a.m. five clear days in advance of the Council meeting e.g., Friday for a meeting on the Monday 10 days later. The petition will be handed to the Mayor or Chair and recorded as received by the Democratic Services and Scrutiny Manager without any further debate. If this is presented at a full Council meeting or Cabinet meeting, the relevant Cabinet member should report the Council's response to the petition at the next ordinary meeting of the Council. If a petition is presented at a committee meeting, the Chair should report a response to the petition at the next ordinary meeting. A copy of this response will be sent to the Petitioner.

If a petition contains more than 2643, it will trigger a debate by the full Council. This applies to options 1, 2 and 3 for submitting a petition and means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible, and consideration will then take place at the next available meeting. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of 15 minutes. The council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. Where the issue is one on which the Cabinet are required to make the final decision, the council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website, in the minutes of the meeting.

Option 3 – Submitting an e – petition.

Our e-petition system allows you to easily collect signatures via the internet, in addition to paper petitions and instead of paper petitions.

Democratic Services facilitate the e- petition system and will support addition of petition to the council website and adherence to the requirements for submission of petitions as set out above.

To submit an e-petition you will need to register on the Council's petition page. Registration is simple requiring a few details in case we need to contact you.

On the e-petition page, select 'submit a new petition' and follow the prompts from there. Your online form will be submitted to the Democratic services and Scrutiny Team.

You must let us know when you would like your e-Petition to go live on the website,

All approved e-petitions will be hosted on the council's website for a maximum of three months.

Please note that it is possible to have the same petition in paper form and e-petition form at the same time, although signatories should only sign one copy of the petition. The paper version will be checked against the e-petition version and any duplicate names will be removed.

The Council accepts no liability for the petitions on these web pages. The views expressed in the petitions do not necessarily reflect those of the Council.

The Council will acknowledge receipt of a petition within ten working days. In all cases the relevant Cabinet member and senior officer (at Assistant Director level) will be informed, if the petition relates to a particular part of the Borough, then we will also notify the local ward councillors.

What can I do if I feel my petition has not been dealt with properly?

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request a review of the steps that the Council has taken in response to your petition.

If your petition was considered and a response given by Officers, then please send your concerns to the Council via the Council's Corporate Feedback Team which can be accessed via the Council's website. If you remain dis-satisfied you can submit a complaint to the Local Government and Social Care Ombudsman.

If your petition was considered and debated at either an Overview & Scrutiny meeting, or Full Council, then please request a referral to the Chair of OSC who will consider how best to respond, depending on the nature of the concerns, please email makingyourvoiceheard@haringey.gov.uk.

The details you give us are needed to validate your support and your details will not be published on the website. The Council may contact you in relation to any petitions you have signed, unless you have requested not to be contacted when signing the Petition.

London Borough of Haringey is the data controller for personal information collected in respect of both the Council's E-petition facility and for paper petitions.

For our privacy notice please [click here](#) or ask for an accessible copy

Personal details will automatically be removed 4 years after the closing date of the petition. However, should you wish your name to be removed before this time please contact the Democratic services and Scrutiny Team via makingyourvoiceheard@haringey.gov.uk.

You have rights in respect of your data including the right to access; the right to object to our use of your data; the right to have inaccurate personal data erased, blocked or destroyed. For more details, please see our privacy notice.

Part Four, Section A

Council Procedure Rules

12. PETITIONS

12.1 The Democratic Services Manager should be notified of any Petitions by 10 a.m. five clear days in advance of the Council meeting. The petition will be handed to the Mayor, and recorded as received by the Democratic Services Manager without any further debate. The relevant Cabinet member should report the Council's response to the petition at the next ordinary meeting of the Council.

12.1.1 Where a petition submitted to the Council, under the Petitions Scheme, contains more than 2643 signatures it will trigger a debate by the full Council. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the next available meeting. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of 15 minutes. The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant Committee. Where the issue is one on which the Cabinet are required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website, in the minutes of the meeting.

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Report for: Standards Committee 27th June 2023

Title: Committee Work Programme

Report authorised by: Fiona Alderman, Head of Legal and Governance (Monitoring Officer)

Lead Officer: Ayshe Simsek, Democratic Services and Scrutiny Manager
ayshe.simsek@haringey.gov.uk, 020 8489 2929

Ward(s) affected: N/A

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

1. Describe the issue under consideration

- 1.1 Members to note current work programme and put forward any comments on suggested areas of work.

31st of October 2023

1. Recruitment of Independent persons - proposals
2. Recent developments in the ethical standards of elected members that might be of interest to members of the Standards Committee in its role of promoting and maintaining high standard of conduct.
3. Members Allowance Scheme 2024/25
4. Response to remainder governance related recommendations arising from the independent review of the Council's arrangements for property negotiations, acquisitions, and disposals or intended transactions
5. Required Constitutional Changes arising from consideration by the CWG.

30th of January 2024

Members Allowance Scheme 2024/25
Recruitment of Independent Persons

5th of March 2024

Members Allowance Scheme 2024/25
Recruitment of Independent Persons

