

## NOTICE OF MEETING

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# General Purposes Committee

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MONDAY, 19TH DECEMBER, 2005 at 19:00 HRS - CIVIC CENTRE, HIGH ROAD,  
WOOD GREEN, N22 8LE.

MEMBERS: Councillors Aitken, Bloch, Jean Brown, Bull, Davidson, Haley, Patel  
(Deputy Chair) and Rice (Chair)

Community Representatives

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## AGENDA

### 1. APOLOGIES FOR ABSENCE (IF ANY)

### 2. 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 at item 12 below).

### 3. DECLARATIONS OF INTEREST

A member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

A member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest.

### 4. DEPUTATIONS/PETITIONS

To receive any deputations and petitions in accordance with Standing Order 37

**5. MINUTES (PAGES 1 - 6)**

To confirm and sign the minutes of the meeting of the General Purposes Committee held on 24 October 2005.

**6. MINUTES OF GENERAL PURPOSES SUB BODIES (PAGES 7 - 62)**

- i. Planning Applications Sub Committee – 4/10; 10/10; 31/10
- ii. Miscellaneous Functions Sub Committee – 2/8
- iii. Council and Employee Joint Consultative Committee – 17/10
- iv. Pensions Panel – 10/10; 21/11

**7. SCRUTINY AND CALL IN PROCEDURE (PAGES 63 - 106)**

To consider amendments to the procedures for Scrutiny Reviews and Call-In and to make recommendations on these to Full Council.

**8. SCHEME OF DELEGATION RELATING TO PLANNING ENFORCEMENT (PAGES 107 - 118)**

To consider amendments to the scheme of delegation to officers relating to Planning Enforcement and Prosecution Powers

**9. EQUAL PAY AND CONDITIONS REVIEW AUDIT (PAGES 119 - 122)**

**10. RECRUITMENT PANELS FOR THE DIRECTOR OF FINANCE (ALMO) AND DIRECTOR OF BUSINESS SERVICES (ALMO) (PAGES 123 - 124)**

**11. CODE OF CONDUCT REVIEW (PAGES 125 - 144)**

To propose revisions to the Code of Conduct and introduce standard systems for registering staff interests and for making declarations of hospitality in line with Audit Commission recommendations on financial aspects of corporate governance

**12. AMENDMENT AND ADOPTION OF THE LOCAL LICENSING PROCEDURE RULES (PAGES 145 - 200)**

To seek Members' views on the operation of the Local Licensing Procedure Rules and to recommend certain amendments prior to the adoption of these Rules as part of the Council's Constitution.

**13. LICENSING DECISIONS AND THE RELATIONSHIP TO TOWN PLANNING CONTROLS (PAGES 201 - 214)**

To report to members of the Committee on Counsel's Opinion about the relationship between Decisions under the Licensing Act 2003 and Town Planning Controls.

**14. ADULT SERVICES (PAGES 215 - 224)**

To seek approval for a range of measures to improve Physical Disabilities/Sensory Impairments, HIV/AIDS and Learning Disabilities performance

**15. NEW ITEMS OF URGENT BUSINESS**

To consider any items admitted at item 2 above

**16. EXCLUSION OF THE PRESS AND PUBLIC**

The following item(s) is likely to be the subject of a motion to exclude the press and public from the meeting as it contains "exempt" information as defined in Section 100A of the Local Government Act 1972, namely information relating to a particular employee.

**17. MINUTES OF DISMISSAL HEARINGS**

Yuniea Semambo  
Head of Member Services  
5<sup>th</sup> Floor  
River Park House  
225 High Road  
Wood Green  
London N22 8HQ

Julie Harris  
Principal Support Officer (Council)  
Tel No: 020 8489 2957  
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Email: Julie.harris@haringey.gov.uk

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Councillors: \*Rice (Chair), J. Brown (Deputy Chair), Bull, \*Davidson, \*Bloch, Aitken, Haley and Patel

\*Members present

**GP32 APOLOGIES FOR ABSENCE:** (Agenda Item 1)

Apologies for absence were received from Councillors Aitken, Patel, Bull, Brown and Haley.

**GP33 MINUTES:** (Agenda Item 4)

**RESOLVED**

That the minutes of the meeting held on 20 Sept 2005 be confirmed and signed as a correct record.

**GP34 MINUTES OF GENERAL PURPOSES SUB BODIES:** (Agenda Item 5)

**RESOLVED**

That the minutes of the under-mentioned meetings be noted:

- Planning Applications Sub Committee – 30.8.2005 and 12.9.2005
- Licensing Sub Group A – 6.9.2005, 21.9.2005, 22.9.2005
- Licensing Sub Group B – 13.9.2005
- Pensions Panels (tabled) – 16.9.2005, 27.6.2005

**GP35 SUMMARY OF ACCOUNTS** (Agenda Item 6)

The Director of Finance's representative introduced this item which sought members' agreement to the process undertaken in producing the summary accounts for 2004/5 and any comments on the layout and distribution of the accounts. It was noted that the accounts would be available on the web in both summary and complete format.

**RESOLVED**

1. That the summarised accounts for 2004/5 be approved
2. That the distribution channels for the summary accounts as set out in paragraph 6.8 of the report be approved.

**GP36 FINAL ACCOUNTS** (Agenda Item 7)

The Audit Commission's Regional Audit Manager presented the statutory report, which covered certain matters relating to the final accounts before a final opinion of the Council's financial statements for 2004/05 could be given.

Members noted that the status of the Audit as set out in paragraph 3. The position regarding the qualification of accounts for Alexandra Palace was explained and members were advised that this would be removed for 2005/6.

Members asked for further clarity on pooled budget schemes and PFIs and the Director of Finance's representative provided an explanation of how they were presented in the accounts.

The Audit Commission's representative advised members that the Close of Audit Certificate has not been awarded as there was an outstanding query from a member of the public regarding Coroners Courts received today. The individual had been asked to put this in writing and once it had been satisfied the Certificate would be presented.

Members particularly noted paragraph 6.5 of the report in which the number of qualified items (i.e. 4 in 2003/4) had dropped to just one in 2004/5 (regarding Alexandra Palace). The Chair and members of General Purposes Committee paid tribute to the work of the Finance Directorate in this regard.

**RESOLVED**

That the contents of this report and the action proposed arising from the statutory report of the Audit Commission be noted.

**GP37 AMENDMENTS TO COUNCIL STANDING ORDERS** (Agenda Item 8)

The Head of Legal Services' representative presented this item and members agreed to receive a further tabled amendment to the rules on Deputations and Petitions. Members were happy with the tabled addition of the text relating to the relevant terms of reference on referrals and no repetitious Deputation/Petition within 6 months.

Members were advised that these amendments had been proposed to avoid inconvenience to residents; should they arrive at a meeting only to be advised that their deputation would not be heard. Members noted that changes to the Constitution were shown in italics and underlined. However, this had not been shown on the item relating to children and young people but would be amended before the report was submitted to full Council. There is a section on the Web site under 'Council and Democracy'; 'Making your Voice Heard' which sets out the procedure for asking questions and making deputations. **Members required that any refusal by the Mayor or Chair of a Committee to receive a Deputation or Petition should be reported to the Council or Committee for noting.**

**RESOLVED**

That full Council be recommended to adopt the amendments to Council Standing Orders, in Part E8 of the Constitution, as set out in the appendices to this report with the addition of text to paragraph 11.3 in Appendix A to the effect that if the Mayor/Chair rejects a Deputation/Petition in advance of a meeting then that decision is reported to the next Council/Committee meeting for **noting**.

**GP38 AMENDING PART 1 OF THE CONSTITUTION ON SCRUTINY REVIEWS AND CALL IN PROCEDURES** (Agenda Item 9)

The Legal Services' representative introduced this item which asked Members to consider amendment to the procedures for Scrutiny Reviews and Call-In, as requested by the Overview and Scrutiny Committee, and to make recommendations on these to full Council. Members noted that Overview and Scrutiny Committee had already agreed all the proposed changes on 29 September 2005 (i.e. leaving The Executive rather than full Council as the final decision-maker on Scrutiny Review recommendations). The Chair of General Purposes Committee had previously asked for the relatively minor changes to the Call-In procedure to go to the Political Groups before returning to General Purposes Committee. These too had been agreed by Overview and Scrutiny Committee on 29 September 2005.

**RESOLVED**

Members of General Purposes Committee were unhappy that there was no express provision in the proposals for full Council to make the final decision in the event of a dispute between the Executive and Overview and Scrutiny Committee on Scrutiny Review recommendations. They were concerned that the proposals could reduce the accountability of the Executive and reduce back benchers' power. They requested that this be added at the relevant place in Part 1.2 and asked that the report go back to the next Overview and Scrutiny Committee (21/11) and to Political Groups for wider discussion before it returns to the December General Purposes Committee (19/12).

**GP39 AMENDMENTS TO THE CONSTITUTION ON DELEGATED POWERS AND URGENCY** (Agenda Item 10)

The Head of Legal Services' representative introduced this item which asked members to consider amendments to the rules to exercise delegated powers in relation to obtaining the prior consent of Executive members in certain cases, **reporting monthly all delegated decisions already taken and reporting quarterly all urgent decisions to full Council as required by Regulations**. Members were advised that they retained the right to hold senior officers to account when they felt a poor decision had been taken.

**RESOLVED**

That full Council be recommended to adopt the amendments to the Scheme of Delegation to officers, Part F7 of the Constitution, as set out in the appendix to this report with an addition to paragraph 3.05 that any particularly significant delegated decisions be reported to full Council.

**GP40 STAFFING STRUCTURE AT 100 WHITEHALL STREET AND PAY AND CONDITIONS FOR FORMER CSS STAFF IN LEARNING DISABILITIES HOMES** (Agenda Item 11)

The Director of Social Services' representative introduced this item which set out proposals for an interim pay structure for staff in Learning Disabilities Services formally employed by CSS. It also proposed to establish a new staff structure at 100 Whitehall Street following redevelopment. Members noted that as 100 Whitehall Street would be working with service users who have higher needs than those formally resident, a new staffing structure was required. The report also recommended a more consistent and fair approach for the pay and conditions of former CSS staff following transfer to the local authority. Members were asked to note an error in paragraph 11 of the report in that the year should read 2005/6 and not 2006/7.

**RESOLVED**

1. That the new staffing structure for 100 Whitehall Street as set out in appendix 1 to the report be agreed
2. That the pay structure as outlined in Appendix 1 be agreed
3. That the detached interim pay arrangements for individual staff as set out in part 2 (the excluded part of the agenda) be agreed.



**GP41 EXCLUSION OF THE PUBLIC AND PRESS** (Agenda Item 13)

The following item is likely to be the subject of a motion to exclude the press and public from the meeting as it contains 'exempt' information as defined in section 100a of the Local Government Act 1972, namely information relating to a particular employee.

**SUMMARY OF EXEMPT/CONFIDENTIAL PROCEEDINGS**

**GP42 MINUTES OF MEMBER APPEAL PANELS** (Agenda Item 14)

**RESOLVED**

That the minutes of the member appeal panels of 19 May, 6 June, 16 June, 27 June, 29 June, 19 July, 12 September, 10 October be noted.

**GP43 STAFFING STRUCTURE AT 100 WHITEHALL STREET AND PAY AND CONDITIONS FOR FORMER CSS STAFF IN LEARNING DISABILITIES HOMES** (Agenda Item 15)

**RESOLVED**

That the proposed interim pay arrangements as outlined in appendix 1 of this report be noted.

Cllr Reg Rice  
Chair of General Purposes Committee

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## MINUTES OF SPECIAL PLANNING APPLICATIONS SUB COMMITTEE – 4 October 2005

### Councillors:

\*Davidson (Chair), Bevan (Vice Chair), \*Adamou, Basu, Dodds, \*Peacock, Rice,  
\*Santry, \*Engert, \*Hare, \*Newton

\*Members present

### PAS39 APOLOGIES (Agenda item 1)

Apologies were received from Cllr Dodds, Bevan, Basu and Rice.  
Cllr H Brown substituted for Cllr Bevan

### PAS40 DECLARATIONS OF INTEREST (Agenda item 3)

None

### PAS41 PLANNING APPLICATIONS (Agenda Item 6)

This special meeting of the Planning Applications Sub Committee had been convened to consider an application for the Middlesex University Site which comprised 3 aspects:

- i) New sixth form centre comprising a 2/4 storey building with central atrium to provide performing arts, catering, sport, media, music and ICT facilities with 98 car park spaces, new access and 2.4m high perimeter fencing (Full Planning Application);
- ii) New 3 /4 storey residential buildings to provide 42 x 1 bed, 67 x 2 bed, 13 x 3 bed and 1 x 4 bed units (all affordable) with 68 car parking spaces and new access (Full Planning Application);
- iii) New 70 bed care home for elderly, associated parking & access from College Road (Outline Application)

**Existing Use:** University Campus (Use Ceased)

**Proposed Use:** Sixth Form Centre, Residential Units (123 Units),  
Care Home (70 Bed)

The Assistant Director, Planning, Environmental Policy and Performance presented this item and explained to members the tabled reports before them :

- A draft letter from the applicant, addressing the concerns raised by the Mayors' office. Members were advised that this letter would be sent to the GLA if they decided to approve the application this evening. Members were advised that this application was subject to GLA referral due to the scale of the development and that the Mayor of London was at liberty to direct a refusal within 14 days of the decision taken by this committee.
- A technical note covering transport issues commissioned by RPS Transport.
- A report by Energy for Sustainable Development.

Members were advised that 3 letters of objection had been received but no objectors were present at the meeting. However, some objections had been raised at a recent DC forum. These were set out as an appendix to the report.

The GLA had agreed in principle to the proposal and the issues they had raised; ie. design, mix, TfL Travel Plan, impact on existing services, local employment and energy efficiency; were covered in the report via conditions and 106 agreement. The Heads of Terms of the 106 Agreement had been drafted to accommodate affordable housing, use of the local labour force, the council to retain first right of refusals for bed spaces in the care home, use of the site as a local facility, an environmental infrastructure contribution of £330k and a cost recovery contribution of £20k.

### **Sixth Form College and Residential Development**

The applicant advised members that they had commissioned a thermal model to test for the most appropriate, energy efficient/renewable energy installations for the development. Members were advised that the Sustainable Energy Report was still in draft and they would seek to reduce the ESD efficiency rating. It was noted that the advisors to the Mayors' office were working with the developers on these issues.

Members raised some general concerns about cycle storage, pitched roofs, use of the Sixth Form College as a community facility, disabled parking, community amenity space in the residential development, housing mix, use of recyclable materials, landscaping, trees and boundary treatment and accessibility to local transport. The applicant and officers confirmed that these concerns were covered by existing conditions.

The applicants advised that they had set up an Advisory Panel consisting of young people in year 9/10 to actively involve them in the design process for the Sixth Form College Building. They had also obtained a 'Secure by Design' certification after working closely with the local police.

### **Care Home**

It was noted that this application was only in outline permission at present but members had a set of desirable criteria which they asked to be set out in these minutes and be incorporated into the design process:

- En-suites in every room
- A roof conservatory area to supply warmth and visual amenity
- Sufficient space, landscaped with sensory gardens and walkways in pleasant surroundings to accommodate the needs of Alzheimers' patients
- Balconies with views over the sports areas
- Car parking to be at basement level to free up ground level surface area
- 'Clustering' by floor; with communal areas on each
- Could 70 units be reduced to 60? Members felt that 70 units could only be justified by exceptionally high design standards

The applicant confirmed that they would commission a specialist report on geriatric care to ensure that best practice in the design process was complied with and they had also consulted the Council's Assistant Director for the Old People's Service.

### **RESOLVED**

That all three aspects of this application be agreed by a unanimous vote of the Planning Applications Sub committee subject to:

- Existing conditions
- 106 Agreement as set out earlier in these minutes
- A condition to be attached requiring a methodology statement. "That a detailed methodology statement concerning the organisation and control of the construction process to be carried out, including details of the reuse of materials resulting from the demolition of the existing buildings and associated construction works, including excavation, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Reason: In order to ensure the efficient use and reuse of materials and minimise waste and traffic movements".
- An informative on biodiversity and sustainability  
"Members requested that all opportunities to preserve and encourage on site biodiversity and sustainability such as incorporating into the scheme bat

boxes, green roofs, brown roofs etc should be considered as part of the process of implementing the development”.

- That members’ comments on the design of the care home (in outline permission) be incorporated into the design process
- That members be kept regularly updated on the issues raised tonight; particularly with regard to trees, landscaping, materials, renewable energy and biodiversity and that details of materials be brought back to future PASC meetings

The Chair and members commented on the high design quality of both the Sixth Form Centre and residential development and the applicant’s attention to detail in the planning of the scheme.

The meeting closed at 9pm

Cllr T Davidson  
Chair

## **MINUTES OF PLANNING APPLICATIONS SUB COMMITTEE 10 October 2005**

### **Councillors:**

\*Davidson (Chair), \*Bevan (Vice Chair), \*Adamou, \*Basu, Dodds, \*Peacock, \*Rice, \*Santry, \*Engert, \*Hare, \*Newton

\*Members present

### **PASC47 APOLOGIES (if any)**

Apologies were received from Cllr Dodds.

### **PASC48 URGENT BUSINESS (Agenda Item 1)**

Members were advised that the application for 93 St Anns Road N15 6NU had been submitted under urgency provision as the application had to be determined in a shorter timeframe than the specified 13 weeks target for Planning Applications. Funding for the scheme would be lost if the application was not determined by 10 October 2005.

### **PASC49 DECLARATIONS OF INTEREST (Agenda Item 3)**

None

### **PASC50 DEPUTATIONS/PETITIONS (Agenda Item 5)**

Two deputations had been received from the N8 Residents Group and Mr Mario Petrou in respect of the application for Ferme Park Depot, Cranford Way N8 9DG (items 7 and 7a on this agenda). Three petitions had also been received in respect of the application for Ferme Park Depot; from Cllr Sulaiman on behalf of the residents of Harringay Ward; from Mr Mario Petrou on behalf of the residents of Harringay Ward and from the Haringey Traders' Association.

### **PASC51 MINUTES (Agenda Item 6)**

Cllr Bevan asked for clarity on 3 issues with regard to Somerset Halls (minutes of PASC 30 August 2005); ie. that letting would be to tenants in employment only; that the provision of a children's play facility was agreed by the applicants and that the whole complex would be covered by one management agreement. It was confirmed that these Conditions had been applied to this application and the minutes of 30 August 2005 reflected this.

**RESOLVED**

That the minutes of the Planning Applications Sub Committees on 30 August 2005 and 12 September 2005 be confirmed.

**PASC52 PERFORMANCE STATISTICS ON DEVELOPMENT CONTROL, BUILDING CONTROL AND PLANNING ENFORCEMENT** (Agenda Item 7)

Noted and on target; the Chair commented that enforcement action had increased since the last meeting of the Planning Applications Sub Committee.

**PASC53 APPEAL DECISIONS DETERMINED DURING AUGUST AND SEPTEMBER 2005** (Agenda Item 8)

Noted with particular reference to the successful cases at Coleridge Road and Grand Parade.

**PASC54 DECISIONS UNDERTAKEN UNDER DELEGATED POWERS between 29 August and 25 September 2005** (Agenda Item 9)

Reports noted with a members' request to follow up a case in Muswell Hill ward.

**PASC55 PLANNING APPLICATIONS** (Agenda Item 10)

**RESOLVED**

That the decisions of the Sub Committee on the planning applications and related matters, as set out in the schedule attached to these minutes, be approved or refused, with the following points noted:

**1. David Court, Lansdowne Road N17**

This application had been the subject of 2 site visits and previously been before the PASC but members commented that the concerns which they had raised at the meeting on 30 August (and set out in the minutes of this meeting) had not been addressed. The applicants had not been present neither at the previous meeting nor this one. Members decided to refuse the application on the grounds of overdevelopment and lack of amenity. Cllr Hare commented that, in his opinion, the application presented an opportunity for a beneficial change in the amenity of the site and he did not consider it overbearing.



**2. Osborne Grove Old People's Home, Osborne Road N4**

Members were presented with the amended plan for this application with regard to the South East wing; which improved the area surrounding the protected Silver Maple tree and the Day Centre Boundary. The traffic officer confirmed that cycle parking provision was in accordance with Statutory Planning Guidance and members asked if the cycle and car parking areas could be permeable. The applicant advised that an ongoing problem with illegal parking and dumping of vehicles would be addressed by installing a barrier.

Members agreed the application with an extra condition asking that details of proposed materials be submitted and that the standard condition for recycling be included.

**3. Oakdale Arms, 283 Hermitage Road N4 1NP**

Deferred to a members' site visit

**4. Tetherdown Primary School, Grand Avenue N10 3BP**

A representative from the School Governing Body addressed the committee and stated that although they generally supported the application they had three concerns about removal of the existing building, hard landscaping and road safety of the pupils.

Officers advised members that a travel plan was included in Condition 7 and that Condition 6 covered phasing with regard to the removal of the existing building and hard landscaping. The issue of safe routes to school was also the subject of Transport for London funding and would apply to all schools. Members favoured the use of permeable surfaces where possible and noted that the use of sustainable energy would be the subject of the Architect's 'Green Submission'

Members agreed the application subject to existing conditions and an extra condition to remove the existing classroom buildings in the front playground within 3 months of occupation and an informative about traffic calming methods i.e. an extra pedestrian crossing and 20mph restriction.

**5. Tetherdown Primary School, Conservation Area Consent**

Agreed for the demolition of the existing classroom buildings in the front playground, and the existing school hall.

**6. Tottenham Hale Retail Park, Broad Lane 15**

Members had general concerns about the traffic problems in this area; in particular the ingress/egress from Broad Lane and the fact that the entrance is actually on a bus lane. The traffic officer confirmed that the applicant had worked with them to analyse the existing situation and was prepared to create an additional exit point onto Broad lane, incorporating other traffic calming measures where appropriate.

The Ward Councillor spoke and confirmed that he had met with the developers with regard to the traffic issues and they had confirmed that they would seek to work with Transport for London to address them. Councillor Lorna Reith asked for it to be recorded that she had also spoken with the developers and supported the proposals.

The applicant spoke in support of his design choice for the development and confirmed that he had worked extensively with officers on the choice of material. Members also noted that the green area would be maintained via a Section 106 agreement. He finally confirmed to members that adequate secure cycle and motor cycle spaces would be provided.

Members agreed the application, subject to amendment to conditions 9,10 and 11 (to include units A & B) and condition (12) with regard to further Mezzanine floors being subject to a further planning applications and an extra condition (13) that the building will not be occupied until the Section 278 agreement is satisfied; and an informative about the bus lane and associated traffic issues for entrance and exit to the site.

**7. Ferme Park Depot, Cranford Way N8 9DG (2 reports)**

This Assistant Director, Planning, Environmental Policy and Performance introduced this item and explained why two reports were before the committee. The first report had been a 'live application' until an appeal against non-determination had been very recently lodged (start-date 4 October), and the second was the subject of a non-determination for which an appeal was pending. The only difference between the schemes was that in the more recent scheme (subject of first report), aesthetic cladding to the hoppers and batching plant had been added.

The Assistant Director reported additional letters of objection from local residents received since the date of drafting the Officer's Report, 86 in all, of which 53 were identical letters from parents of pupils in St. Mary's School, Church Lane.

The Assistant Director also explained that, in the Officer's Report in the Section on Site Noise Emission on page 137, the Report had not included the Applicant's latest Noise Survey or Noise Level Predictions. Due to amendments to the scheme (including acoustic baffle wall and more enclosure of the plant and conveyors), the Applicant's noise Consultants are predicting that the noise level of the Plant will be 41 dB (Laeq 12 hour measures), not 52 dB, which was the figure for the earlier, non-amended, scheme. The applicants agents second set of Noise survey figures from the rear of Chettle Court were 42dB.

However the Noise Consultants commissioned by the Council did not agree with either the methodology used by the applicants consultants, nor their claimed screening attenuation. This had been subject to a World Health Organisation standard and not the BS4142 standard recommended by independent Noise consultants commissioned by the Council. The officer's report set out concerns with regard to the applicant's methodology in measuring noise disturbance.

Members noted the petitions and depositions as set out under item 5 of this agenda in respect of this item. The application had also been the subject of 2 DC Forums; the minutes of which were attached as an appendix to the reports.

There were further concerns about lorry movements which had been raised in the objections. The findings of independent dust consultants showed no strong evidence that this would raise levels of air pollution (p140/141 of the report) but members were asked to be mindful that the number of lorry movements and deliveries, which they may consider satisfactory tonight, may be the subject of a future application to increase the level. There were further concerns from objectors about potential traffic re-routeing through the nearby residential areas. Members were asked to note that, on delivery, the cement would be pumped into an enclosed location.

Page 144 of the report also set out concerns about local employment issues in that proprietors on the industrial estate may have difficulties letting out their units and existing tenants may decide to relocate.

With regard to the safety of bats nesting (a protected species) no evidence had been found to support that they were in danger; although existing floodlights from the Railway siding may discourage them from nesting.

As this application was subject to an appeal, members resolved that it would have been refused for 3 reasons: Proposal is contrary to UDP

policies in respect of amenity - DES 1.9, Pollution - RIM 3.2 and Employment – EMP 3.1 and 3.5. For the current 'live' application members resolved to refuse it for the same reasons as set out above.

**8. 93 St Anns Road N15 6NU**

Members generally supported the application but Cllr Bevan asked for it to be recorded that he lacked confidence in current waste operations. The education officers present confirmed that they had consulted with the Environment Department and recycling was covered by a standard condition (5). A waste management representative would attend a future call over meeting to brief members.

The education officers confirmed that they had consulted with the 'Friends of Paignton Park' in November last year and February of this year and they had raised no objections to this development.

Members requested a sympathetic fencing design and Education Offices confirmed that they had liaised with the local Crime Prevention Officer with regard to boundary treatment. Members noted that the development included improvements to the entrance to the park and, although space was limited, they would endeavour to provide adequate cycle racks next to the edge of the parks. Offices confirmed these these issues were covered by informatives. Members also asked for an informative on the use of ecological roofing.

Members agreed the application subject to the wording of Condition 13 being replaced with "Loading and unloading activities associated with this development shall be done within the existing delivery area off Eastbourne Road, in accordance with the approved Plan No 661/P007". (Reason: In order to ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway). Also, that the description of the development be amended to exclude the "provision of temporary play facilities housed in portakabin, during construction" as this will be dealt with as a separate application. Finally,

Members commented on the late submission of this item (under urgency provisions) and asked that future applications be submitted and despatched within the prescribed deadlines.

**PASC56 LISTING OF ELIZABETH HOUSE, WINCHESTER PLACE N6**

**RESOLVED**

That members note confirmation of the listing of Elizabeth House, Winchester Place N6. Members noted that this had been the subject of a withdrawal by an applicant at a previous PASC when the listing status of Elizabeth House had been challenged.

**PASC57 SITE VISITS**

Oakdale Arms, 283 Hermitage Road N4 1NP – details to be confirmed by the Clerk to the Committee.

**PASC58 DATE OF NEXT MEETING**

31 October 2005 – 7pm

The meeting closed at 9.55pm

Cllr T Davidson  
Chair

INFORMATION RELATING TO APPLICATION REF: HGY/2005/1181  
FOR PLANNING APPLICATIONS SUB COMMITTEE DATED 10/10/2005

Location: Tetherdown Primary School, Grand Avenue N10 3BP

Proposal Conservation area consent for the construction of a new part 3/part 4 storey extension comprising 10 classrooms, hall and ancillary storage and staff room and refurbishment of existing school; new play area and landscaping.

Recommendation GTD

Decision GTD

Drawing No.s S 5116-D0045; 46; 47; 50; 99; 100; 101; 151; 152; 153; 154; 155; 156; 201; 202; 251; 252; 253

Conditions and/or Reasons

1. The development hereby authorised must be begun not later than the expiration of 5 years from the date of this permission, failing which the permission shall be of no effect.  
Reason: This condition is imposed by virtue of Section 91 of the Town & Country Planning Act 1990 and to prevent the accumulation of unimplemented planning permissions.

REASONS FOR APPROVAL

The demolition of these buildings, which are not of intrinsic merit, would enhance the character of the Conservation Area, and be in accord with Policy DES 2.4 of the Adopted Unitary Development Plan.

No

INFORMATION RELATING TO APPLICATION REF: HGY/2005/1179  
FOR PLANNING APPLICATIONS SUB COMMITTEE DATED 10/10/2005

Location: Tetherdown Primary School, Grand Avenue N10 3BP

Proposal Construction of a new part 3/part 4 storey extension comprising 10 classrooms, hall and ancillary storage and staff room and refurbishment of existing school; new play area and landscaping.

Recommendation GTD

Decision GTD

Drawing No.s S 5116-D0045; 46; 47; 50; 99; 100; 101; 151; 152; 153; 154; 155; 156; 201; 202; 251; 252; 253

Conditions and/or Reasons

1. The development hereby authorised must be begun not later than the expiration of 5 years from the date of this permission, failing which the permission shall be of no effect.  
Reason: This condition is imposed by virtue of Section 91 of the Town & Country Planning Act 1990 and to prevent the accumulation of unimplemented planning permissions.
2. Samples of all materials to be used for the external surfaces of the development shall be submitted to, and approved in writing by, the Local Planning Authority before any development is commenced. Samples should include sample panels or brick types and a roofing material sample combined with a schedule of the exact product references.  
Reason: In order for the Local Planning Authority to retain control over the exact materials to be used for the proposed development and to assess the suitability of the samples submitted in the interests of visual amenity.
3. Notwithstanding the details of landscaping referred to in the application, a scheme for the landscaping and treatment of the surroundings of the proposed development to include detailed drawings of:
  - a. those existing trees to be retained.
  - b. those existing trees to be removed.
  - c. Those new trees and shrubs to be planted together with a schedule of species shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of the development. Such an approved scheme of planting, seeding or turfing comprised in the approved details of landscaping shall be carried out and implemented in strict accordance with the approved details in the first planting and seeding season following the occupation of the building or the completion of development (whichever is sooner). Any trees or plants proposed, which, within a period of five years from the completion of the development die, are removed, become damaged or diseased shall be replaced in the next planting season with a similar size and species. The landscaping scheme, once implemented, is to be maintained and retained thereafter to the satisfaction of the Local Planning Authority.  
Reason: In order for the Local Authority to assess the acceptability of any landscaping scheme in relation to the site itself, thereby ensuring a satisfactory setting for the proposed development in the interests of the visual amenity of the area.
4. Before any works herein permitted are commenced, all those trees to be retained, as indicated on the approved drawings, shall be protected by secure, stout, exclusion fencing erected at a minimum distance equivalent to the branch spread of the trees and in accordance with BS 5837:1980 and to a suitable height. Any works connected with the approved scheme within the branch spread of the trees shall be by hand only. No storage of materials, supplies or plant machinery shall be stored, parked, or allowed access beneath the branch spread of the trees or within the exclusion fencing.  
Reason: In order to ensure the safety and well being of the trees on the site during constructional works that are to remain after building works are completed.

5. The construction works of the development hereby granted shall not be carried out before 0800 or after 1800 hours Monday to Friday or before 0800 or after 1200 hours on Saturday and not at all on Sundays or Bank Holidays.  
Reason: In order to ensure that the proposal does not prejudice the enjoyment of neighbouring occupiers of their properties.
6. Details of access and routing of contractor's vehicles involved in the construction of this development, including details of phasing of development and provision of compounds for site operations, shall be submitted to and approved by the Local Planning Authority prior to the commencement of development.  
Reason: In order not to detract from the amenity of nearby residents, and in order not to prejudice the free flow of vehicles on surrounding roads.
7. The School Travel Plan accompanying this application shall be implemented within two months of the occupation of any of the classrooms contained in the new build element of the development hereby approved.  
Reason: In order to reduce the number of car trips made by staff or parents of pupils to and from the site, and to encourage the use of alternative modes of travel including pedestrian or cycling.
8. Details of fencing to all boundaries to the site shall be submitted to and approved by the Local Planning Authority prior to the commencement of development.  
Reason: In order to provide a satisfactory setting for the development.
9. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme for investigation which has been submitted by the applicant and approved by the Local Planning Authority. The archaeological works shall be carried out by a suitably qualified investigating body acceptable to English Heritage.  
Reason: In order that interested bodies including English Heritage may have the opportunity to explore whether any features of archaeological interest exist on the site.
10. The use of the facilities within the new building hereby permitted, for functions or activities which are not ancillary to the use of the premises by Tetherdown Primary School, shall not take place on more than 8 occasions in any one calendar year, and on those occasions the use shall not extend beyond 22.30 hours; unless prior written approval of any additional use is sought and obtained from the Local Planning Authority.  
Reason: In order not to detract from the amenity enjoyed by local residents, and in order not to attract excessive traffic to the site in the evenings and at weekends, given that there is no on-site parking provision and that such additional traffic would lead to pressure on on-street parking places.
11. The two existing single storey classroom units in the school playground facing Grand Avenue, shall be dismantled and removed from the site within 3 months of the completion of the extensions hereby permitted.  
Reason: In order to prevent over-intensive use of the site as a whole, and in order to secure the proper implementation of the scheme including the provision of external playspaces.



REASONS FOR APPROVAL

The proposed extension will help in the provision of additional capacity at the Primary School which is currently over-subscribed. Whilst there are concerns about additional traffic being generated as a result of this development, and the inability of existing roads to cope with more on-street parking, it has to be recognised that the school has a low percentage of pupils being brought to school by car; the enlargement of the catchment area by a further 100 metres or so is unlikely to lead to a significant increase in this level and it is considered that the submission of a School Travel Plan setting out measures for controlling car usage will be a valuable tool. In terms of design, the new elements of the extension will be subordinate to the original school building; the materials are acceptable and, given that some existing unattractive buildings on the site will be removed, the scheme is considered to preserve the character of the Conservation Area.

Further to condition 7 above: The School Travel Plan should include proposals for "Safer Routes to Schools" and in conjunction with Council's Streetscene (Highways Division), for provision of a pedestrian crossing and a 20 m.p.h restriction zone in the vicinity of the school.

INFORMATION RELATING TO APPLICATION REF: HGY/2005/0007  
FOR PLANNING APPLICATIONS SUB COMMITTEE DATED 10/10/2005

Location: Ferme Park Depot, Cranford WayN8 9DG

Proposal The erection of a concrete batching plant with associated hoppers, conveyors and ancillary facilities.

Recommendation REF

Decision APPEAL PEND

Drawing No.s 2416/01

Conditions and/or Reasons

1. Whilst aggregates would be brought to the site by rail, deliveries of cement to the site, and distribution of concrete from the site, would generate at least 56 lorry movements during the working day which would access the site from and exit on to Tottenham Lane via Cranford Way. Although this additional traffic may not place excessive strain on the capacity of the road network as a whole in this part of Haringey, it would result in disturbance to residents in nearby roads, in particular Tottenham Lane and Church Lane, to a degree which would unacceptably detract from the amenity of those residents. The proposal would thus be contrary to policies EMP 3.1 "Amenity, design and transport considerations", RIM 3.2 "Pollution and nuisance from new development", and DES 1.9 "Privacy and amenity of neighbours" of the Council's adopted 1998 Unitary Development Plan, and to policy UD 2 "General principles" of the Council's 2004 draft Unitary Development Plan.
2. The additional traffic movements to and from the application site, and the nature of that traffic, would by reason of noise and dust generation be detrimental to the current operating and working conditions of properties in Cranford Way, which are predominantly of a storage/light industrial character, rather than general industrial. The proposed development would discourage businesses from locating in Cranford Way and may lead to some occupiers moving out of their existing premises. This would lead to a net reduction of jobs in the Defined Employment Area which would not be offset by the proposed creation of 12 jobs at the new plant. The scheme would therefore be contrary to policies EMP 3.1 "Amenity, design and transport considerations", RIM 3.2 "Pollution and nuisance from new development", and DES 1.9 "Privacy and amenity of neighbours" of the Council's adopted 1998 Unitary Development Plan, and Policies EMP 5 "Promoting employment uses" and UD 2 "General Principles" of the Revised Unitary Development Plan 2004.
3. The applicants have not adequately demonstrated that the proposal will not be harmful to the amenity of nearby residents by reason of noise nuisance. In particular, the Council is not satisfied that the rejection of BS 4142 is justified, and that the applicants have used the correct methodology for assessing the noise impacts of the scheme. As such, the proposal would be contrary to Policy RIM 3.2 "Pollution and Nuisance from New Development" of the Adopted Haringey Unitary Development Plan 1998, and Policy UD2 of the Revised Unitary Development Plan 2004.

INFORMATION RELATING TO APPLICATION REF: HGY/2004/1265  
FOR PLANNING APPLICATIONS SUB COMMITTEE DATED 10/10/2005

Location: Ferme Park Depot Cranford Way N8 9DG

Proposal The erection of a concrete batching plant with associated hoppers, conveyors and ancillary facilities.

Recommendation REF

Decision APPEAL PEND

Drawing No.s 2416/01; FP/01

Conditions and/or Reasons

1. Whilst aggregates would be brought to the site by rail, deliveries of cement to the site, and distribution of concrete from the site, would generate at least 56 lorry movements during the working day which would access the site from and exit on to Tottenham Lane via Cranford Way. Although this additional traffic may not place excessive strain on the capacity of the road network as a whole in this part of Haringey, it would result in disturbance to residents in nearby roads, in particular Tottenham Lane and Church Lane, to a degree which would unacceptably detract from the amenity of those residents. The proposal would thus be contrary to policies EMP 3.1 "Amenity, design and transport considerations", RIM 3.2 "Pollution and nuisance from new development", and DES 1.9 "Privacy and amenity of neighbours" of the Council's adopted Unitary Development Plan, and to policy UD 2 "General principles" of the Council's 2004 draft Unitary Development Plan.
2. The additional traffic movements to and from the application site, and the nature of that traffic, would by reason of noise and dust generation be detrimental to the current operating and working conditions of properties in Cranford Way, which are of predominantly of a storage/light industrial character, rather than general industrial. The proposed development would discourage businesses from locating in Cranford Way and may lead to some occupiers moving out of their existing premises. This would lead to a net reduction of jobs in the Defined Employment Area which would not be offset by the proposed creation of 12 jobs at the new plant. The scheme would therefore be contrary to policies EMP 3.1 "Amenity, design and transport considerations", RIM 3.2 "Pollution and nuisance from new development", and DES 1.9 "Privacy and amenity of neighbours" of the Council's adopted Unitary Development Plan, and policies EMP 5 "Promoting employment uses" and UD 2 "general principles" of the Council's draft Unitary Development Plan.
3. The applicants have not adequately demonstrated that the proposal will not be harmful to the amenity of nearby residents by reason of noise nuisance. In particular, the Council is not satisfied that the rejection of BS 4142 is justified, and that the applicants have used the correct methodology for assessing the noise impacts of the scheme. As such, the proposal would be contrary to Policy RIM 3.2 "Pollution and Nuisance from New Development" of the Adopted Haringey Unitary Development Plan 1998, and Policy UD2 of the Revised Unitary Development Plan 2004.

INFORMATION RELATING TO APPLICATION REF: HGY/2005/1407  
FOR PLANNING APPLICATIONS SUB COMMITTEE DATED 10/10/2005

Location: Osborne Grove Old Peoples Home, Osborne Road N4

Proposal: Erection of two storey 32 bed respite care home and single storey day centre, including landscaped gardens and visitor/staff parking.

Recommendation: GTD

Decision: GTD

Drawing No.s

Conditions and/or Reasons

1. The development hereby authorised must be begun not later than the expiration of 5 years from the date of this permission, failing which the permission shall be of no effect.  
Reason: This condition is imposed by virtue of Section 91 of the Town & Country Planning Act 1990 and to prevent the accumulation of unimplemented planning permissions.
2. The development hereby authorised shall be carried out in complete accordance with the plans and specifications submitted to, and approved in writing by the Local Planning Authority.  
Reason: In order to ensure the development is carried out in accordance with the approved details and in the interests of amenity.
3. That details of all levels on the site in relation to the surrounding area be submitted and approved by the Local Planning Authority.  
Reason: In order to ensure that any works in conjunction with the permission hereby granted respects the height of adjacent properties through suitable levels on the site.
4. That a detailed scheme for the provision of recycling, and refuse and waste storage within the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the works. Such a scheme as approved shall be implemented and permanently retained thereafter to the satisfaction of the Local Planning Authority.  
Reason: In order to protect the amenities of the locality.
5. The windows on the side elevation at first floor level facing the gardens of the properties at 22 - 26 Perth Road must be in obscure glazing.  
Reason: In order to ensure that the proposal does not prejudice the privacy and amenity of adjacent residential properties.
6. A suitable revised parking scheme should be submitted to, approved in writing by, the Local Planning Authority before any development is commenced.  
Reason: In order for the works to be supervised by the Council's Arboriculturalist to ensure satisfactory tree practice in the interest of the visual amenity of the area.

7. The development hereby permitted shall be carried out in accordance with amended plan No: 004/P7, 010/P9, 011/P9, 012/P4, 030/P6 and 031/P6.

Reason: In order to ensure the development is carried out in accordance with approved details.

8. Details of external materials to be used in the construction of the development including sample of brick, rendering and roof tiles, shall be submitted to and approved by the Local Planning Authority prior to the commencement of development. Such details shall incorporate the inclusion of brick or masonry banding or similar features as a means of adding variety and interest to the elevation.

Reason: In order that the Council may be satisfied with the external appearance of the development.

9. Details of the concrete block paving and pedestrian paths and the four parking spaces in front of the development (including 3 parking for disabled persons) shall be submitted to and approved by the Local Planning Authority: such block paving shall be of permeable construction.

Reason: To prevent excessive surface water run-off and allow rainwater to drain naturally into the site.

#### REASONS FOR APPROVAL

To conclude the proposal to erect a two storey 32 bed respite care home and single storey day centre in principle is acceptable because previously the site was used as a care home. The impact on the adjacent Stroud Green conservation area will be very minimal because in comparison with the previous pre-fabricated flat roof building it will certainly enhance and preserve the character and appearance of the conservation area. In terms of visual impact the proposal would not detract from the street frontage on Upper Tollington Road and it will blend in well with the existing residential properties. There will be no loss of privacy or overlooking that would be detrimental to the adjoining residential buildings at Perth Road, Victoria Terrace, the upper floor flats at Stroud Green Road and Upper Tollington Road. The proposal would not have any significant impact on the adjoining highway network as there is parking provision within the care home. With regards to the landscaping as part of the scheme the tree officer has some concerns with the proposed hard landscaping which in its current form will have a detrimental effect on the health of the silver maple tree and no details of tree protection have been provided with this application.

The proposal is therefore in compliance with policies DES 1.1 Good Design and How design will be assessed, DES 1.2 Assessment of Design Quality (1) Fitting New Buildings into the Surrounding Area, DES 1.3 Assessment of Design Quality (2) Enclosure, Height and Scale, DES 1.4 Assessment of Design Quality (3) Building Lines, Layout, Form, Rhythm and Massing, DES 1.5 Assessment of Design Quality (4) Detailing and Materials, DES 1.9 Privacy and Amenity of Neighbours, DES 2.2 Preservation and Enhancement of Conservation Areas, TSP 7.1 Parking for Development, HSG 2.17 Provision of Residential Care and Nursing Home (Class C2) of the Haringey Unitary development Plan. It is therefore appropriate to recommend that planning permission be granted.

INFORMATION RELATING TO APPLICATION REF: HGY/2005/0863  
FOR PLANNING APPLICATIONS SUB COMMITTEE DATED 10/10/2005

Location: David Court, Lansdowne RoadN17

Proposal Erection of 3 storey side extension and new third floor over whole block to create 6 new flats and associated parking.

Recommendation REF

Decision REF

Drawing No.s DC/2003/01 & 02.

Conditions and/or Reasons

The proposed development represents overdevelopment in relation to the area of the site and the properties in the locality contrary to Policy DES 1.10 'Overdevelopment' of the Haringey Unitary Development Plan by reason of the overall size and bulk and excessive site coverage and massing.

The proposed development by reason of excessive height bulk and massing would be detrimental to the amenities in relation to adjoining properties, contrary to Policies DES 1.1 Good Design and How Design will be Assessed, DES 1.2 Assessment of Design Quality(1) Fitting New Buildings into the Surrounding Area, DES 1.3 Assessment of Design Quality (2) Enclosure, Height and scale and DES 1.4 Assessment of Design Quality(3) Building Lines, Layout, Form Rhythm and Massing of the Haringey Unitary Development Plan.

INFORMATION RELATING TO APPLICATION REF: HGY/2005/1503  
FOR PLANNING APPLICATIONS SUB COMMITTEE DATED 10/10/2005

Location: 93 St. Anns RoadN15 6NU

Proposal Demolition of existing community centre and replacement with new purpose built 2 storey nursery and play centre.

Recommendation GTD

Decision GTD

Drawing No.s 661P001, 007, 008, 011, 012, 013, 014, 100, P/L01, 02

Conditions and/or Reasons

1. The development hereby authorised must be begun not later than the expiration of 5 years from the date of this permission, failing which the permission shall be of no effect.  
Reason: This condition is imposed by virtue of Section 91 of the Town & Country Planning Act 1990 and to prevent the accumulation of unimplemented planning permissions.
2. The development hereby authorised shall be carried out in complete accordance with the plans and specifications submitted to, and approved in writing by the Local Planning Authority.  
Reason: In order to ensure the development is carried out in accordance with the approved details and in the interests of amenity.

3. Samples of all materials to be used for the external surfaces of the development shall be submitted to, and approved in writing by, the Local Planning Authority before any development is commenced. Samples should include sample panels or brick types and a roofing material sample combined with a schedule of the exact product references.  
Reason: In order for the Local Planning Authority to retain control over the exact materials to be used for the proposed development and to assess the suitability of the samples submitted in the interests of visual amenity.
4. The extract fan shall be mounted with flexible connections and installed, together with any associated ducting, so as to prevent the transmission of noise and vibration into any neighbouring premises.  
Reason: In order that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their property.
5. That a detailed scheme for the provision of refuse and recycling waste storage within the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the works. Such a scheme as approved shall be implemented and permanently retained thereafter to the satisfaction of the Local Planning Authority.  
  
Reason: In order to protect the amenities of the locality.
6. A full site investigation, history, details of previous and present usage, risk assessment and details of any remediation required should be submitted to and approved in writing by the Local Planning Authority before works may commence onsite.  
Reason: In order to protect the health of future occupants of the site.
7. That the levels of all thresholds and details of boundary treatment be submitted to and approved by the Local Planning Authority.  
Reason: In order to safeguard the visual amenity of the area and to ensure adequate means of enclosure for the proposed development.
8. Other than those trees consented for removal, the existing trees on the site shall not be lopped, felled or otherwise affected in any way (including raising and lowering soil levels under the crown spread of the trees) and no excavation shall be cut under the crown spread of the trees without the prior written permission of the Local Planning Authority.  
Reason: In order to safeguard the trees in the interest of visual amenity of the area.
9. Before any works herein permitted are commenced, all those trees to be retained, as indicated on the approved drawings, shall be protected by secure, stout, exclusion fencing erected at a minimum distance equivalent to the branch spread of the trees and in accordance with BS 5837:1980 and to a suitable height. Any works connected with the approved scheme within the branch spread of the trees shall be by hand only. No storage of materials, supplies or plant machinery shall be stored, parked, or allowed access beneath the branch spread of the trees or within the exclusion fencing.  
Reason: In order to ensure the safety and well being of the trees on the site during constructional works that are to remain after building works are completed.

10. Notwithstanding the details of landscaping referred to in the application, a scheme for the landscaping and treatment of the surroundings of the proposed development to include detailed drawings of: those existing trees which will require thinning, pruning, pollarding or lopping as a result of this consent. All such work to be agreed with the Council's Arboriculturalist. Those new trees and shrubs to be planted together with a schedule of species shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of the development. Such an approved scheme of planting, seeding or turfing comprised in the approved details of landscaping shall be carried out and implemented in strict accordance with the approved details in the first planting and seeding season following the occupation of the building or the completion of development (whichever is sooner). Any trees or plants, either existing or proposed, which, within a period of five years from the completion of the development die, are removed, become damaged or diseased shall be replaced in the next planting season with a similar size and species. The landscaping scheme, once implemented, is to be maintained and retained thereafter to the satisfaction of the Local Planning Authority.  
Reason: In order for the Local Authority to assess the acceptability of any landscaping scheme in relation to the site itself, thereby ensuring a satisfactory setting for the proposed development in the interests of the visual amenity of the area.
11. Details of a scheme depicting those areas to be treated by means of hard landscaping shall be submitted to, approved in writing by, and implemented in accordance with the approved details. Such a scheme to include a detailed drawing of those areas of the development to be so treated, a schedule of proposed materials and samples to be submitted for written approval on request from the Local Planning Authority.  
Reason: In order to ensure the development has satisfactory landscaped areas in the interests of the visual amenity of the area.
12. The construction works of the development hereby granted shall not be carried out before 0800 or after 1800 hours Monday to Friday or before 0800 or after 1200 hours on Saturday and not at all on Sundays or Bank Holidays.  
Reason: In order to ensure that the proposal does not prejudice the enjoyment of neighbouring occupiers of their properties.
13. Loading and unloading activities associated with this development shall be done within the existing delivery area of Eastbourne Road, in accordance with approved Plan No661/P007.  
Reason: In order to ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway.
14. That the nursery/play centre hereby approved shall not be used before the hours of 0700 or after 2200 hours Monday to Friday, before 0800 hours or after 1800 hours Saturdays and not at all on Sundays and Bank Holidays.  
Reason: In order to protect the amenities of adjoining residential properties.

INFORMATIVE: The applicant is advised to contact the Crime Prevention Officer, Tottenham Police Station, 398 High Road, London N17 9JA (tel. 020 8345 0934) regarding crime prevention information that may assist the security of the proposed development hereby authorised.

INFORMATIVE: All works shall be undertaken by a reputable tree surgery company and to BS 3998 'Recommendations For Tree Work'.

INFORMATIVE: The applicant is advised to contact the Borough Environmental Health Officer, 639 High Road, N17 8BD (tel. 020 8489 5230) regarding the provision of adequate sanitary facilities, mechanical extract ventilation, refuse storage facilities, fire requirements and compliance with the Food Safety (General Food Hygiene) Regulations 1995 that may be required in conjunction with this approval.



INFORMATIVE: That consideration be given to the provision of an environmental friendly roof.

INFORMATIVE: Consideration should be given to the provision of cycle racks adjacent to the entrance to the park.

#### REASONS FOR APPROVAL

The proposal has been assessed against and found to comply with policies CSF 3.1 "Under-Fives", CSF 3.3 "Provision of Day Nurseries", DES 1.1 "Good Design and How Design will be Assessed", DES 1.2 "Quality Design (1): Fitting New Buildings into the Surrounding Area", DES 1.3 "Quality Design (2): Enclosure, Height and Scale", DES 1.5 "Quality Design (4): Detailing and Materials", DES 1.9 "Privacy and Amenity Neighbours", TSP 7.1 "Parking for Development", RIM 3.8 "Waste Management", RIM 1.2 "Upgrading Areas in Greatest Need", UD1A "Sustainable Design and Construction" UD3 "Quality Design" and CW1 "New Community Facilities" of the Haringey Unitary Development Plan (1998) and the Haringey Unitary Development Plan - Second Deposit (2004).

INFORMATION RELATING TO APPLICATION REF: HGY/2005/1447  
FOR PLANNING APPLICATIONS SUB COMMITTEE DATED 10/10/2005

Location: Tottenham Hale Retail Park Broad LaneN15

Proposal Alterations and improvements to existing retail park including:

- i) demolition of existing retail unit at junction of Ferry Lane/Broad Lane and erection of 2 new retail units (total floorspace 2,474 square metres) plus mezzanine floor of 460 square metres (gross)
- ii) demolition of existing entrances to units 1, 7, 8, 9 and 10 and re modelling of entrances
- iii) alterations to car parks incorporating reduction in total spaces from 475 to 453 spaces, increasing disabled spaces from 19 to 25, new vehicle egress to Broad Lane, new pedestrian crossing to Broad Lane
- iv) associated landscaping works and improvements

Recommendation LEGAL

Decision LEGAL

Drawing No.s 6811/PL 001; 002; 003A; 005; 006; 007A; 008A; 011; 012; 013A, 014; 738-01A; 02A 03A; 41985/A/5

#### Conditions and/or Reasons

1. The development hereby authorised must be begun not later than the expiration of 5 years from the date of this permission, failing which the permission shall be of no effect.  
Reason: This condition is imposed by virtue of Section 91 of the Town & Country Planning Act 1990 and to prevent the accumulation of unimplemented planning permissions.
2. The development hereby authorised shall be carried out in complete accordance with the plans and specifications submitted to, and approved in writing by the Local Planning Authority.  
Reason: In order to ensure the development is carried out in accordance with the approved details and in the interests of amenity.

3. Notwithstanding the description of the materials in the application, no development shall be commenced until precise details of the materials to be used in connection with the development hereby permitted have been submitted to, approved in writing by and implemented in accordance with the requirements of the Local Planning Authority.  
Reason: In order to retain control over the external appearance of the development in the interest of the visual amenity of the area.
4. Notwithstanding the details of landscaping referred to in the application, a scheme for the landscaping and treatment of the surroundings of the proposed development to include detailed drawings of:
  - a. those existing trees to be retained.
  - b. those existing trees to be removed.
  - c. those existing trees which will require thinning, pruning, pollarding or lopping as a result of this consent. All such work to be agreed with the Council's Arboriculturalist.
  - d. Those new trees and shrubs to be planted together with a schedule of species shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of the development. Such an approved scheme of planting, seeding or turfing comprised in the approved details of landscaping shall be carried out and implemented in strict accordance with the approved details in the first planting and seeding season following the occupation of the building or the completion of development (whichever is sooner). Any trees or plants, either existing or proposed, which, within a period of five years from the completion of the development die, are removed, become damaged or diseased shall be replaced in the next planting season with a similar size and species. The landscaping scheme, once implemented, is to be maintained and retained thereafter to the satisfaction of the Local Planning Authority.  
  
Reason: In order for the Local Authority to assess the acceptability of any landscaping scheme in relation to the site itself, thereby ensuring a satisfactory setting for the proposed development in the interests of the visual amenity of the area.
5. Before any works herein permitted are commenced, all those trees to be retained, as indicated on the approved drawings, shall be protected by secure, stout, exclusion fencing erected at a minimum distance equivalent to the branch spread of the trees and in accordance with BS 5837:1980 and to a suitable height. Any works connected with the approved scheme within the branch spread of the trees shall be by hand only. No storage of materials, supplies or plant machinery shall be stored, parked, or allowed access beneath the branch spread of the trees or within the exclusion fencing.  
Reason: In order to ensure the safety and well being of the trees on the site during constructional works that are to remain after building works are completed.
6. That the levels of all thresholds and details of boundary treatment be submitted to and approved by the Local Planning Authority.  
Reason: In order to safeguard the visual amenity of the area and to ensure adequate means of enclosure for the proposed development.
7. The construction works of the development hereby granted shall not be carried out before 0800 or after 1800 hours Monday to Friday or before 0800 or after 1200 hours on Saturday and not at all on Sundays or Bank Holidays.  
Reason: In order to ensure that the proposal does not prejudice the enjoyment of neighbouring occupiers of their properties.

8. Details of a scheme depicting those areas to be treated by means of hard landscaping shall be submitted to, approved in writing by, and implemented in accordance with the approved details. Such a scheme to include a detailed drawing of those areas of the development to be so treated, a schedule of proposed materials and samples to be submitted for written approval on request from the Local Planning Authority.  
Reason: In order to ensure the development has satisfactory landscaped areas in the interests of the visual amenity of the area.
9. That in relation to proposed units A and B the accommodation for car parking and/or loading and unloading facilities be specifically submitted to, approved in writing by and implemented in accordance with the requirements of the Local Planning Authority before the occupation of the building and commencement of the use; that accommodation to be permanently retained for the accommodation of vehicles of the occupiers, users of, or persons calling at the premises and shall not be used for any other purposes.  
Reason: In order to ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway.
10. That a detailed scheme for the provision of refuse, waste storage and recycling shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the works. Such a scheme as approved shall be implemented and permanently retained thereafter to the satisfaction of the Local Planning Authority.  
Reason: In order to protect the amenities of the locality.
11. That units A and B hereby approved shall be used for sale of non-food goods only within Use Class A1 of the Town and Country Planning (Use Classes) Order 1987 (as amended).  
Reason: in order to conform with national and local shopping policy.
12. That the new units identified as Units A & B on drawing no. 6811/PL003 rev A shall not exceed a maximum gross floor area (including the proposed mezzanine floor) of 2499 square metres.  
Reason: to avoid overdevelopment of the site.
13. That units A and B as hereby approved shall not be occupied until the requirements of the Section 278 agreement attached to this permission have been completed to satisfaction of Local Planning Authority.  
Reason: To ensure the associated highway works are completed satisfactorily.

#### REASONS FOR APPROVAL

"The scheme complies with the relevant national guidance, regional and local planning policies of the London Plan and the adopted and emerging Unitary Development Plans and Supplementary Planning Guidance. As such approval is recommended."

#### INFORMATIVES

That the applicant in conjunction with the Councils Transportation Group and Transport for London (TFL) given consideration to altering the Bus Lane in Broad Lane close to the entrance of the site to prevent the need to cross it to gain access to the car park for the Retail Park.

That the applicants give consideration in conjunction with the Councils Transportation Group and Transport for London (TFL) to altering the access point to the site from Broad Lane to move it further away from the Broad Lane/Ferry Lane Gyratory junction.

Section 106



**MINUTES OF PLANNING APPLICATIONS SUB COMMITTEE  
31 October 2005**

**Councillors:**

\*Davidson (Chair), \*Bevan (Vice Chair), \*Adamou, \*Basu, Dodds, \*Peacock,  
\*Rice, \*Santry, \*Engert, \*Hare, \*Newton

\*Members present

**PASC59 APOLOGIES** (Agenda item 1)

Apologies were received from Cllr Dodds.

**PASC60 URGENT BUSINESS** (Agenda Item 2)

The Chair advised that, due to the current upgrade of Haringey's web site, there had been an 'upload freeze' for the past week. Members of the public could log on and download sets of meetings and reports up to 10<sup>th</sup> October but the documents for 31<sup>st</sup> October could not be viewed until the end of the week.

Everyone present was advised that the meeting was subject to a live webcast and by entering the room and using the public seating area; they would be consenting to being filmed.

**PASC61 DECLARATIONS OF INTEREST** (Agenda Item 3)

Cllr Basu declared a prejudicial interest with regard to the application for 381-481 Seven Sisters Road as he had previously expressed an opinion on this item at a Development Control Forum. He decided to leave the room when this item was discussed.

**PASC62 DEPUTATIONS/PETITIONS** (Agenda Item 4)

None received

**PASC63 MINUTES** (Agenda Item 5)

**RESOLVED**

That the minutes of the Planning Applications Sub Committees on 4<sup>th</sup> October and 10<sup>th</sup> October 2005 be agreed and signed.

**PASC64 PERFORMANCE STATISTICS ON DEVELOPMENT CONTROL, BUILDING CONTROL AND PLANNING ENFORCEMENT** (Agenda Item 6)

Members noted that all targets had been met, with the exception of minor applications which were above Government targets but below Haringey targets. Appeals were slightly above Government targets but below Haringey targets. Members were also advised that an Appeal was pending for the application on Ferme Park Depot (heard at the last meeting of PASC on 10 October).

**PASC65 DECISIONS UNDERTAKEN UNDER DELEGATED POWERS** (Agenda Item 7)

Noted

**PASC66 PLANNING APPLICATIONS** (Agenda Item 8)

**RESOLVED**

That the decisions of the Sub Committee on the planning applications and related matters, as set out in the schedule attached to these minutes, be approved or refused, with the following points noted:

**1. The Lodge, Creighton Avenue N10**

Having looked in detail at the site plans, members had some concerns that this development could be overlooking and therefore decided to defer a decision until after a site visit.

**2. Oakdale Arms, 283 Hermitage Road N4**

Officers presented this application and members were asked to note that the demolition of the public house was not subject to planning permission and the proposed density levels for the redevelopment were within the London Plan standard.

The ward councillor and several objectors spoke outlining their concerns at the loss of this public house and the proposed redevelopment. Members noted that the premises had been designated 'CAMRA North London Pub of the Year' and it was highly regarded by the local residents and felt to be at the hub of the local community.

The retired Vicar of St Ann's Parish confirmed that the Oakdale Arms was used as a 'church plant', i.e. a community facility attached to the local church and services were held in their function rooms every Sunday morning. The local Trades Council and NDC representatives also felt that the Oakdale Arms added value to the local community and members noted that the function rooms were also used by a local group for people with disabilities.

Officers confirmed that protecting community facilities was an objective of the London Plan but members were asked to be mindful that the premises was categorised as within Use Class A3 in Planning Terms (not D use; i.e. as a community facility) and that realistically the religious use could only be regarded as ancillary. Members were also reminded that planning applications could be made whether or not the land had been purchased.

Objectors felt that housing development was saturated in this area and it was alleged that there had been difficulty selling some of the recent developments which were now subject to large scale lettings. They were particularly concerned that the proposed basement area and underground parking could make the entrance to the development undesirable. This concern was also shared with members; as well as the design and use of materials. Members were concerned generally about underground parking in the borough unless it was subject to stringent surveillance and maintenance.

The applicant's agent felt that he had addressed previous concerns about height, mass and bulk and members noted that the redevelopment complied with UDP Policy on regeneration. Underground parking had been included in the development as the applicant felt that current on street parking was hazardous. As the applicant was not present, he felt that he could not answer the queries about surveillance and maintenance. However, members were reminded of the recent application re Somerset Halls (to be updated further at item 9 on this agenda) whereby building maintenance had been written into the 106 agreement.

There was some discussion as to whether the 'quirky' the design of the public house could warrant Listed Building Status. Officers advised that a similar premises in the borough had been refused but any member of the public would be at liberty to apply for this if they felt it appropriate. Cllr Hare said that he would support such an application as the lintels for the rear features are all original.

Members agreed that the application be refused on the grounds of height, bulk, design and the fact that it was not in keeping with the Street Scene.

Although members were sympathetic that this application represented the loss of a valued community facility, this was not sufficient to refuse the application on such grounds. However, it was noted that protection of community facilities is referred to in emerging UDP guidance and this would be noted where appropriate in the future.

### **3. 381 – 481 Seven Sisters Road N15**

Officers advised members of an error on page 84 of the report in that *'12 units be made available for active, elderly people through the Hornsey Housing Trust'*. Councillor Peacock advised the committee of an error in the planning history of this application (on page 69 of the report) in that the original 1960's terrace was demolished as part of the Seven Sisters Road dual-carriage way scheme, and that was the reason why the terrace faced away from the road.

An objector spoke setting out his concerns regarding the potential loss of amenity from this development. Members noted that local residents' concerns about overdevelopment had been raised at a recent Development Control Forum.



The applicant spoke in support of the development and advised members that he felt the proposals would benefit local regeneration and could potentially reduce anti-social behaviour on the site by enhancing an undesirable alleyway with lighting and landscaping. He confirmed that he had worked with local schools during the consultation exercise and had addressed concerns about overlooking. He had also been engaged in the Masterplan for the Tiverton Estate and in discussions with ward members. The resultant figures for housing mix had been arrived at following consultation with the Director of Housing. He confirmed that no trees would be disturbed as a result of the redevelopment.

Members had concerns about the residential use for the elderly but the applicant and officers confirmed that it was designed for the active elderly (i.e. 45 plus age group and not the infirmed 70 plus) so their requirements were different. Officers confirmed that this Housing Association were particularly experienced in housing provision for this age group.

Members also raised concerns about the use of copper cladding, whether 4 storeys was appropriate for a corner development and that an appropriate mix for the East of the Borough should be 70% key worker, owner occupier and shared ownership. Cllr Bevan asked for his opinion on housing mix in the East of the Borough to be recorded.

The applicant confirmed that the copper proposed for the development was of durable quality in a pre-patterned, slightly oxidised texture which was already stabilised and would not deteriorate. The potential flooding risk was being assessed and resolved by engineers but certain renewable energy features were not possible due to the location of the site and the close proximity of the trees but he agreed to engage an energy provider who used renewable sources. He confirmed that a lift would serve all floors and that a structural engineer had been engaged to ensure safe construction in the proximity of Seven Sisters underground station.

Cllr Hare asked members to be mindful of the Atkins Open Space Study which depicted areas of green space deficiency in this location; the area around this site was clearly visible on the maps.

Members decided to refuse the application on the grounds of it being out of character with the streetscape, loss of open/green space, over-development, overbearing, and the lack of a 70/30% split i.e. 70% for intermediate housing in the East of the Borough. However, members stressed that despite the refusal, for the reasons set out above, they felt that the design was thoughtful and interesting and had clearly been subject to very wide consultation.

**PASC68 REPORT TO UPDATE MEMBERS ON THE CURRENT POSITION REGARDING THE DEVELOPMENT OF SOMERSET HALL, WHITE HART LANE** (Agenda item 9)

Agreed to defer discussion of this item to the next meeting.

**PASC69 SITE VISITS**

The Lodge, Creighton Avenue N10 – Wednesday 9<sup>th</sup> November on site at 10am

**PASC70 DATE OF NEXT MEETING**

28 November 2005 – 7pm

The meeting closed at 10pm

Cllr T Davidson  
Chair

INFORMATION RELATING TO APPLICATION REF: HGY/2005/1592  
FOR PLANNING APPLICATIONS SUB COMMITTEE DATED 31/10/2005

Location: 381- 481 Seven Sisters Road N15

Proposal Demolition of existing garages and erection of four x part 3 / part 4 storey blocks comprising 28 x 1 bed, 30 x 2 bed and 10 x 3 bed residential units with associated landscaping.

Recommendation Grant subject to conditions & Section 106 Legal Agreement.

Decision: Refuse

Drawing Nos. P-102-01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12 & 13.

Reasons

1. The proposed development represents overdevelopment in relation to the area of the site and the properties in the locality contrary to Policy DES 1.10 'Overdevelopment' of the Haringey Unitary Development Plan by reason of the overall height, unbroken massing, bulk and size in a prominent location in the streetscape thereby causing demonstrable harm.
2. The proposed development would be overbearing particularly in relation to the properties at the rear in Pulford Road and would result in loss of light and visual intrusion to the detriment of the amenities of those properties contrary to Policy DES 1.9 'Privacy & Amenity Of Neighbours'.
3. The proposed development would result in the loss of valuable public and informal urban open space which together with other nearby spaces performs a valuable function of relief from urban development in the street scene contrary to Policies OP 1.1 'Protection Of Urban Open Space', OP 1.2 'Informal Open Space', OP 2.1 'Public Open Space' and DES 1.6 'Urban Design, The Design Of Public Space & Street Furniture' of the Haringey Unitary Development Plan.
4. The proposed development would not result in 7% of the proposed units of accommodation being provided for shared ownership / key worker (intermediate) housing contrary to Policies HSG 2.23 'Affordable Housing' of the Haringey Unitary Development Plan and HSG 4 'Affordable Housing' in the Revised Deposit Consultation Draft Haringey Unitary Development Plan.

INFORMATION RELATING TO APPLICATION REF: HGY/2005/0734  
FOR PLANNING APPLICATIONS SUB COMMITTEE DATED 31/10/2005

Location: Oakdale Arms 283 Hermitage Road N4

Proposal Demolition of existing building and erection of a three storey building comprising 4 x 1 bed, 3 x 2 bed, 2 x 3 bed self contained flats and parking at basement level.

Recommendation Grant subject to conditions & Section 106 Legal Agreement

Decision REFUSE

Drawing No.s P/017, P/018, P/019 & P/020.

Reasons

1. The proposed development represents overdevelopment in relation to the area of the site and the properties in the locality contrary to Policy DES 1.10 'Overdevelopment' of the Haringey Unitary Development Plan by reason of overall height, bulk and size in a prominent location in the street scene thereby causing demonstrable harm.

2. The development would be visually intrusive when viewed from adjoining properties by reason of bulk, overall scale, massing and design thereby contrary to Policies

DES 1.1 'Good Design & How Design Will Be Assessed'

DES 1.2 'Assessment Of Design Quality (1): Fitting New Buildings Into The Surrounding Area'.

DES 1.3 'Assessment Of Design Quality (2): Enclosure, Height & Scale'.

DES 1.4 'Assessment Of Design Quality (3) Building Lines, Layout, Form, Rhythm & Massing' and

DES 1.5 'Assessment Of Design Quality (4) : 'Detailing & Materials'.

of the Haringey Unitary Development Plan.

**MINUTES OF THE MISCELLANEOUS FUNCTIONS SUB COMMITTEE  
2 August 2005**

Councillors Haley\* (Chair), Cllr Rice\* (Vice Chair), Cllr Aitken\*  
\*Members present

**MFS25 APOLOGIES FOR ABSENCE** (Agenda item 1)

None

**MFS26 URGENT BUSINESS** (Agenda item 2)

The Chair, Councillor Haley, asked the Licensing Officer, Daliah Barrett, to explain to the Committee why Item 10 had been withdrawn. Ms Barrett explained that the item had been withdrawn because the Police had now decided to withdraw their objection to the application due to insufficient evidence. This would result in the licence being automatically granted under delegated powers since there was no other valid objection to the application. Objections could be further lodged in September 2005 to the renewal application then due. Councillor Aitken raised his concern that much officer time had been spent on this matter, to no avail. The Committee established that the papers relating to Item 10 would remain exempt given that the matters remained both sensitive and subject to police investigations.

**MFS27 DECLARATIONS OF INTEREST** (Agenda item 3)

None

**MFS28 DEPUTATIONS/PETITIONS** (Agenda Item 4)

None

**MFS29 MINUTES** (Agenda item 5)

**RESOLVED**

That the minutes of the meeting of the Miscellaneous Functions Sub Committee of 12 July 2005 be signed by the Chair as an accurate record.

At this point in the proceedings, the Chair advised that the order of business on the agenda would be varied to next consider Agenda Item 8, followed by Items 6, and 7.

**MSF30 O'LIMP BAR, 373 High Road, Tottenham N17. Application for a new Annual Weekday and Sunday Music and Dancing License** (Agenda item 8).

The Commercial Group Manager, Environmental Services (Mr Betts) presented the report on the application, highlighting that the original application was for a 4am terminal hour on Fridays and Saturdays

**MINUTES OF THE MISCELLANEOUS FUNCTIONS SUB COMMITTEE  
2 August 2005**

but that this was not permitted under the terms of the premises' planning permission. Thus, the application was now for a 2am terminal hour. Mr Betts drew attention to letters of objections from the statutory authorities, including the London Fire & Emergency Planning Authority (LFEPA), and the Metropolitan Police. The Police expressed serious concerns in regard to the running of the premises based on evidence they had gathered. They also indicated that the premises' alcohol licence had been revoked due to mis-management of the premises, but that this had subsequently been granted to the Applicant's mother who was involved in the operation of the premises. LFEPA stated that although required works to the premises had been carried out now, the Applicant had not gained planning permissions previous to making alterations in the past which had resulted in the an enforcement notice being issued. Mr Betts continued by highlighting a series of investigations by the enforcement services, listing consistent breaches of the terms of the alcohol licence for the premises over the past 18 months. The conditions set out by the building control group were set out in respect of this application, and the Committee noted these.

The Applicant queried the report's reference to planning permission relating to opening on Sundays. The Applicant showed the Committee a copy of a planning permission letter which appeared to grant the premises a licence to open on Sundays. However, the Report indicated that Sunday opening was not permitted under restrictions of the planning permission. After discussions, the Chair agreed to seek clarity from the Planning Service in relation to the premises.

The Chair then referred to Police briefing papers in respect of the premises and various investigations they had carried out. He asked the Applicant to explain why there was a consistent list of offences. In response, the Applicant fully admitted the breaches of the hours of the alcohol licence which had resulted in that licence being revoked by the Court on the application of the Police. The Applicant advised that no more mistakes would occur in the future. Cllr Aitken sought clarity on what the Committee was being asked to approve. It was established that the Annual Weekday and Sunday Music and Dancing License would not affect nor bring into line the permitted hours of the alcohol licence and planning permission. Councillor Rice asked the Applicant why the Committee should grant the Application. The Applicant responded that she would never make a mistake again, having accepted that there had been serious mistakes made in the past due to her lack of knowledge for running such a business.

The Chair probed the evidence from the LFEPA further, asking the Applicant why alterations to the premises had been made without permission. He also raised his concerns that customers had been witnessed inside the premises with shutters closed the over exit

**MINUTES OF THE MISCELLANEOUS FUNCTIONS SUB COMMITTEE  
2 August 2005**

points. Finally, the Chair probed the problems raised by enforcement officers in relation to dumped rubbish outside of the premises, and the failure of the Applicant to adhere to the contract with the waste removal company.

**RESOLVED**

That the application for a new Annual Weekday and Sunday Music and Dancing License be refused on the ground that the Applicant is not a fit and proper person to hold such a licence.

**MFS31 VLLAZNIA, 4 Queens Parade N4. Application for a new Night Café Licence. (Agenda Item 6).**

The Commercial Group Manager, Environmental Services (Mr Betts) presented the Report on the application pointing out that this was a new application in light of the old licence expiring on 31 March 2005. Mr Betts highlighted that there were objections from the Ladder Community Safety Partnership (LCSP) and Councillor Adamou would speak on their behalf. Mr Betts drew the Committee's attention to remarks made by the Metropolitan Police in relation to anti-social behaviour in the area immediately around the premises, although this was not a reason for objection by the Police. He also pointed out that the planning permission for the premises did not correlate with the Application being made in terms of terminal hour and did not allow for hours beyond 01.00am Sunday to Thursday and until 02.00am Friday and Saturday. Finally, Mr Betts raised the Committee's attention to the sale of alcohol on the premises when it did not hold a licence to sell alcohol. The Police had taken no formal action.

The Applicant showed the Committee a petition of seven signatures which he had collected which suggested that those who had signed, had no objections to the hours applied for. Cllr Adamou asked if these signatures were from neighbouring residents or businesses. The Applicant stated that because he did not currently hold an alcohol licence, he had applied for one recently and was undertaking training at a cost to himself of some £108.

Cllr Adamou outlined to the Committee various incidences that had occurred in relation to the premises although she advised that this was when the premises was under previous management. She claimed that late night opening in the area around the premises had attracted the wrong people in terms of reducing crime and anti-social behaviour and called for the terminal hours of 12midnight midweek, and 2am on Fridays and Saturdays only. Mr Ian Sygrave of the LCSP emphasised the points made by Cllr Adamou, adding that, whilst this was not directly linked to the premises, there were on-going issues of prostitution in the area, and that the area was one of only two in the borough with a dispersal order against it, Thus,

**MINUTES OF THE MISCELLANEOUS FUNCTIONS SUB COMMITTEE  
2 August 2005**

further late night opening would not help to alleviate these problems. In responding to these concerns, the Applicant agreed to abide to a 1:00am midweek terminal hour and assured the Committee that as the premises now welcomed a mixed clientele (it previously had been a men only club), the problems outlined should be dealt with.

**RESOLVED**

That the application for a new Night Cafe License be granted in line with the planning permission for the premises, and on the condition that terminal hours are 1.00am Sundays to Thursday, and 2.00am Fridays and Saturdays.

**MFS32 KAPTANS CHARCOAL GRILL, 651 Green Lanes N4. Application for the renewal and transfer of a Night Café Licence. (Agenda Item 7).**

This item was deferred to a future meeting of Miscellaneous Functions Sub Committee due to the absence of the applicant.

**NOTED**

The meeting ended at 9:00pm

.....  
**Councillor BRIAN HALEY**  
Chair



# Decision List

## COUNCIL & EMPLOYEE JOINT CONSULTATIVE COMMITTEE

17 OCTOBER 2005

ITEM	SUBJECT/DECISION	ACTION BY:
1.	<p><b>APOLOGIES FOR ABSENCE:</b></p> <p>Apologies received from Cllrs Hillman and Meehan and from Maxine Slater, Cindy Westcarr, Cyril Andrews, Sean Fox, Sue Garnett and Peter Brown.</p>	
2.	<p><b>DECLARATIONS OF INTEREST:</b></p> <p>Gerald McGrath declared that he was a member of the ALMO Board.</p>	
3.	<p><b>MINUTES and MATTERS ARISING:</b></p> <p><b>RESOLVED:</b></p> <p>That the minutes of the meeting held on 3 February 2005, be confirmed and signed.</p> <p>There were no matters arising.</p>	Ctte Sec
4.	<p><b>URGENT BUSINESS:</b></p> <p>There were no matters of urgent business submitted.</p>	

5.	<p><b>EQUAL PAY AND CONDITIONS REVIEW:</b></p> <p>The JCC is to monitor the progress of the Equal Pay Review. The progress is to schedule.</p> <p>One hundred and thirty jobs are to be evaluated. Fifty have been completed so far. The information from these evaluations will be shared with the trades unions.</p> <p>A member group on the topic has met on 27<sup>th</sup> September and will meet again on 16<sup>th</sup> November. Before the next meeting of General Purposes Committee, negotiations will be started with the trades unions.</p>	Head of Personnel
6.	<p><b>EX-CSS STAFF:</b></p> <p>Correspondence has been taking place on the matter. A pay deal has been offered and not implemented yet. The unions asked for an explanation of the delay and for a deadline to be set.</p> <p>Cllr Wynne is to discuss the matter with the Director of Social Services. There will be a meeting on the 24<sup>th</sup> of October to resolve the issue. A report is to be prepared for the Committee on the topic.</p>	Executive Member & Director of Social Services
7.	<p><b>SECONDMENT OF STAFF TO THE ALMO:</b></p> <p>Members of the Shadow Board declared an interest.</p> <p>The trades unions</p>	Head of Personnel
8.	<p><b>EQUAL PAY &amp; CONDITIONS REVIEW AND ADOPTION OF GLPC JOB EVALUATION SCHEME:</b></p> <p>An update was given on progress to date and the adoption of GLPC job evaluation scheme. This had already been approved by GP and a meeting was scheduled for 15<sup>th</sup> July 2005. The Unions had agreed the approach and discussions had been initiated. The grading structure was to be agreed prior to April 2006.</p>	Head of Personnel

9.	<p><b>PERSONNEL POLICY/ PROJECT PROGRAMME 2005-06:</b></p> <p>Head of Personnel informed Members of the policies and projects during the current year. Policy issues would be discussed at GP. It was suggested that this topic be established as a standing agenda item, with an updated schedule for future meetings. Target dates were to be monitored by personnel, who would be held to account on the target dates.</p>	Head of Personnel
10.	<p><b>VIOLENCE AT WORK POLICY:</b></p> <p>The target date of 4<sup>th</sup> July for this policy to go to GP was subsequently delayed until a future meeting. The TU's considered this to be straightforward, although they were concerned at the time taken to progress. A corporate policy was required, as evidenced by most public sector employees. The policy was now on the agenda for GP on 25 July 2005. Head of Personnel gave an assurance that this would be implemented with both the policy and associated statement to follow. This was already in place for school based staff.</p>	Head of Personnel
11.	<p><b>SUBSISTENCE ALLOWANCES:</b></p> <p>These allowances have been frozen since 1997, with the National agreement having been extended. The unions were unhappy with this situation, with the claim not having been resolved. They did not accept this as part of the equal pay review which had an implementation date of April 2007. The allowances should be uprated with inflation. The Head of Personnel said that it would be uncoupled, but must be part of the equal pay review, terms and conditions of service. Proposals would be put to the unions, with further discussions to take place. The status quo of frozen allowances would, therefore, stay in place until debate had taken place and a local replacement had been agreed. The JCC would be updated on how negotiations progress.</p>	Head of Personnel

12.	<p><b>FINANCIAL REPORT TO EXECUTIVE:</b></p> <p>There was no explicit funding for the equal pay review / single status in the report presented to the Executive. Two points were raised:</p> <ul style="list-style-type: none"> <li>o Forecasts for future pay increases were included in the figures to the executive. However, higher figures may be agreed.</li> <li>o The assumption had been made that single status would be introduced on a 'no additional cost' basis. The costs of single status were part of the ongoing negotiations.</li> </ul> <p>Head of Personnel pointed out the difference with the health service and agenda for change. Costs associated with the work would be different to council funding and within the totality of the council budget. The feasibility study had identified 180 jobs and a model had been constructed against this, with costings for the different models. The report was noted, to be discussed with Director of Finance.</p>	Head of Personnel / Director of Finance
13.	<p><b>SOCIAL WORKERS - ADDITIONAL PAYMENTS:</b></p> <p>As part of the improvement and retention package, social workers in Children's Services and Adults and Older People had their reward package reviewed. This was dependent upon their qualifications.</p>	
	<p>The Adult service was on lower rates than other social workers in Haringey. It was pointed out that :</p> <ul style="list-style-type: none"> <li>o Recruitment in this way was only a short-term solution and did not generally solve recruitment and retention problems.</li> <li>o Adult social workers had parity of pay with other social workers. Parity was required with all other social workers in Haringey.</li> </ul> <p>There was already an awareness of the issue. Discussions would continue and would be included in a later agenda.</p>	Head of Personnel
14.	<p><b>NEW ITEMS OF URGENT BUSINESS:</b></p> <p>There were no new items of urgent business.</p>	
15.	<p><b>DATES OF NEXT MEETINGS;</b></p> <p style="text-align: center;"><b>Monday, 17 October 2005</b>  <b>Monday, 16 January 2006</b>  <b>Tuesday, 14 March 2006</b></p>	
	The meeting ended at 21:30	

	<p>YUNEA SEMAMBO Head of Member Services (Council) Civic Centre High Road Wood Green London N22 8LE</p> <p>DAVID S FISHMAN Principal Support Officer</p> <p>Tel: 020 8489 2615 Fax: 020 8489 2660 <a href="mailto:david.fishman@haringey.gov.uk">mailto : david.fishman@haringey.gov.uk</a></p>	
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**MINUTES OF A MEETING OF THE PENSIONS PANEL:  
10 OCTOBER 2005**

Councillors \*GMMH Rahman Khan (Chair), \*E. Prescott (Deputy Chair), \*Beacham, \*Floyd, Milner, Patel and \*Reynolds.  
[\* Members present]

In attendance: Roger Melling (Designated Union Representative), Howard Jones (Advisor to Trustees) and Bryan Chalmers (Actuary).

**1. APOLOGIES FOR ABSENCE AND INTRODUCTION:**

Apology for absence was received from Councillor Patel.

The Chair opened the meeting by stating that it appeared to him that the structure, method of working and the content of the issues periodically reported to this Panel deserved to be re-examined in order to comply fully with the Myners' principles, as well as other regulations issued from time to time. He informed the Panel he had sent a letter to the Director of Finance, with a copy to the Leader and Interim Chief Executive, on these matters. The Chair assured members he would report to this Panel when there were any developments.

**2. URGENT BUSINESS:**

There were no items of urgent business.

**3. DECLARATIONS OF INTEREST:**

The Chair declared that he had a personal interest in Item 9 of the agenda (Update to Council's Discretions on Pensions) as he had been a member of Haringey LGPS. He had referred the matter to the Monitoring Officer and had been advised by her that he had no prejudicial interest.

**4. MINUTES:**

**RESOLVED:**

That the Minutes of the meeting held on 16<sup>th</sup> June 2005 be confirmed and signed as an accurate record.

**5. THE COST OF REINSTATING THE RULE OF 85 FROM APRIL 2005:**

The Actuary explained the changes that the Government was making to reinstate the rule of 85, together with the report from the actuaries setting out the implications of this change. The rule of 85 had been abolished in December 2004, with retirement at age 65. The unions had disliked this move and, in March 2005, ODPM abolished the rule of 85 as a consequence. It was reinstated in July 2005. The saving, on abolition, would be 2.1% of payroll on an annual basis. It was explained that people were now living

**MINUTES OF A MEETING OF THE PENSIONS PANEL:  
10 OCTOBER 2005**

longer and this would inevitably cost money. ODPM gathered evidence to respond to the unions and a tripartite committee was established to look at the whole LGPS. An interim valuation was sought from all of local government during September 2004.

The tripartite committee concluded:

- i) Actuaries were too cautious, with people not living longer.
- ii) Retirement behaviour was not typical; most people were taking late retirement.
- iii) Good investment returns had resulted in the deficit being reduced.

The interim valuation showed a funding level of 69% in 2004, now having risen to 72%. Bond yields had fallen since March 2004 and the march 2005 funding level had marginally increased. The demographic study had demonstrated regional variations, whilst 30% of retirements occurring after age 65 – on average 3 years later, with one extra year being the typical time period. It was pointed out, that in any event, the Rule of 85 would be illegal from October 2006, on age discrimination grounds, under the EU Directive. It was reported that there was no reason for increased contribution rates at this time. Phasing had been introduced at the 2004 valuation, with minimum contribution rates specified. It was considered that there would have to be a change in employee entitlements in order to safeguard the fund into the future. The draft consultation paper was expected by the end of October 2005.

**RESOLVED:**

That the report be noted and the Director of Finance be requested to monitor the funding level on at least an annual basis.

**6. ATTENDANCE BY FOUR FUND MANAGERS:**

Each was given approximately 10 minutes for presentation, followed by questions from the Trustees:

- Wellington**
- Bernstein**
- Capital**
- Fidelity**

i) Wellington

An introduction was given by the fund manager, with a performance summary of the Haringey Fund. The company reported that added resources were now in place. Performance, together with returns had shown an improvement during the second quarter, due to stock selection. Problems with various companies, particularly within the healthcare and industrial sectors, within the LBH portfolio were mentioned. Best performing segments included IT and materials. A positive return of 7% had been demonstrated in emerging markets.

Fund performance was 1.29% above benchmark and 0.79% above target in the



**MINUTES OF A MEETING OF THE PENSIONS PANEL:  
10 OCTOBER 2005**

quarter to June 2005. Annualised performance since inception was 1.47% below benchmark and 3.47% below target.

It was requested that, in future, a commissions breakdown should be shown between execution and research. The fund manager reported no outstanding issues.

ii) Bernstein

After an introduction and reassurances, the fund managers gave a summary of investment of the Haringey Fund, together with an up-to-date valuation. A range of returns had been noted on the UK stockmarket. Best performance in the quarter was Consumer cyclicals, reflecting the positive stock selection, and the worst technology and electronics.

Fund performance was 0.83% below benchmark and 1.33% below target in the quarter to June 2005. Annualised performance since inception was 0.30% above benchmark and 1.70% below target.

It was requested that, in future, a commissions breakdown should be shown between execution and research. The fund manager reported no outstanding issues.

iii) Capital

After an introduction and reassurances, the fund manager reported a poor quarter, due to UK and overseas equities performance. Sector selection caused the under-performance. There was a low weight in oil shares, whilst oil stocks had performed well and was a major aspect of investment. Capital had performed satisfactorily in the past and, currently, analyst's ideas had not been challenged. Reassurance was given by the fund manager of 100% care of the fund and the Chair indicated that he was happy with the past performance and looked for improvement.

Fund performance was 1.01% below benchmark and 1.38% below target in the quarter to June 2005. Annualised performance since inception was 0.29% below benchmark and 1.79% below target.

It was requested that, in future, a commissions breakdown should be shown between execution and research. The fund manager reported no outstanding issues.

iv) Fidelity

The fund manager summarised how the Haringey fund portfolio was positioned. The major investment portfolio was in UK equities, with 4% in overseas equities. Reassurances were provided by Fidelity who explained that stock picking had been the main problem with UK equities. Additional research capabilities had now been put into place.

**MINUTES OF A MEETING OF THE PENSIONS PANEL:  
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Fund performance was 0.46% below benchmark and 0.81% below target in the quarter to June 2005. Annualised performance since inception was 0.02% above benchmark and 1.38% below target.

It was requested that, in future, a commissions breakdown should be shown between execution and research. The fund manager reported no outstanding issues.

**RESOLVED:**

That the reports presented individually by Wellington, Bernstein, Capital, and Fidelity, each be noted with the added reassurances of care and expertise by each of the fund managers.

The ING performance report was noted, with a requirement to see ING and our custodian once in each municipal year in accordance with current practice.

**7. FUND PERFORMANCE AND ADMINISTRATION UPDATES**

The Director of Finance reported the latest investment performance data for the Pension Fund and for each of the Fund's investment managers, who continued to be vigorously monitored. He set out the fund performance and administration updates to The end of June 2005 and the Pension Fund budget for the 2005/06 financial year.

The combined Haringey Fund has increased in absolute terms since inception by 17.57 % in annualised terms.

Fund performance was 0.38% below benchmark and 0.79% below target in the quarter to June 2005. Annualised performance since inception was 0.43% below benchmark and 2.08% below target.

The regulatory changes affecting the administration of the Local Government Pension Scheme, together with relevant issues covered in circulars issued by the Local Government Pensions Committee (LGPC) were considered.

The Pension Fund budget for the 2005/06 financial year was reported, together with budget monitoring to June 2005 and an updated Statement of Investment Principles (SIP). The issue of performance related fees with fund managers was mentioned and will be discussed as part of the review of investment strategy.

**RESOLVED:**

1. That the Fund Performance, as at the end of June 2005, and administration update, be noted.
2. That the Pension Fund budget for 2005/06 be noted, together with the budget

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monitoring position to end of June 2005 (period 3). However, the service had been asked to submit a business plan with details of administrative, investment & contractual expenses, charged to the Fund, in any future reports, together with disclosure requirements.

3. That the updated SIP be approved, subject to the opening remarks of the chair and previous minutes.
4. That a formal letter be sent to all fund managers reminding them that, in future, a commissions breakdown should be shown between execution and research; and
5. That trustees required confirmation that members were receiving annual benefit statements.

**8. PENSION FUND FINANCIAL STATEMENTS FOR YEAR ENDING 31 MARCH 2005**

The Pension Fund's financial statements for 2004/05 were presented, having been approved by General Purposes Committee on 25 July 2005.

**RESOLVED:**

That the statements be noted with remarks that, without any feedback from this Panel, the Accounts of the Fund had been approved by another body . The Service been asked to explain about the 'unlisted' investments in a future report.

**9. UPDATE TO COUNCIL'S DISCRETIONS ON PENSIONS**

The policy on the use of discretionary powers resulting from changes introduced by the Local Government Pension Scheme (Amendment) regulations 2005 was updated.

**RESOLVED:**

That the Policy Statement be amended to reflect changes in the scheme regulations which have reinstated the 85 Year Rule and changed the early retirement age from 55 back to 50.

**10. REVIEW OF INVESTMENT STRATEGY**

Pensions Panel agreed on 25 January 2005 to commission a comprehensive review of the Fund's strategy as part of the healthcheck of investment fund arrangements.

The report from Hymans Robertson detailed possible types of review that could be undertaken and fees for completing the work, based on experience of similar exercises.

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**RESOLVED:**

That Hymans Robertson be appointed to complete a comprehensive review of investment strategy and also a healthcheck as detailed in their proposal. That the outline timetable for completing the work in Appendix 1 was noted.

**11. NEW ITEMS OF URGENT BUSINESS**

There were no New Items of Urgent Business.

**12. EXCLUSION OF THE PRESS AND PUBLIC:**

**RESOLVED:**

That the press and public be excluded from the meeting for item 10 below as the item contained 'exempt' information as defined in Section 100A of the Local Government Act 1972, namely that they contain terms proposed or to be proposed by or to the Authority in the course of negotiations for a contract for the supply of goods or services.

**13. EXEMPT MINUTES:**

**14. EXEMPT ITEM - REVIEW OF INVESTMENT STRATEGY – APPENDIX 2 – Fees**

**15. NEW ITEMS OF URGENT EXEMPT BUSINESS:**

The meeting ended at 21.45 hours.

Signed.....

Date.....

**COUNCILLOR GMMH RAHMAN KHAN  
CHAIR.**

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Councillors \*GMMH Rahman Khan (Chair), \*E. Prescott (Deputy Chair),  
\*Beacham, \*Floyd, Milner, Patel and Reynolds.  
[\* Members present]

In attendance: Howard Jones\* (Advisor to Trustees) and Vince McEntegart  
(Hymans Robertson).

**1. APOLOGIES FOR ABSENCE AND INTRODUCTION:**

Apologies for absence were received from Councillor Milner and from Roger Melling.

The Chair requested that a letter be sent to Cllr Milner requesting his presence at the future meeting of Pensions Panel as the Panel has been failing to receive input from the Executive Member for Finance because of his absence

**2. URGENT BUSINESS:**

There were no items of urgent business.

**3. DECLARATIONS OF INTEREST:**

No declarations of interest were received.

**4. MINUTES:**

**RESOLVED:**

That the Minutes of the meeting held on 10<sup>th</sup> October 2005 be confirmed and signed as an accurate record.

The Chair mentioned that, in relation to Item 5 of the 10<sup>th</sup> of October agenda (Reinstating the Rule of 85), he had written to the Leader saying that he is concerned about the solvency of the Fund and requesting that he impress upon Central Government, whenever there is engagement with them, the need to increase the Revenue Support Grant to take account of the extra costs in view of reinstating the 85 year rule.

**5. REVIEW OF INVESTMENT STRATEGY:**

Before asking the officers to present the report the Chair expressed concern as to how to comply with the legal comments in the report as to how, "act in the best interest of the beneficiaries as a whole" in the absence of any representatives at the Panel meeting from admitted bodies. It was said by the officers that the admitted bodies were present at the Annual General meeting of the Pensions Panel. The adviser to the Trustees advised to take legal opinion on the issue. The Chair drew the attention of

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officers to the subject.

A representative from Hymans Robertson (Mr Vince McEntegart independent of the scheme actuary) presented the company's report to the Panel.

Mr McEntegart said that the last time the company had been contracted to provide a review of investment strategy they had produced a 50-page report. This time they had produced a shorter document with supporting information provided. The Chair stated that the supporting documents, as mentioned in various sections of the reports were not released to members, and as such Panel Members were not aware if any fundamental information had been omitted. The Director of Finance assured the Panel that the key information were incorporated into the tabled reports, however the chair asked the officers that in future he would like to see reports from Hymans Robertson in full. In addition to the report, the representative of Hymans Robertson tabled a range of graphs, highlighting various points.

The first chart showed the forecast benefit outgoings for current members of the Pension Scheme. This was currently £20m per annum and would rise to a peak of £60m in 2030. After 2030, liabilities to current members of the scheme would start to reduce. However, of course, by that stage new members would have joined the scheme and so the total outflow of benefits would be higher as benefits would have to be paid to new members who had reached retirement age by then.

Combined forecasts for income and outflow were provided to 2023. The income for the scheme would come from 3 sources: standard employer contributions, employer deficit contributions and employee contributions. In April 2005, the actuary set the current rate for employer deficit contributions. Currently the net flow (the difference between the income and outgoing) into the Pension Scheme was positive but, in 2015, it was forecast to become negative if current contribution rates remained the same.

The Panel enquired as to what were the best safeguards the Panel could take so that admitted bodies would not default, because many of them have no tax raising powers of their own.

The Director of Finance advised the Panel that some admitted bodies had bonds to cover the risks. The Panel asked the D.O.F to let the Panel know in due course what safeguard the Panel could have in the case of admitted bodies, which had no bonds or tax-raising powers. The Chair pointed out that we must have proper safeguards to take account of the admitted bodies as a whole.

The Panel was advised that these would be: a higher contribution rate and asking those who had not already done so to take out bonds to insure themselves.

Members were informed that the distribution of assets of the Pension Fund was as follows:

- 70% - equities
- 23% - bonds

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- 6% - property
- 1% - cash

Based on this, Hymans Robertson ran 5,000 different simulations as to what the future value of these assets would be. The 'funnel of doubt' increase-d as time move-d on and so there was a larger range of possible outcomes.

The employer contribution rate needed by the Fund was modelled. The median figure obtained was 23.9%. There was a 50% chance that the employer contributions after 2007 would have to be higher than the current level.

The risk being run by the investment strategy was estimated as was the 'active risk' being run. The total risk was calculated as 12.6%. Half of this risk was due to the Fund's exposure to UK equities.

In order to reduce risk flowing from investments in UK equities, the suggestion was made that more money could be invested in overseas equities rather than UK ones; that the share of the fund made up of property could be increased from 6 to 10% and that 5% of the fund could be invested in private equities. These measures would reduce the proportion of risk accounted for by the UK stock market.

The strategy of the Fund is based on mainly investing in equities because more than 100 years of capital market data suggests that the best rewards with risks could be obtained from equities.

Demographic assumptions were made by the actuary, taking account of increasing life expectancy. These assumptions, like the assumptions relating to investment performance, are fair estimates – in that they reflect the best knowledge available at the time – but they may prove to be inaccurate.

The Chair stated that the Panel was guided in its decisions by the advice of the internal and external professionals and finally by the Director of Finance. Always the Panel sought optimum returns with reasonable risks.

The Director of Finance stated that he was satisfied with the report. No significant changes in the general balance of funds between the equities (70%) and other investments (30%) were recommended in the report. This was a recommendation the Director concurred with.

The adviser to the Trustees (Mr Howard Jones) stated that it would be desirable for Hymans Robertson to come back to the Panel at a future meeting with evidence that private equity and property would provide a good return and were worth increasing our exposure to. Also, members asked that more information be provided on emerging markets.

Decisions as to the allocation of funds between UK and overseas equities and between public and private equities would be made at a future date.

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Both the Chair and the Director of Finance reported that in the various meetings of the panel various fund managers commented that the return from overseas equities were better than the UK equities.

**RESOLVED:**

1. That the report be noted and the recommendation of the Director of Finance to continue to invest approximately 70% of funds in equities and the remainder in other assets be continued.
2. That Hymans Robertson present their next report at the 2<sup>nd</sup> February 2006 meeting of Pensions Panel.
3. That Hymans Robertson's next report also include the following items discussed at meeting:
  - more analysis and the effect on the risk budget of options for splitting equities between UK and overseas.
  - substance for justifying investing in private equity and for considering greater investment in property.
  - More information be provided regarding investing in emerging markets, investing in hedge funds and also what the best available safeguards against interest rate risk, inflation risk and other risks are.

**6. NEW ITEMS OF URGENT BUSINESS**

There were no new items of urgent business.

**7. EXCLUSION OF THE PRESS AND PUBLIC:**

**RESOLVED:**

That the press and public be excluded from the meeting for item 10 below as the item contained 'exempt' information as defined in Section 100A of the Local Government Act 1972, namely that they contain terms proposed or to be proposed by or to the Authority in the course of negotiations for a contract for the supply of goods or services.

**8. EXEMPT MINUTES:**

**RESOLVED:**

That the exempt minutes of the meeting held on 10<sup>th</sup> October 2005 be confirmed and signed as an accurate record.

**9. NEW ITEMS OF URGENT EXEMPT BUSINESS:**



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The meeting ended at 8:30pm

Signed.....

Date.....

**COUNCILLOR GMMH RAHMAN KHAN**  
**CHAIR.**

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Agenda item:

**General Purposes Committee on 19<sup>th</sup> December 2005**

Report Title: **Amending Part I of the Constitution on Scrutiny Reviews and Call-In Procedures**

Joint Report of: **The Chief Executive and the Monitoring Officer**

Wards(s) affected: **All**

Report for: **Recommendation to Council**

**1. Purpose**

1.1 To consider amendments to the procedures for Scrutiny Reviews and Call-In and to make recommendations on these to full Council.

**2. Recommendations**

2.1 That Members recommend to full Council the adoption of the changes to the procedures for Scrutiny Reviews and Call-In, set out in Appendices 1, 2, 3, 4 and 5 to this report, to have effect as amendments to Parts I.1, I.2, I.3, E.1 and E.7 of the Council's Constitution.

Report Authorised by:

**Max Caller – Interim Chief Executive**

**Davina Fiore - Monitoring Officer  
and Head of Legal Services**

Contact Officer: **Terence Mitchison, Senior Project Lawyer, Corporate**  
x 5936 [terence.mitchison@haringey.gov.uk](mailto:terence.mitchison@haringey.gov.uk)

**3. Executive Summary**

3.1 This report advises General Purposes Committee of proposed changes to the procedures for Scrutiny Reviews and Call-In. The main change for Scrutiny Reviews is that, in most cases, The Executive would make the final decision on scrutiny recommendations rather than full Council. Following further consultation with Members, it is proposed that full Council will retain the final decision if The Executive rejects any significant recommendations from Overview and Scrutiny Committee. The changes to the Call-In procedure are corrections and clarifications rather than significant changes of substance.

**4. Reasons for any change in policy or for new policy development (if applicable)**

4.1 N/A

**5. Local Government (Access to Information) Act 1985**

5.1 The following background papers were used in the preparation of this report:

(a) Reports to Overview & Scrutiny Committee: (i) on Overview & Scrutiny Reforms for the 20 January 2005 meeting, (ii) on the review of Call-In procedures for the 14 June 2005 meeting, (iii) on the current proposals for the 29 September 2005 meeting, and (iv) on the revised proposals for the 21 November/12 December meetings.

(b) Reports to General Purposes Committee on (i) 8 March and (ii) 24 October 2005.

(c) Briefing Note for Group meetings on matters in this report.

**6. Background**

6.1 The General Purposes Committee (GPC) last considered a report on changes to Overview and Scrutiny procedures at its meeting on 8 March 2005. The changes then proposed related mainly to the replacement of the old standing Scrutiny Panels by the new “task and finish” Scrutiny Review Panels and the new Audit Committee. These changes were adopted as amendments to Parts I.1 and I.2 of the Constitution by full Council on 21 March.

6.2 The Overview and Scrutiny Committee (OSC) requested and considered a report on possible changes to Call-In procedures at its meeting on 14 June 2005. This matter has been discussed by OSC Members on several occasions but no recommendations have been made for significant changes of principle to the existing rules in Part I.3 of the Constitution.

6.3 At its meeting on 29 September 2005 OSC provisionally approved changes to the procedures for:

- (i) Scrutiny Reviews, and
- (ii) Call-In of executive decisions.

6.4 Since that meeting on 29 September the proposals for Scrutiny Reviews and Call-In, respectively, have been subject to slightly different consultation processes. The consultation history and current proposals are therefore summarised under separate headings below.

**7. Scrutiny Review Procedures**

7.1 The proposals to amend these procedures were reported to GPC at its meeting on 24 October.

7.2 The report contained some further proposed amendments not before OSC on 29 September. They relate to the procedures recommended for Scrutiny Review reports about non-executive or regulatory functions. In such cases, the response to scrutiny is to be considered by the responsible non-executive body and the final decision on the response must be for full Council (rather than The Executive). The text changes are now set out in Part I.2 at paragraphs 1(c)(viii) and 1(d)(i) – (vi) i.e. in Appendix 2 to this report on pages 3 and 4. Some duplicated text is recommended for deletion at paragraph 11 on page 7.

7.3 The reason for the majority of the proposed changes to the Scrutiny Review procedures is to speed up the process of Service improvement and avoid unnecessary duplication of roles between The Executive and full Council.

7.4 The main changes, as reported to GPC on 24 October, can be summarised as follows:

- (i) The Executive will make the final decision on recommendations from OSC arising from Scrutiny Reviews. There will be no need for a report on to full Council, and
- (ii) The responding report from the Chief Officer/Executive Member to be considered by The Executive will contain a detailed tabulated implementation action plan, and
- (iii) This action plan will assist OSC in carrying out a follow up review an appropriate time after the implementation of recommended reforms in order to assess outcomes and measure improvements, and
- (iv) There would be a joint press launch, where appropriate, to explain The Executive's decisions in response to scrutiny reviews involving the relevant Executive Member and the Chair of OSC.
- (v) The order of proceedings for meetings of OSC is to be brought into line with the normal practice for other Committees.

7.5 Members of GPC accepted the proposed changes in principle. However, Members did express concern about leaving The Executive as the final arbiter of scrutiny recommendations in the event of any significant dispute with OSC.

7.6 In order to meet this concern, a new sub-paragraph 1(c)(x) has been inserted into the text changes in Appendix 2 at page 3. This new sub-paragraph is in capitals so as to distinguish it from the other proposals. If The Executive were to refuse to accept any recommendation from OSC, the Chair of OSC would have the right to refer the matter to full Council for final decision.

7.7 It is unlikely that this specific change would undermine the broad objective of speeding up the implementation of scrutiny recommendations. It would help preserve the "checks and balances" within the Council's Constitution that help make The Executive accountable to scrutiny.

7.8 GPC Members asked that their concern and the new sub-paragraph 1(c)(x) be reported to both political Group meetings and to OSC before the matter returned to GPC.

- 7.9 The Majority Group considered this point, and all the other proposed changes, at the Group meeting on 3 November. The Group agreed with GPC's concern and the proposed new sub-paragraph 1(c)(x). Majority Group Members accepted all the other proposals except the idea of holding a joint press launch to explain The Executive's response to scrutiny reviews, as mentioned in paragraph 7.4 (iv) above.
- 7.10 Accordingly, the joint press launch was deleted from the proposals which are being reported to OSC for approval and are now coming before GPC again. The new sub-paragraph 1(c)(x), on the role of full Council in disputes, has obviously been included.
- 7.11 Unfortunately, OSC was unable to consider the revised Scrutiny Review Procedure proposals because of other urgent business at its meeting on 21 November. The matter will be on the agenda again at OSC's next meeting on 12 December. The views of OSC Members will be reported orally to GPC Members on 19 December.
- 7.12 The next Minority Group meeting is to be held on 14 December. Minority Group will consider the same proposals as Majority Group. Their views will also be reported via their Group Secretary and tabled for the information of GPC Members on 19 December.

## **8. Call-In Procedures**

- 8.1 At the request of the Chair of GPC, the proposed amendments to Call-In procedures were not reported to GPC on 24 October but were to be sent for consultation to both political Group meetings before returning to GPC.
- 8.2 The main changes proposed are summarised below. The references to paragraph numbers are to those in Part I.3 of the Constitution as set out in Appendix 3 to this report:
- (i) in paragraph 4 provision is made to ensure that all Executive Members are notified about valid Call-In requests
  - (ii) paragraph 5 is amended to clarify that an Executive decision will be implemented immediately if the Call-In request is deemed invalid by the Monitoring Officer (MO)
  - (iii) in paragraph 6 it is recommended that the Monitoring Officer/Director of Finance (MO/DF) should prepare a report advising whether the decision is inside or outside the policy/budget framework whenever a call-in request is deemed valid, rather than only where those seeking the Call-in claim that the decision was outside the framework.
  - (iv) changes in paragraphs 2, 3(f), 7 and 8 are proposed to clarify that decisions taken under the special urgency procedure are not subject to Call-In. In other cases nothing must be done until the MO has ruled on the validity of the Call-In request and the 10 working days (for OSC to meet and decide its response to the Call-In) start to run from the date of the MO's ruling. These changes are for clarification only; they are not substantive changes to the existing procedures.

- (v) in paragraph 10 it is proposed to clarify that Members of OSC have the final decision whether the original decision was inside or outside the policy/budget framework but after considering the report of the MO/DF. The same point is clarified in paragraphs 14, 15 (a) and 16.
- (vi) at the end of paragraph 10 there are 4 options for OSC to take in relation to a Call-In. OSC Members had expressed the view that the first option, described as “fail to take any action”, was irrelevant and confusing and should be deleted. OSC will retain the option to “decide not to take any further action”. Logically, the option of full Council to “fail to take any action” is also recommended for deletion in paragraph 12.
- (vii) OSC Members also wished to retain, as one of the options open to them, the right to refer the decisions on a called-in item directly to Full Council, even where the decision is within the policy/budget framework.
- (viii) in paragraph 18(d), the rules about agreeing urgent decisions are being corrected in line with the Government’s Access to Information Regulations. In the absence of the Chair of OSC, it is not legally possible to rely on the consent of the Vice-Chair. It is the consent of the Mayor that is required and in the absence of the Mayor, the consent of the Deputy Mayor. This is a matter prescribed by the Regulations and not for local choice.

8.3 Majority Group accepted the above proposals at their meeting on 3 November without suggesting any changes to them.

8.4 The Minority Group’s views, after their meeting on 14 December, will be reported orally to GPC Members on 19 December.

## **9. Amendments in Appendices 1, 4 and 5 to this report**

9.1 Appendix 1 sets out the few amendments recommended to Part I.1 of the Constitution. This is the introductory Article to the Parts dealing with Overview and Scrutiny and the amendments are consequential or minor clarifications. Appendix 4 (Part E.1) and Appendix 5 (Part E.7) show the changes to the terms of reference for full Council that follow from the Scrutiny Review proposals.

## **10. Recommendations**

10.1 That Members recommend to full Council the adoption of the changes to the procedures for Scrutiny Reviews and Call-In, set out in Appendices 1, 2, 3, 4 and 5 to this report, to have effect as amendments to Parts I.1, I.2, I.3, E.1 and E.7 of the Council’s Constitution.

## **11. Legal Implications**

11.1 It is a matter for local choice whether OSC make their reports and recommendations to full Council or The Executive. In the event of dispute between The Executive and OSC, the underlying purpose of Scrutiny Review is best served by retaining the role of full Council as arbiter.

**12. Comments of the Director of Finance**

12.1 There are no specific financial implications.

**13. Equalities Implications**

13.1 There are no specific equalities implications.

**14. Use of Appendices / Tables / Photographs**

14.1 Appendix 1 sets out the text changes now recommended to Part I.1 of the Constitution (introductory Article on Overview and Scrutiny).

14.2 Appendix 2 sets out the text changes to Part I.2 (Overview and Scrutiny Procedure Rules).

14.3 Appendix 3 sets out the text changes to Part I.3 (Call-In Procedure Rules).

14.4 Appendix 4 sets out the text changes to Part E.1 (Full Council Article).

14.5 Appendix 5 sets out the text changes to Part E.7 (Terms of Reference of Full Council).



**APPENDIX 1**

[the words recommended for deletion are shown struck through and the words recommended for addition or insertion are shown in italics and underlined]

## **Part 1.1**

### **Overview and Scrutiny Committee Article**

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#### **Article 16 - Overview and Scrutiny**

##### **16.01. Terms of reference**

The Council will appoint an Overview and Scrutiny Committee to discharge the functions conferred by section 21 of the Local Government Act 2000, the Health & Social Care Act 2001 and the NHS Reform & Health Professional Act 2002.

##### **16.02. General role**

Within its terms of reference, the Overview and Scrutiny Committee may:

- (a) exercise an overview of the forward plan;
- (b) review or scrutinise decisions made or actions taken in connection with the discharge of any of the Executive's or Council's functions;
- (c) make reports and recommendations to the full Council, the Executive or relevant non-Executive Committee in connection with the discharge of any functions;
- (d) make reports or recommendations on matters affecting the area or its inhabitants;

## OVERVIEW AND SCRUTINY

- (e) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive;
- (f) receive the reports and recommendations of its commissioned Scrutiny Review Panels; and
- (g) in accordance with statutory regulations to review and scrutinise matters relating to the health service within the Authority's area and to make reports and recommendations thereon to local NHS bodies.

**16.03. Specific functions****(a) Scrutiny Review Panels.**

The Overview and Scrutiny Committee shall appoint task oriented, time limited Scrutiny Review Panels in order to discharge the Overview and Scrutiny role and will co-ordinate their respective roles.

**(b) Policy development and review.**

The Overview and Scrutiny Committee and any Scrutiny Review Panels it may establish may:

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

**(c) Scrutiny.**

The Overview and Scrutiny Committee and any Scrutiny Review Panels it may establish may:

- (i) Review and scrutinise the decisions made by and performance of the Executive and council officers both in relation to individual decisions and over time;
- (ii) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) Question members of the Executive and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (iv) Make recommendations to the Executive ~~and the Council~~ or relevant non-executive Committee arising from the outcome of the scrutiny process;
- (v) Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance; and
- (vi) Question and gather evidence from any person (with their consent).

**(d) Finance**

Overview and Scrutiny Committee may exercise overall responsibility for the finances made available to them.

**(e) Annual report.**

Overview and Scrutiny Committee must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

**16.04. Proceedings of Overview and Scrutiny Committee**

The Overview and Scrutiny Committee and any Scrutiny Review Panels it may establish will conduct their proceedings in accordance with **the Overview and Scrutiny Procedure Rules** set out in **Part I.2** of this Constitution.

**16.05. Votes of No Confidence**

The Chair of the Overview and Scrutiny Committee or the Chair of a Scrutiny Review Panel shall cease to hold that office as a Scrutiny member if a vote of no confidence, of which notice appears on the agenda, is carried at the meeting of the relevant body. The responsibilities of that member shall be carried out by the relevant Vice-Chair until such time as a subsequent meeting of that body has been notified of the appointment of a replacement or the reappointment of the member concerned. In the event of all members of the Overview and Scrutiny Committee having been removed from office in this way at any time, Scrutiny functions shall in the interim be carried out by Full Council.

**APPENDIX 2**

[the words recommended for deletion are shown struck through and the words recommended for addition or insertion are show in italics or in capitals and are underlined ]

## **Part I.2**

### **Overview and Scrutiny Procedure Rules**

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#### **1. The arrangements for Overview and Scrutiny**

- (a) The Council will have one Overview and Scrutiny Committee, which will have responsibility for all overview and scrutiny functions on behalf of the Council.
- (b) The terms of reference of the Overview and Scrutiny Committee will be:
- (i) the performance of all overview and scrutiny functions ~~on behalf of the~~  
~~———— Council;~~
  - (ii) the commission and appointment of such Scrutiny Review Panels as it considers appropriate, with membership that reflects the political balance of the Council, ~~to fulfil these overview and scrutiny functions;~~
  - (iii) to decide and amend the terms of reference of all scrutiny reviews;
  - (iv) to receive reports from the Leader at *the earliest convenience* ~~its first meeting~~ after each annual council meeting on 'the state of the borough', the Executive's priorities for the coming year, and its performance in the previous year;
  - (v) to receive reports from local National Health Service bodies on the state of health services and public health in the borough area;
  - (vi) to monitor the Executive's Forward Plan to ensure that appropriate decisions are discussed;
  - (vii) to receive all appropriate performance management and budget monitoring information;

- (viii) to approve a programme of future overview and scrutiny work so as to ensure that the Overview and Scrutiny Committee's and scrutiny panels' time is effectively and efficiently utilised;
  - (ix) to consider all requests for call-in and decide whether to call-in a decision, how it should be considered and whether to refer the decision to the Executive or to Council;
  - (x) to ensure that referrals from Overview and Scrutiny Committee to the Executive either by way of report or call-in are managed efficiently;
  - (xi) to ensure community and voluntary sector organisations, users of services and others are appropriately involved in giving evidence to relevant scrutiny reviews panels.
- (c) The Overview and Scrutiny Committee may commission a number of Scrutiny Review Panels:
- (i) Scrutiny Review Panels are task orientated, time-limited advisory bodies appointed to examine a specific issue in depth and reporting to the Overview and Scrutiny Committee;
  - (ii) Panels will analyse submissions, request and analyse any additional information, and question the Executive Member(s), relevant Council officers and officers and/or board members of local NHS bodies;
  - (iii) subject to the approval of the Overview and Scrutiny Committee, Scrutiny Review Panels will be able to appoint external advisors and/or to commission specific pieces of research if this is deemed necessary;
  - (iv) Scrutiny Reviews Panels should make every effort to work by consensus; however, in exceptional circumstances Members may submit minority reports;
  - (v) the culmination of a Scrutiny Review Panel's work is the submitting of a report to the Overview and Scrutiny Committee, including key findings, conclusions and recommendations. Exceptionally, where progress has

become protracted or stimulating debate would be helpful, an interim report may be submitted, with the consent of the Chair of the Overview and Scrutiny Committee;

(vi) prior to publication, draft reports will be sent to the relevant Chief Officers or officers of the National Health Service for checking for inaccuracies and the presence of exempt and/or confidential information; Scrutiny Review Panel members will revisit any conclusions drawn from disputed information;

(vii) Following endorsement by the Overview and Scrutiny Committee,  
final reports and recommendations will ~~go~~ be presented to the next available Executive meeting. The Executive will note the report and request a responding report from the Chief Executive or Chief Officer and Executive Member responsible. The response is to be available within 6 weeks of the request and will include a detailed tabulated implementation action plan;

(viii) Following endorsement by the Overview and Scrutiny Committee, reports on NHS, non-executive or regulatory matters will be copied to the Executive for information

(ix) On receiving the responding report, the Executive will consider both reports and formally agree their decisions, and the implementation action plan at the next available Executive meeting.

(x) IN THE EVENT THAT THE EXECUTIVE DOES NOT ACCEPT ONE OR MORE OF THE RECOMMENDATIONS IN THE FINAL REPORT FROM THE OVERVIEW AND SCRUTINY COMMITTEE, THE CHAIR OF THE OVERVIEW AND SCRUTINY COMMITTEE HAS THE RIGHT TO REQUIRE THAT THE MATTER IN DISPUTE SHALL BE REPORTED TO THE NEXT AVAILABLE MEETING OF FULL COUNCIL FOR DETERMINATION.

~~(viii) The scrutiny report and the Executive response will then be submitted together to full Council at the earliest opportunity.~~

(xi) ~~Following agreement of a report and/or recommendations by Council,~~  
~~the appropriate Chief Officer(s) will within three months~~  
~~prepare an~~  
~~action plan for approval by Executive Member(s).~~ The implementation action plan will also be presented to the Overview and Scrutiny Committee who will be invited to monitor its implementation.

(xii) After an appropriate period, post implementation, Overview and Scrutiny Committee will carry out a follow up review to determine if the recommendations had the intended outcomes and to measure any improvements.

(d) When Scrutiny Review Panels report on non-executive or regulatory

functions the above rules are adapted as follows;

(i) Paragraphs (c)(i) to (vi) apply;

(ii) Paragraph (c)(vii) applies as if references to the "Executive/Executive meeting" and "Executive Member" were replaced by references to "meeting of /the non-executive body responsible" and its "Chair" as appropriate;

(iii) Paragraph (c)(viii) applies as appropriate;

(iv) Paragraph (c)(ix) will be replaced by this provision - "On receiving the responding report, the non-executive body responsible, at its next available meeting, will consider both reports, its proposed response and the implementation action plan and will make recommendations on these to full Council. At the next available meeting full Council will formally agree the response and the implementation action plan."

(v) Paragraphs (c) (x) does not apply.

(vi) Paragraphs (c) (xi) and (xii) apply.

(e) All Overview and Scrutiny meetings shall take place in public (except where exempt or confidential matters are considered).



- (f) The Overview and Scrutiny function should not be seen as an alternative to established disciplinary, audit or complaints mechanisms and should not interfere with or pre-empt their work.

## **2. Membership of the Overview and Scrutiny Committee and Scrutiny Reviews Panels**

- (a) All Councillors (except members of the Executive) may be members of the Overview and Scrutiny Committee, and Scrutiny Review Panels. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.
- (b) Councillors' membership of the Overview and Scrutiny Committee and Scrutiny Review Panels will be in proportion to the representation of different political groups on the Council.

## **3. Co-optees**

- (a) Each scrutiny panel and review shall be entitled to appoint up to three people as non-voting co-optees, in consultation with the Overview and Scrutiny Committee.
- (b) Statutory voting non-Councillor members of Overview and Scrutiny Committee will be paid an allowance in accordance with the Members' Allowances Scheme in Part C.7 of this Constitution.

## **4. Education representatives**

- (a) The Overview and Scrutiny Committee shall include in its membership the following representatives:
- (i) at least one Church of England diocesan representative (voting);
  - (ii) at least one Roman Catholic diocesan representative (voting);
  - (iii) 3 parent governor representatives (voting); and
  - (iv) a representative from the Race Equality Joint Consultative Committee (REJCC) (non-voting).

These voting representatives will be entitled to vote where the Overview and Scrutiny Committee or a Scrutiny Review Panel is considering matters that relate to relevant education functions. If the Overview and Scrutiny Committee is dealing with other matters, these representatives shall not vote on those matters though they may stay in the meeting and speak at the discretion

of the Chair. The Overview and Scrutiny Committee will attempt to organise its meetings so that relevant education matters are grouped together.

- (b) Each Scrutiny Review Panel, where the review's terms of reference relate wholly or in part to any education functions that are the responsibility of the Executive, shall include in its membership the following representatives:
- (i) at least one Church of England diocesan representative (voting);
  - (ii) at least one Roman Catholic diocesan representative (voting);
  - (iii) 3 parent governor representatives (voting); and
  - (iv) a representative from the REJCC (non-voting).

If the scrutiny review deals with other matters, these voting representatives shall not vote on those other matters, though they may stay in the meeting and speak at the discretion of the Chair.

## **5. Meetings of the Overview and Scrutiny Committee, and Scrutiny Reviews Panels**

- (a) In addition to ordinary meetings of the Overview and Scrutiny Committee, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chair of the Overview and Scrutiny Committee, by any two members of the Committee or by the proper officer if he/she considers it necessary or appropriate.
- (b) Meetings of Scrutiny Review Panels may be called by the Chair of the Scrutiny Review Panel, by any two members of the panel or by the proper officer if he/she considers it necessary or appropriate.
- (c) The ordinary meeting place for the Overview and Scrutiny Committee and the Scrutiny Review Panels shall be Haringey Civic Centre, High Road, Wood Green, London, N22 8LE but they may arrange to meet elsewhere whenever they see fit.

## **6. Quorum**

The quorum for the Overview Scrutiny Committee and for each Scrutiny Review panel shall be at least one quarter of its membership and not less than 2 voting members.

**7. Chair of the Overview and Scrutiny Committee and Scrutiny Reviews Panels**

- (a) The Chair of the Overview and Scrutiny Committee will be appointed by the Council.
- (b) The Chair of the Overview and Scrutiny Committee shall resign with immediate effect if a vote of no confidence is passed by the Overview and Scrutiny Committee.
- (c) Chairs of Scrutiny Review Panels will be drawn from among the Councillors sitting on the Overview and Scrutiny Committee. Subject to this requirement, the Overview and Scrutiny Committee may appoint any person as it considers appropriate as Chair having regard to the objective of cross-party chairing in proportion to the political balance of the Council. The Scrutiny Review Panels shall not be able to change the appointed Chair unless there is a vote of no confidence as outlined in Article 16.05 in Part 1.1 of this Constitution.

**8. Work programme**

Overview and Scrutiny Committee will determine the future scrutiny work programme and will commission task and finish Scrutiny Review Panels to assist it to perform its functions. The Committee will appoint a Chair for each review.

**9. Agenda items for the Overview and Scrutiny Committee**

- (a) Any member of the Overview and Scrutiny Committee shall be entitled to give notice to the proper officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the proper officer will ensure that it is included on the next available agenda.
- (b) The Overview and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and, if it considers it appropriate, from the Executive to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to ~~the Council and/or~~ the Executive within an agreed timescale.

**10. Policy review and development**

- (a) The role of the Overview and Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in the **Budget and Policy Framework Procedure Rules** in **Part F.3** of this constitution.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview and Scrutiny Committee and its Scrutiny Review Panels may make proposals to the Executive for developments insofar as they relate to matters within their terms of reference. The Scrutiny Review Panels must do so via the Overview and Scrutiny Committee.

**11. Reports from the Overview and Scrutiny Committee**

- (a) Following endorsement by the Overview and Scrutiny Committee, final reports and recommendations will go be presented to the next available Executive meeting. The procedure to be followed is set out in paragraphs 1(c) or 1(d) above, as appropriate. ~~The Executive will note the report and request a responding report from the Chief Executive or Chief Officer and Executive Member responsible, to be available within 6 weeks the request.~~
- (b) ~~On receiving the responding report, the Executive will consider both reports and formally agree their decisions, at the next available Executive meeting~~
- (c) ~~The scrutiny report and the Executive response will then be submitted together to the next meeting of full Council.~~
- (d) ~~Following agreement of a report and/or recommendations by Council, the~~
- (e) ~~appropriate Chief Officer(s) will within three months prepare an action plan for approval by Executive Member(s). The action plan will also be presented to the Overview and Scrutiny Committee, who will be invited to monitor its implementation.~~

**12. Making sure that overview and scrutiny reports are considered by the Executive**

- (a) The agenda for Executive meetings (including any meetings of single members) shall include an item entitled 'Issues arising from Scrutiny'. Reports of the Overview and Scrutiny Committee referred to the Executive shall be included at this point in the agenda unless either they have been considered in the context of the Executive's deliberations on a substantive item on the agenda or the Executive gives reasons why they cannot be included and states when they will be considered.
- (b) Where the Overview and Scrutiny Committee prepares a report for consideration by the Executive in relation to a matter where decision making power has been delegated to an individual Executive member, a Committee of the Executive or an Officer, or under Joint Arrangements, then the Overview and Scrutiny Committee will also submit a copy of their report to that individual for consideration, and a copy to the proper officer. If the member, committee, or officer with delegated decision making power does not accept the recommendations of the Overview and Scrutiny Committee, then the body/he/she must then refer the matter to the next appropriate meeting of the Executive for debate before making a decision.

### **13. Rights and powers of Overview and Scrutiny Committee members**

#### **(a) Rights to documents**

- (i) In addition to their rights as Councillors, members of the Overview and Scrutiny Committee and Scrutiny Review Panels have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 D.2 of this Constitution.
- (ii) Nothing in this paragraph prevents more detailed liaison between the Executive and the Overview and Scrutiny Committee and Scrutiny Review Panels as appropriate depending on the particular matter under consideration.

#### **(b) Powers to conduct enquiries**

The Overview and Scrutiny Committee and Scrutiny Review Panels may hold enquiries into past performance and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in these processes. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations,

within available resources. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so (and Scrutiny Review Panels require the support of the Overview and Scrutiny Committee to do so).

**(c) Power to require Members and officers to give account**

(i) The Overview and Scrutiny Committee and Scrutiny Review Panels may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions (Review Panels will keep to issues that fall within their terms of reference). As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Executive, the Head of Paid Service and/or any senior officer (at second or third tier), and chief officers of the local National Health Service to attend before it to explain in relation to matters within their remit:

- (A) any particular decision or series of decisions;
- (B) the extent to which the actions taken implement Council policy (or NHS policy, where appropriate); and/or
- (C) their performance.

and it is the duty of those persons to attend if so required. At the discretion of their chief officer, council officers below third tier may attend, usually accompanied by a senior manager. At the discretion of the relevant Chief Executive, other NHS officers may also attend overview and scrutiny meetings.

(ii) Where any member or officer is required to attend the Overview and Scrutiny Committee or Scrutiny Review Panel under this provision, the Chair of that body will inform the member or proper officer. The proper officer shall inform the member or officer in writing giving at least 10 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Overview and Scrutiny Committee or Scrutiny Review Panel. Where the account to be given to Overview and Scrutiny Committee or Scrutiny Review Panel will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

- (iii) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee or Scrutiny Review Panel shall in consultation with the member or officer arrange an alternative date for attendance, to take place within a maximum of 10 days from the date of the original request.

#### 14. Attendance by others

The Overview and Scrutiny Committee or Scrutiny Review Panel may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and officers in other parts of the public sector and may invite such people to attend. Attendance is optional.

#### 15. Call-in

The call in procedure is dealt with separately in this Part of the Constitution, immediately following the Overview and Scrutiny Procedure Rules.

#### 16. Procedure at Overview and Scrutiny Committee meetings and meetings of the Scrutiny Review Panels.

- (a) The Overview and Scrutiny Committee shall consider the following business as appropriate:
- (i) apologies for absence; ~~minutes of the last meeting;~~
  - (ii) urgent business; ~~declarations of interest;~~
  - (iii) declarations of interest; ~~deputations and petitions;~~
  - (iv) minutes of the last meeting; ~~consideration of any matter referred to the Committee for a decision in relation to call in of a decision;~~
  - (v) deputations and petitions; ~~responses of the Executive to reports of the Committee; and~~
  - (vi) consideration of any matter referred to the Committee for a decision in relation to call in of a decision; ~~the business otherwise set out on the~~

~~agenda for the meeting.~~

(xi) responses of the Executive to reports of the Committee;  
and

(xii) the business otherwise set out on the agenda for the meeting.

(b) A Scrutiny Review Panel shall consider the following business as appropriate:

(i) minutes of the last meeting;

(ii) declarations of interest;

(iii) the business otherwise set out on the agenda for the meeting.

(c) Where the Overview and Scrutiny Committee or Scrutiny Review Panel has asked people to attend to give evidence at meetings, these are to be conducted in accordance with the following principles:

(i) that the investigation be conducted fairly and all members of the Overview and Scrutiny Committee and Scrutiny Review Panels be given the opportunity to ask questions of attendees, to contribute and to speak;

(ii) that those assisting the Overview and Scrutiny Committee or Scrutiny Review Panel by giving evidence be treated with respect and courtesy;

(iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis; and

(iv) that reasonable effort be made to provide appropriate assistance with translation or alternative methods of communication to assist those giving evidence.

(d) Following any investigation or review, the Overview and Scrutiny Committee or Scrutiny Review Panel shall prepare a report, for submission to the Executive ~~and/or Council as appropriate~~, (via the Overview and Scrutiny Committee in the case of a Scrutiny Review Panel) and shall make its report and findings public.



**17. Matters within the remit of more than one Scrutiny Review Panel.**

Should there be any overlap between the business of any scrutiny reviews, the Overview and Scrutiny Committee is empowered to resolve the issue.



**APPENDIX 3**

[the words recommended for deletion are struck through and the words recommended for addition or insertion are shown in italics and underlined]

## **Part 1.3**

### **Call-in Procedure Rules**

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1. When a decision is made by the Executive, an individual member of the Executive or a committee of the Executive, or a key decision is made by an officer with delegated authority from the Executive, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the Civic Centre normally **within 2 working days of being made**.
2. The notice of the decision will be dated and will specify that the decision will come into force, and may then be implemented, on the **expiry of 5 working days after the publication** of the decision, unless a valid request has been received objecting to the decision and asking for it to be called-in. *This does not apply to "urgent" decisions.*
3. The Monitoring Officer will deem valid a request that fulfils all of the following 6 criteria:
  - (a) it is submitted by any five Members of the Council.
  - (b) it is received by the Proper Officer by 10 a.m. on the fifth day following publication.
  - (c) it specifies the decision to which it objects.
  - (d) it specifies whether the decision is claimed to be outside the policy or budget framework.
  - (e) it gives reasons for the call-in and outlines an alternative course of action.
  - (f) it is not *made in relation to* a decision taken in accordance with the urgency procedures in ~~section~~ *paragraph* 18 below.
4. The Proper Officer will forward all timely and proper call-in requests, once deemed valid by the Monitoring Officer, to the Chair of the Overview and Scrutiny Committee and the

Overview and Scrutiny Manager and will notify all Executive Members including the decision taker and the relevant Chief Officer.

5. A decision will be implemented immediately after a call-in request is deemed invalid by the Monitoring Officer or after the expiry of ten working days following the receipt of a valid call-in request by the Chair of the Overview and Scrutiny Committee's receipt of a call-in request, unless a meeting of the Overview and Scrutiny Committee takes place during the 10-day period.
6. If a call-in request ~~claims that a decision is contrary to the policy or budget framework, is deemed valid,~~ the Proper Officer will forward the call-in request to the Monitoring Officer and/or Chief Financial Officer for a report to be prepared for the Overview and Scrutiny Committee advising whether the decision does fall inside or outside the policy or budget framework.
7. Unless a decision is designated "urgent" pursuant to section 18, when it shall be implemented immediately, no action shall be taken to implement the decision until **5 working days** have elapsed after the date of the publication of the decision. In the event that a call-in request has been received, no action shall be taken until the Monitoring officer has determined the validity of the request.
8. Subject to paragraph 5, when a ~~valid~~ request for call-in is ~~received,~~ deemed valid, all action to implement the decision is suspended until the Overview and Scrutiny Committee has met to decide what action to take. The Committee must meet no later than 10 working days after the Chair has received a valid call-in request..
9. Discussion of any called-in decisions shall precede all other substantive items on the agenda of the Overview and Scrutiny Committee. Any reports of the Monitoring Officer and Chief Financial Officer shall be part of that agenda.
10. ~~If a~~ The Committee shall consider any report of the Monitoring Officer / Chief Financial Officer confirms that as to whether a called-in decision is ~~within~~ inside or outside the policy / budget framework. ~~or if there is no such report, or if~~ The Overview and Scrutiny Committee is of the view that shall have regard to that report and any advice but Members shall determine whether the decision is ~~within~~ inside or outside the policy / budget framework. ~~regardless of any advice to the contrary,~~ If the Overview and Scrutiny Committee determine that the decision was within the

policy / budget framework, the Committee has ~~four~~ three options:

~~(a) The Overview and Scrutiny Committee may fail to take any action, in which case the decision is implemented at **the expiry of the 10-day period** from the Chair of the Overview and Scrutiny Committee's receipt of a valid request for call-in.~~

(a) The Overview and Scrutiny Committee may decide not to take any further action, in which case the decision is implemented immediately.

(b) The Overview and Scrutiny Committee may decide to refer the decision back to the decision taker, in which case the decision taker **has 5 working days** to reconsider the decision before taking a final decision.

(c) The Overview and Scrutiny Committee may decide to refer the decision to Full Council.

11. When the Overview and Scrutiny Committee refers a decision to Council (when the decision is deemed to fall within the policy / budget framework), any Council meeting must **be held within 10 working days (with an extraordinary meeting being called if necessary) of the date of the Overview and Scrutiny Committee's referral.**

12. When considering a called-in decision (when this decision is deemed to fall within the policy / budget framework) the Council has ~~three~~ two options:

~~(a) The Council may fail to take any action, in which case the decision is **implemented immediately.**~~

(a) The Council may decide not to take any further action, in which case the decision is implemented immediately.

(b) The Council may refer the decision back to the decision taker, in which case the decision taker **has 5 working days** to reconsider the decision before taking a final decision.

13. Once a final decision has been made there is no further right of call-in. This decision or any decision having the same effect may not be called-in again for **a period of six months** following the date at which the final decision was taken.

14. If a report of the Monitoring Officer / Chief Financial Officer confirms the Overview and Scrutiny Committee determines that the decision is outside the policy / budget framework, the ~~Overview and Scrutiny~~ Committee shall refer the decision to the decision taker and ~~ask the decision taker~~ with a request to reconsider ~~the decision~~ it on the grounds that it is incompatible with the policy / budget framework. The decision taker **shall have 5 working days** in which to reconsider the decision.
- 15. The decision taker has two options:**
- (a) Amend the decision in line with the Overview and Scrutiny Committee's determination ~~Monitoring Officer's / Chief Financial Officer's advice~~, in which case the decision is implemented immediately.
- (b) Reaffirm the original decision, in which case the decision goes to a Council meeting which must **convene within 10 working days** of the reaffirmation of the original decision.
16. When considering a called-in decision where a decision taker fails to amend a decision in line with the Overview and Scrutiny Committee's determination ~~Monitoring Officer's / Chief Financial Officer's advice~~, that it falls outside the policy / budget framework, the Council has two options:
- (a) Amend the policy / budget framework to accommodate the called-in decision, in which case the decision is implemented immediately.
- (b) Require the decision taker to reconsider the decision again and refer it to a meeting of the Executive to be held within **5 working days** of the Council meeting. The Executive's decision is final.
- 17. Abuse of Call-in**
- (a) Members are expect to ensure that call-in is not abused, or causes unreasonable delay to the functioning of the Executive.
- (b) The call-in procedure is to be reviewed annually (see ~~section~~ paragraph 18 f), if such a review leads to the conclusion that the call-in procedure is being abused, the Constitution may be amended to include greater limitations.
- 18. Call-In and Urgency**

- (a) The call-in procedure set out above shall not apply when the action being taken is urgent or time-critical in terms of (b) below.
- (b) A decision will be urgent if any delay in implementation likely to be caused by the call-in procedure would seriously prejudice the Council's or the public's interests.
- (c) If a decision is urgent and therefore not subject to call-in in, this will be stated on the record.
- (d) In order for a decision to be deemed urgent, the Chair of the Overview and Scrutiny Committee must agree that the decision is both reasonable in all circumstances and that it should be treated as a matter of urgency. In the absence or unavailability of the Chair the consent of the ~~Vice-Chair of the Overview and Scrutiny Committee~~ the Mayor is required. In the absence of both, the consent of the Deputy Mayor shall be required.
- (e) Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (f) The operation of the provisions relating to call-in and urgency shall be monitored annually and a report submitted to Council with proposals for review if necessary.

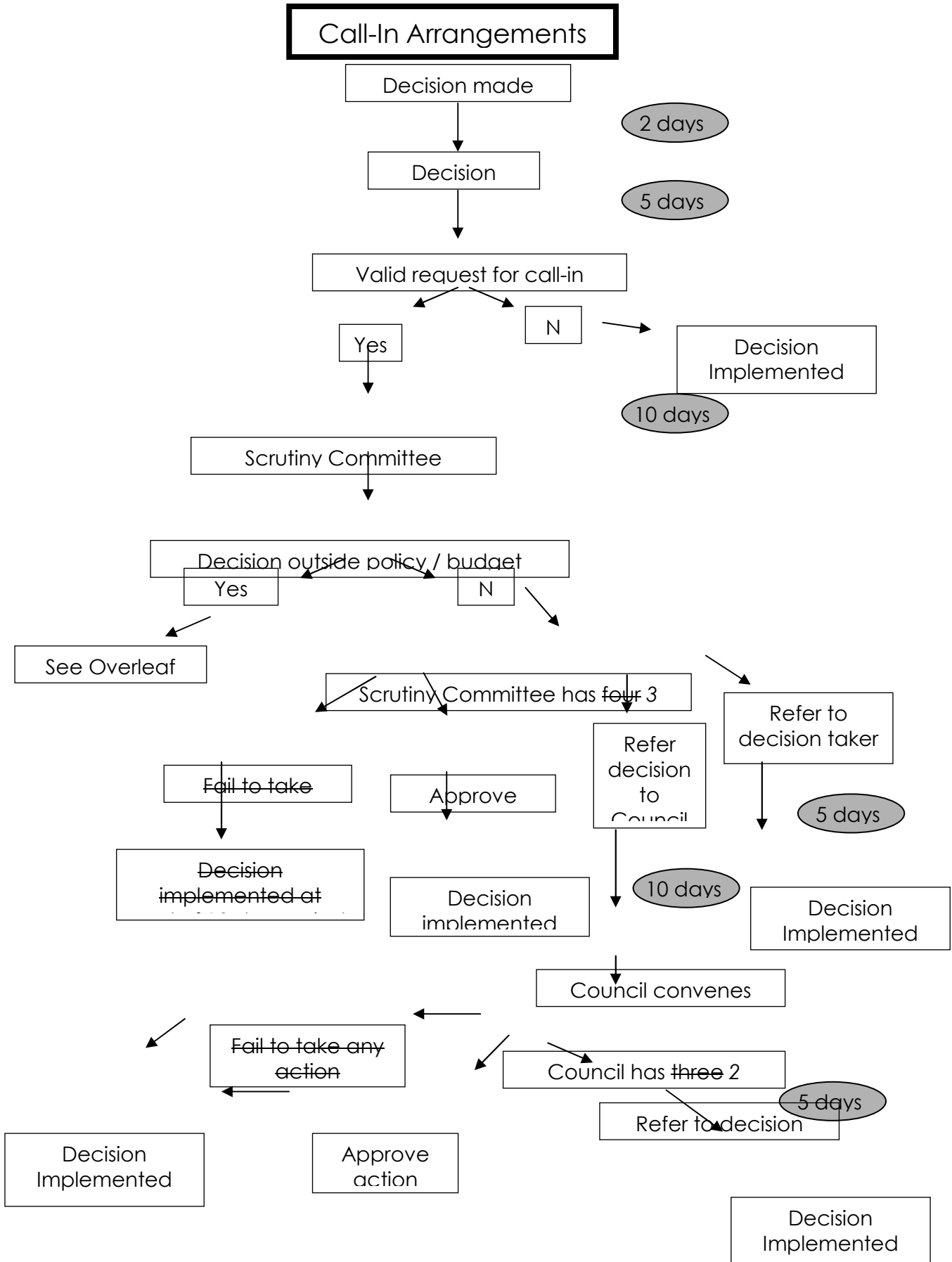
## **19. Call-In and the Forward Plan**

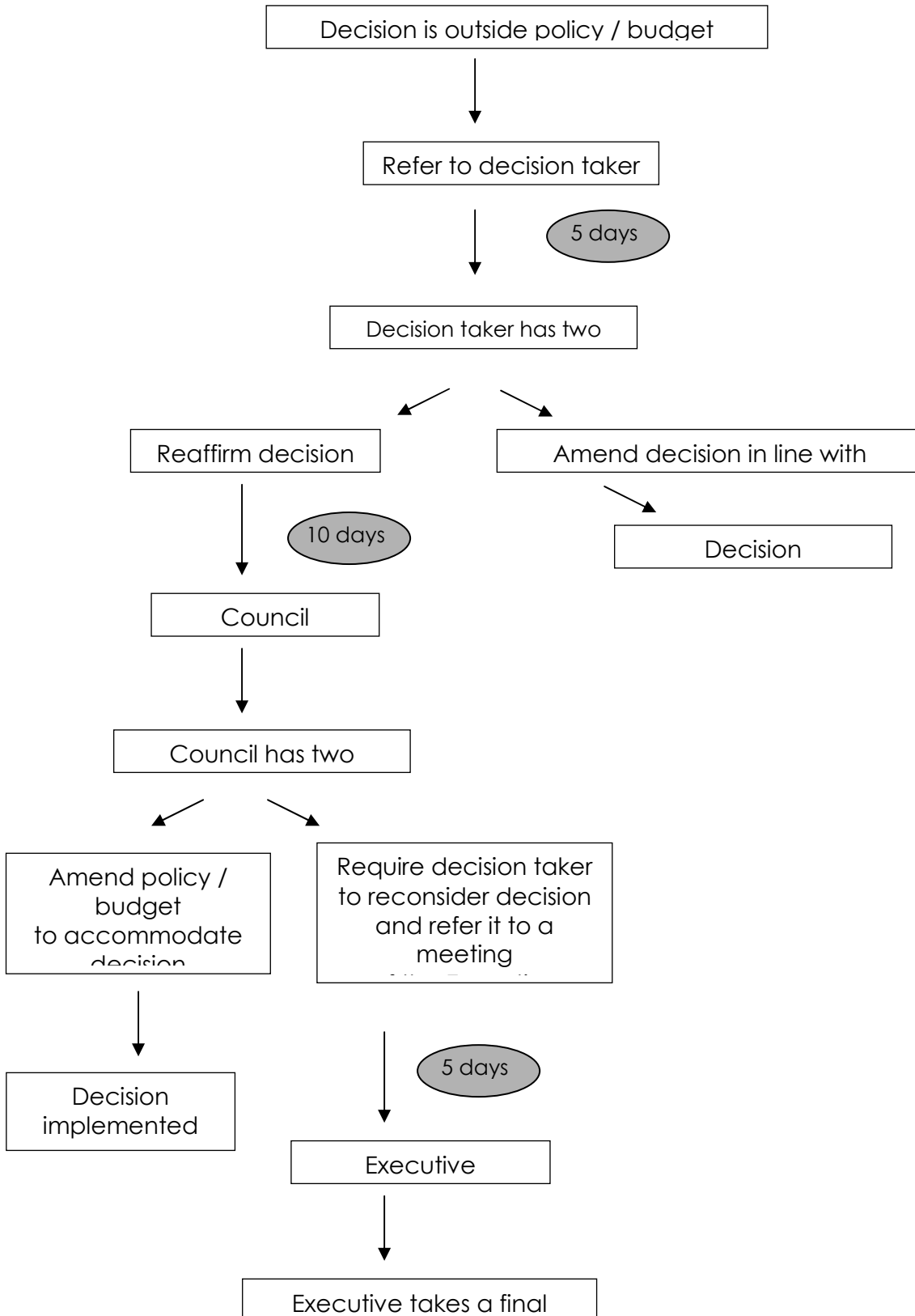
- (a) The Overview and Scrutiny Committee should consider the Forward Plan as its chief source of information regarding forthcoming Executive decisions.
- (b) The Overview and Scrutiny Committee may select a forthcoming decision and examine the issues around it.
- (c) In order not to obstruct the Council in its business, the Overview and Scrutiny Committee may call-in a decision in advance of its actually being taken. In such a situation all the time-limits apply as above, except that a decision cannot actually be implemented any sooner that it would have been had the Overview and Scrutiny Committee not called it in.
- (d) Where the Overview and Scrutiny Committee has called-in a decision from the Forward Plan before it due date, the decision cannot be called-in again after the final decision has been taken.

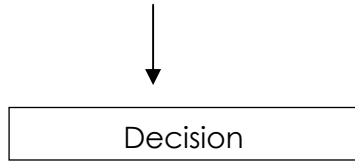
## **20. Monitoring Arrangements**

The operation of the provisions relating to call-in and urgency shall be monitored by the proper officer, and a report submitted to Council annually with proposals for review if necessary.











**APPENDIX 4**

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# Part E.1

## The Full Council Article

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### Article 6 - The Full Council

#### 6.01. Meanings

- (a) **Policy Framework.** A complete list of all the plans and strategies comprising the Council's Policy Framework is set out in the appropriate Schedule in **Part F, Decision Making**. These are the plans and strategies that Haringey Council has decided should be reserved to the full Council for approval:
- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council's borrowing requirements, the control of its capital expenditure and the setting of virement limits. The determination of the Council Tax Base is delegated to the Director of Finance in consultation with the Executive Member for Finance and the Executive Advisory Board.
- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

#### 6.02. Functions of the full Council

Only the Council will exercise the following functions:

- (a) Adopting and changing the Constitution;
- (b) Approving or adopting the **policy framework** as set out in the appropriate schedule in **Part F**

- (c) Approving the budget, levying Council Tax and setting the non-domestic rate multiplier;
- (d) Determining the borrowing limits for the authority for each financial year and the proportions of borrowing that are to be set at variable rates;
- (e) Approving any application to the Secretary of State in respect of any Housing Land Transfer as set out in Article 6.01 (c) above;
- (f) Subject to the urgency procedure contained in **the Access to Information Procedure Rules in Part D** of this Constitution, making decisions about any matter in the discharge of an Executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (g) Appointing the Leader and Members of the Executive;
- (h) Agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them and delegating functions to them from time to time as may be appropriate;
- (i) Agreeing recommendations arising from Scrutiny Reviews of non-executive functions ~~Considering reports of the Overview and Scrutiny Committee and the Executive's responses to those reports;~~
- (j) Deciding on recommendations arising from Scrutiny Reviews not accepted by The Executive and referred by the Chair of Overview and Scrutiny Committee;
- (k) Agreeing and/or amending the Scheme of Delegations to Officers;
- (l) Appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council;
- (m) Adopting and amending an allowances scheme under Article 4.05;
- (n) Changing the name of the area, conferring the title of honorary alderman or freedom of the borough and establishing any new Civic Link;

- (o) Confirming the appointment or dismissal of the head of paid service;
- (p) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills including the adoption of any legislation where the Council has a discretion;
- (q) All **local choice functions** set out in **Part F** of this Constitution which the Council decides should be undertaken by itself rather than the Executive, or any Committee, Sub-Committee or officer;
- (r) Entering into, or confirming existing, joint arrangements with other local authorities
- (s) Adopting the Members' Code of Conduct;
- (t) Approving Pilot Schemes for Local Elections;
- (u) Adopting Standing Orders for the Council and Standing Orders as to Contracts;
- (v) Making any decisions in respect of non-Executive functions which have not been expressly delegated elsewhere;
- (w) All matters that must be reserved to Council under the Finance Procedure Rules; and
- (x) All other matters that, by law, must be reserved to Council.

### 6.03. Council meetings

There are three types of Council meetings:

- (a) The annual meeting;
- (b) Ordinary meetings;
- (c) Extraordinary meetings.

They will be conducted in accordance with the **Standing Orders (Council Procedure Rules)** in **Part E** of this Constitution.

Council meetings will be chaired by the Mayor if he/she is present. If the Mayor is not present, Council will select another Councillor to take the Chair. The Deputy Mayor does not automatically chair the meeting

in the Mayor's absence. The Council may select the Deputy Mayor if it so wishes.

#### **6.04. Responsibility for functions**

The Council will maintain the tables in **Part E** of this Constitution setting out the responsibilities for the Council's functions that are not the responsibility of the Executive.







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## **Part E.7**

### **Terms of Reference: Full Council & Non Executive Bodies**

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#### **SECTION 1 - THE COUNCIL**

Only the Council will exercise the following functions:

- (a) Adopting and changing the Constitution;
- (b) Approving or adopting the policy framework as set out in **Article 6.01** (a), above;
- (c) Approving the budget, levying Council Tax and setting the non-domestic rate multiplier;
- (d) Determining the borrowing limits for the authority for each financial year and the proportions of borrowing that are to be set at variable rates;
- (e) Approving any application to the Secretary of State in respect of any Housing Land Transfer as set out in **Article 6.01** (c), above;
- (f) Subject to the urgency procedure contained in the **Access to Information Procedure Rules** in **Part D** of this Constitution, making decisions about any matter in the discharge of an Executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (g) Appointing the Leader and Members of the Executive;
- (h) Agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them and delegating functions to them from time to time as may be appropriate;

## THE FULL COUNCIL, REGULATORY AND OTHER NON-EXECUTIVE COMMITTEES

- (i) Agreeing recommendations arising from Scrutiny Reviews of non-executive functions ~~Considering reports of the Overview and Scrutiny Committee and the Executive's responses to these reports;~~
- (j) Deciding on recommendations arising from Scrutiny Reviews not accepted by The Executive and referred by the Chair of Overview and Scrutiny Committee;
- (k) Agreeing and/or amending the Scheme of Delegations to Officers;
- (l) Appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council;
- (m) Adopting and amending an allowances scheme under **Article 4.05;**
- (n) Changing the name of the area, conferring the title of honorary alderman or freedom of the borough and establishing any new Civic Link;
- (o) Confirming the appointment or dismissal of the head of paid service;
- (p) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills including the adoption of any legislation where the Council has a discretion;
- (q) All **local choice functions** set out in **Part F** of this Constitution which the Council decides should be undertaken by itself rather than the Executive, or any Committee, Sub-Committee or officer;
- (r) Entering into, or confirming existing, joint arrangements with other local authorities
- (s) Adopting the Members' Code of Conduct;
- (t) Approving Pilot Schemes for Local Elections;
- (u) Adopting Standing Orders for the Council and Standing Orders as to Contracts;

THE FULL COUNCIL, REGULATORY AND OTHER NON-EXECUTIVE COMMITTEES

(v) Making any decisions in respect of non-Executive functions which have not been expressly delegated elsewhere;

(w) All matters that must be reserved to Council under the Finance Procedure Rules; and

(x) All other matters that, by law, must be reserved to Council.

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Agenda item:

**General Purposes Committee****on 19<sup>th</sup> December 2005**

Report Title: **Amendments to the Scheme of Delegation to Officers relating to Planning Enforcement**

Report of: **The Head of Legal Services and Monitoring Officer**

Wards(s) affected: **All**

Report for: **Recommendation to Council**

### **1. Purpose**

1.1 To consider amendments to the scheme of delegation to officers relating to Planning Enforcement and Prosecution Powers

### **2. Recommendations**

2.1 That Members recommend to full Council the adoption of the amendments to the Scheme of Delegation to Officers, Part F.7 of the Constitution, as set out in the Appendix and recommended in paragraph 8.4 to this report.

Report Authorised by:

**Davina Fiore – Monitoring Officer  
and Head of Legal Services**

Contact Officer: **Terence Mitchison – Senior Project Lawyer, Corporate**  
x 5936 [terence.mitchison@haringey.gov.uk](mailto:terence.mitchison@haringey.gov.uk)

### **3. Executive Summary**

3.1 This report recommends amending the scheme of delegation by making specific reference to all the relevant Planning Enforcement and Prosecution powers in the schedule of statutory powers. This is a matter of precaution only. There will be no change in the substance of the delegations since these powers are already included in the scheme under the general heading of “Enforcement Action”.

### **4. Reasons for any change in policy or for new policy development (if applicable)**

4.1 Recent case law suggests that the extent of delegated powers should be clearly defined in cases where there may be especially serious consequences for persons subject to enforcement action.

## **5. Local Government (Access to Information) Act 1985**

5.1 The following background papers were used in the preparation of this report:

The Council's Constitution

## **6. Background**

6.1 The provisions relating to Town Planning in the Council's Scheme of Delegation to officers are set out in Part F.7 section 4 of the Constitution from pages 25 to 109 in the most recent June 2005 version. Section 4 covers the whole of Environmental Services Directorate. The provisions relating to Town Planning are mainly to be found at pages 26 to 27, where the delegated powers are described by reference to types/limits of development, and at pages 84 to 90 where they are listed section by section of the main Town Planning Statutes in the long schedule of specific statutory delegations.

6.2 The delegations relating to Planning Enforcement are at page 27 sub-paragraph (s) and encompass "all enforcement action within the Planning Sub-Committee's terms of reference". Historically, the individual sections of the Town and Country Planning Act have not been expressly set out in the schedule of specific statutory delegations.

## **7. Recent Case Law**

7.1 In a recent case, Kirklees Borough Council – v – Brook, the High Court decided that the words "taking enforcement action" in that Council's scheme of delegation did not include power to seek an injunction to prevent a threatened breach of planning control.

7.2 The Court was influenced by the fact that an interim injunction can be a relatively "draconian" intervention into normal property rights with potentially serious consequences since non-compliance is punishable with imprisonment. The Court would, have expected such a power to be expressly stated in the scheme of delegation.

7.3 The facts in the Kirklees case were complex and the position with the scheme of delegation there is not entirely the same as the position in Haringey. Nonetheless, as a matter of precaution and for the avoidance of any possible doubt, it is recommended that all the Planning enforcement, prosecution and related powers should be expressly set out in the schedule of specific statutory delegations.

7.4 The Council has not taken any action recently which could be affected by the Kirklees case.

## **8. Proposed Amendments to the Scheme of Delegation**

8.1 The Appendix to this report shows the specific sections of the Town and Country Planning Act 1990 dealing with enforcement or prosecution matters which are now



recommended for inclusion within the scheme as part of the schedule of specific statutory delegations. The powers to be included are shown in italics and underlined.

- 8.2 All of these powers are already within delegations to officers or, at least, it has long been the Council's intention that they be delegated. In accordance with the well-established practice of the Planning Applications Sub-Committee and recent changes to the Constitution, all enforcement action and prosecution activity already undertaken under delegated powers is reported regularly to Members. It is important for the effective enforcement of planning control that decisions are taken speedily by officers and that the current delegations are continued.
- 8.3 It is unusual for the Council to seek injunctions to enforce planning controls and only appropriate where there is clear evidence that really serious and irreversible harm is imminent, for example the threatened demolition of a listed building. In such a case the Planning and Legal Services would initiate immediate Court proceedings and it would be very important to allow immediate authorisation through delegation to senior officers as is recommended.
- 8.4 Some general changes to delegations to senior officers within the Planning Service are recommended to take account of actual or potential reorganisations. The reference to the former "Group Manager – Planning" should be removed and the two "Heads of Development Control" (HDC) should be so described without reference to any responsibilities for the "East" or "West" areas which may be proposed for change in due course. Members are recommended to agree these changes to have effect throughout the scheme of delegation.

## **9. Recommendations**

- 9.1 That Members recommend to full Council the adoption of the amendments to the Scheme of Delegation to Officers, Part F.7 of the Constitution, as set out in the Appendix and recommended in paragraph 8.4 to this report.

## **10. Comments of the Director of Finance**

- 10.1 There are no specific financial implications

## **11. Comments of the Head of Legal Services**

- 11.1 The legal implications are set out in the body of the report

## **12. Equalities Implications**

- 12.1 There are no specific equalities implications

## **13. Use of Appendices / Tables / Photographs**

- 13.1 The Appendix sets out the recommended text changes to Section 4 of Part F.7 of the Constitution.

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**APPENDIX**

[the words recommended for addition or insertion are shown in italics and underlined]

**Part F.7 – Scheme of Delegation to Officers****Section 4 – List of Statutory Delegations to Officers  
within Environmental Services Directorate**

[this schedule starts at page 87 of Part F.7 in the version of the Constitution last updated in June 2005]

<b>Town and Country Planning Act 1990</b>		
Section 169	Power to refer to the Secretary of State the question as to the identity of the "appropriate authority" in respect of a blight notice	<b>AD-PEPP</b> <b>HDC</b>
<u>Section 171C</u>	<u>Power to serve a planning contravention notice</u>	<u><b>AD-PEPP</b></u> <u><b>HDC</b></u> <u><b>AD-Enf</b></u>
<u>Section 171D</u>	<u>Power to prosecute for non-compliance with a planning contravention notice</u>	<u><b>AD-PEPP</b></u> <u><b>HDC</b></u> <u><b>AD-Enf</b></u>
<u>Section 171E</u>	<u>Power to issue a temporary stop notice</u>	<u><b>AD-PEPP</b></u> <u><b>HDC</b></u> <u><b>AD-Enf</b></u>
<u>Section 171G</u>	<u>Power to prosecute for contravention of a temporary stop notice</u>	<u><b>AD-PEPP</b></u> <u><b>HDC</b></u> <u><b>AD-Enf</b></u>
<u>Section 172</u>	<u>Power to issue an enforcement notice</u>	<u><b>AD-PEPP</b></u>

		<u>HDC</u> <u>AD-Enf</u>
<u>Section 173A</u>	<u>Powers to withdraw, waive or vary an enforcement notice</u>	<u>AD-PEPP</u> <u>HDC</u> <u>AD-Enf</u>
<u>Section 178</u>	<u>Power to authorise entry onto land in order to take steps to secure compliance with an enforcement notice and power to recover expenses reasonably incurred from the land owner</u>	<u>AD-PEPP</u> <u>HDC</u> <u>AD-Enf</u>
<u>Section 179</u>	<u>Power to prosecute for non-compliance with an enforcement notice</u>	<u>AD-PEPP</u> <u>HDC</u> <u>AD-Enf</u>
<u>Section 181</u>	<u>Power to prosecute for non-compliance with an enforcement notice having effect against subsequent development</u>	<u>AD-PEPP</u> <u>HDC</u> <u>AD-Enf</u>
<u>Section 183</u>	<u>Power to serve or withdraw a stop notice</u>	<u>AD-PEPP</u> <u>HDC</u> <u>AD-Enf</u>
<u>Section 187A</u>	<u>Power to serve a breach of condition notice</u>	<u>AD-PEPP</u> <u>HDC</u> <u>AD-Enf</u>
<u>Section 187B</u>	<u>Power to apply to the Court for an injunction to restrain any actual or apprehended breach of planning control</u>	<u>AD-PEPP</u> <u>HDC</u> <u>AD-Enf</u>
<u>Section 188</u>	<u>Duty to keep register of enforcement and stop notices</u>	<u>AD-PEPP</u> <u>HDC</u>

		<b><u>AD-Enf</u></b>
<u>Section 189</u>	<u>Power to prosecute for contravention of discontinuance orders</u>	<b><u>AD-PEPP</u></b> <b><u>HDC</u></b> <b><u>AD-Enf</u></b>
<u>Section 190</u>	<u>Power to authorise entry onto land in order to take steps to secure compliance with a discontinuance order and power to recover expenses reasonably incurred from the land owner</u>	<b><u>AD-PEPP</u></b> <b><u>AD-Enf</u></b>
<u>Section 191</u>	<u>Power to issue a certificate of lawfulness of existing use or development</u>	<b><u>AD-PEPP</u></b> <b><u>HDC</u></b>
<u>Section 192</u>	<u>Power to issue a certificate of lawfulness of proposed use or development</u>	<b><u>AD-PEPP</u></b> <b><u>HDC</u></b>
<u>Section 193</u>	<u>Power to revoke a certificate issued under sections 191 or 192</u>	<b><u>AD-PEPP</u></b> <b><u>AD-Enf</u></b>
<u>Section 194</u>	<u>Power to prosecute for making a statement, or using a document, which is false or misleading, or withholding material information for the purposes of procuring a certificate under sections 191 or 192</u>	<b><u>AD-PEPP</u></b> <b><u>HDC</u></b> <b><u>AD-Enf</u></b>
Section 196A	Power to authorise officers to enter land without warrant	<b><u>AD-Enf</u></b> <b><u>AD-PEPP</u></b>
Section 196B	Power to apply for warrant to enter land	<b><u>AD-Enf</u></b> <b><u>AD-PEPP</u></b>
<u>Section 196C</u>	<u>Power to prosecute for obstructing officers exercising rights of entry under this section</u>	<b><u>AD-Enf</u></b> <b><u>AD-PEPP</u></b>
Section 198	Power to make Tree Preservation Orders	<b><u>AD-PEPP</u></b> <b><u>HDC</u></b>
Section 198(2)	Power to give or refuse consent to carry out work in respect of trees subject to Tree Preservation Orders	<b><u>AD-PEPP</u></b> <b><u>HDC</u></b>

Section 199(1)	Power to confirm Tree Preservation Orders with or without modification	<b>AD-PEPP</b> <b>HDC</b>
Section 199(2)	Duty to observe regulations in respect of Tree Preservation Orders	<b>AD-PEPP</b> <b>HDC</b>
Section 201	Power to make provisional Tree Preservation Orders which take immediate effect.	<b>AD-PEPP</b> <b>HDC</b>
Section 203	Duty to pay compensation in respect of refusal of consent or grant of consent subject to conditions to carry out work in respect of trees subject to a Tree Preservation Order	<b>AD-PEPP</b> <b>HDC</b>
Section 206 (2)	Power to dispense with duty to replace trees removed, uprooted or destroyed in contravention of a Tree Preservation Order	<b>AD-PEPP</b> <b>HDC</b>
Section 207	Power to serve notice (replanting notice) requiring replacement of trees subject to a Tree Preservation Order	<b>AD-PEPP</b> <b>HDC</b>
<u>Section 209</u>	<u>Powers in connection with notices under section 207 including power to enter land, plant trees and recover expenses reasonably incurred from the land owner</u>	<b><u>AD-PEPP</u></b> <b><u>HDC</u></b>
<u>Section 210</u>	<u>Power to prosecute for non-compliance with a tree preservation order</u>	<b><u>AD-Enf</u></b> <b><u>AD-PEPP</u></b>
<u>Section 211</u>	<u>Power to prosecute for prohibited acts to trespass in conservation areas</u>	<b><u>AD-Enf</u></b> <b><u>AD-PEPP</u></b>
<u>Section 213</u>	<u>Power to dispense with duty to replant tree</u>	<b><u>AD-PEPP</u></b> <b><u>HDC</u></b>

<u>Section 214A</u>	<u>Power to apply to the Court for an injunction to restrain an actual or apprehended offence under sections 210 or 211</u>	<b><u>AD-PEPP</u></b> <b><u>HDC</u></b> <b><u>AD-Enf</u></b>
<u>Section 214B</u>	<u>Power to authorise entry onto land for any of the purposes referred to in this section</u>	<b><u>AD-Enf</u></b> <b><u>AD-PEPP</u></b>
<u>Section 214C</u>	<u>Power to apply for a warrant to enter land for any of the purposes referred to in this section and to authorise an officer to do so</u>	<b><u>AD-Enf</u></b> <b><u>AD-PEPP</u></b>
<u>Section 214D</u>	<u>Power to prosecute for obstructing officers exercising rights of entry under this section</u>	<b><u>AD-Enf</u></b> <b><u>AD-PEPP</u></b>
Section 215	Power to serve notice requiring the proper maintenance of land	<b><u>AD-Enf</u></b> <b><u>AD-PEPP</u></b>
<u>Section 216</u>	<u>Power to prosecute for non-compliance with notice under section 215</u>	<b><u>AD-Enf</u></b> <b><u>AD-PEPP</u></b>
<u>Section 219</u>	<u>Power to authorise entry onto land in order to take steps to secure compliance with a notice under section 215 and power to recover expenses reasonably incurred from the land owner</u>	<b><u>AD-Enf</u></b> <b><u>AD PEPP</u></b>
<u>Section 224(1)&amp;(2)</u>	<u>Powers to require (a) the removal of any advertisement displayed in contravention of regulations made under this section or (b) to require the discontinuance of the use for the display of advertisements of any site used in contravention of such regulations</u>	<b><u>AD-Enf</u></b> <b><u>AD-PEPP</u></b>
<u>Section 224(3)</u>	<u>Power to prosecute for displaying an advertisement in contravention of regulations made under this section</u>	<b><u>AD-Enf</u></b> <b><u>AD-PEPP</u></b>
Section 247	Power to submit a holding objection, on behalf of the Local Highway Authority, in respect of applications to the Secretary of State to stop up highways for development until such time as the proposed stopping-	<b><u>AD-PEPP</u></b> <b><u>TL-TP</u></b>

	up can be reported for a formal decision	
<u>Section 324</u>	<u>Power to authorise officers to enter land for any purposes referred to in this section</u>	<b><u>AD-Enf</u></b> <b><u>AD-PEPP</u></b>
<u>Section 325</u>	<u>Power to prosecute for obstructing officers exercising rights of entry under this section</u>	<b><u>AD-Enf</u></b> <b><u>AD-PEPP</u></b>
<u>Section 329</u>	<u>Power to authorise the service of any notice or other document under this Act and to take any related steps under this section</u>	<b><u>AD-PEPP</u></b> <b><u>HDC</u></b> <b><u>AD-Enf</u></b>
Section 330(1)	Power to serve notice requiring information as to the nature of interest in the premises, the name and address of any other person having an interest, the purpose for which the premises is used etc	<b>AD-ENF</b>
<b>Planning (Listed Buildings &amp; Conservation Areas) Act 1990</b>		
<u>Sections 7 &amp; 9</u>	<u>Power to prosecute for executing etc. works or demolition to listed buildings or buildings in conservation areas that are unauthorised or in breach of condition</u>	<b><u>AD-Enf</u></b> <b><u>AD-PEPP</u></b>
<u>Sections 14, 15, 16, 17, 18 and 19</u>	<u>Powers and duties relating to the determination of applications for listed building consent and conservation area consent or variations</u>	<b><u>AD-PEPP</u></b> <b><u>HDC</u></b>
<u>Section 38</u>	<u>Power to issue listed building and conservation area enforcement notices</u>	<b><u>AD-Enf</u></b> <b><u>AD-PEPP</u></b> <b><u>HDC</u></b>
Section 28	Duty to pay compensation consequential upon revocation or modification of listed building consent	<b>AD-PEPP</b> <b>HDC</b>
Section 29	Duty to compensation for loss or damage caused by service of a building preservation notice	<b>AD-PEPP</b> <b>HDC</b>



<u>Section 42</u>	<i>Power to authorise entry onto land in order to take steps to secure compliance with an enforcement notice under section 38 and power to recover expenses reasonably incurred from the land owner</i>	<b><u>AD-Enf</u></b> <b><u>AD-PEPP</u></b>
<u>Section 43</u>	<i>Power to prosecute for non-compliance with a listed building or conservation area enforcement notice</i>	<b><u>AD-Enf</u></b> <b><u>AD-PEPP</u></b>
<u>Section 44A</u>	<i>Power to apply to the Court for an injunction to restrain an actual or apprehended contravention of section 9(1) or (2)</i>	<b><u>AD-Enf</u></b> <b><u>AD-PEPP</u></b> <b><u>HDC</u></b>
Section 53	Power to make arrangements for the management or disposal of building or land acquired under the Act	<b><u>AD-PEPP</u></b> <b><u>HDC</u></b>
Section 54	Power to execute works urgently necessary for the preservation of an unoccupied listed building	<b><u>AD-PEPP</u></b> <b><u>HDC</u></b>
Section 55	Power to recover costs incurred in executing works under Section 54 of the Act	<b><u>AD-PEPP</u></b> <b><u>HDC</u></b>
<u>Section 59</u>	<i>Power to prosecute for acts causing or likely to result in damage to listed buildings</i>	<b><u>AD-PEPP</u></b> <b><u>AD-Enf</u></b>

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**General Purposes Committee On 19 December 2005**

**Report title: Equal Pay & Conditions Review**

**Report of: Head of Personnel**

**1. Purpose**

To outline progress in the Equal Pay & Conditions Review and outline how it is planned for the equal pay audit to inform the work to be done on the pay and grading review.

**2. Recommendations**

- a. Note progress on the Equal Pay & Conditions Review project
- b. Note that the Project Board and Member Working Group will work on developing pay systems and structures that take account of the findings of the equal pay audit.

Report authorised by:

Contact officer: **Stuart Young**

Telephone: **3174**

**3. Access to information:**

Local Government (Access to Information) Act 1985.

No documents that require to be listed were used in the preparation of this report.

#### 4. Introduction

Members will recall that project plan for the Haringey Equal Pay & Conditions Review is broken down into four phases.

**Phase 1 – Preparation.** – Target end October/ November 2005

To include

- Planning
- Project approval
- Feasibility study – to identify potential changes to the pay of particular groups of staff and resultant impact on the pay and allowance structures.
- Equal value audit – to identify any pay gaps between women and men and provide information that can be used to help shape the pay and grading review and address the pay gaps

**Phase 2 – Stakeholder engagement.** – Target end April 2006

To include

- Consultation with management, members and workforce to identify proposals/ changes to pay and conditions
- Negotiations with trade unions to seek agreement
- Communications plan - communications and consultation will continue throughout the life of the project but it is anticipated that Phase 2 will consider the actual pay and conditions changes whilst subsequent phases will deal with the pay and conditions changes to be implemented.

**Phase 3 – Implementation** – Target end April 2007

To include

- New pay and allowance structures
- Evaluation timetable – to job evaluate jobs and assign grades under the new pay structures.
- Assimilation timetable – to assimilate staff onto the new pay structures taking account of any changes in grade or pay.

**Phase 4 - Equal value review and audit** – Target end October 2008

To be completed following implementation and bedding down of the new pay and allowance structures.

#### 5. Project progress

**Feasibility study - RAG assessment - Green**

A sample of approx 160 jobs has been chosen for the data set, which represents approx 3200 staff - 45% of the workforce excluding teachers.

These jobs have been evaluated by independent assessors using the Greater London Provincial Council job evaluation scheme.

The job evaluation results will be fed into a spreadsheet and will allow for pay modelling and basic cost projections based on what new pay structures might be developed.

Pay modelling will be considered by the Project Board and Equal Pay Members Working Group.

It is important to note that pay forms only part of the employment package. There are a number of factors that contribute to making the employment package attractive, including leave, training, well being issues and development opportunities. When considering the employment package the project will also consider these elements together with pay to ensure the whole employment package is appropriate.

### **Equal Pay Audit - RAG assessment - Green**

An equal pay review involves comparing the pay of women and men doing equal work, investigating the causes of any gender pay gaps and committing to an action plan to close any gaps that cannot be justified.

It is a requirement of meeting Equality Standard level 3 that an Equal Pay Audit is conducted. It is also a requirement of the NJC 2004 Pay Agreement that an Equal pay audit is undertaken to assess the impact and inform any new pay structures and pay-related allowances.

The data set used for the equal pay audit is based on only those staff employed with the council for the whole financial year 1 April 2004 to 31 March 2005.

The data set covers approx 4300 staff – 73% women and 27% men.

The findings of this audit will be fed into the Equal Pay and Grading Review. The pay and grading review will look at addressing the pay of manual and officer staff in line with the national pay agreement 2004 for Local Government Service workers. This requires authorities to complete local Pay Reviews by 31 March 2007.

The pay review will also seek to achieve a greater balance between the pay of men and women.

The findings of this pay audit will highlight the pay grades where significant differentials in pay exist between men and women. These will provide the focus of attention when the review of pay and grading is undertaken.

It should be noted that it will not be known whether the pay and grading review has achieved its aims of reducing pay differentials until another pay audit is completed following implementation of the pay review.

### **Project Meetings - RAG assessment - Green**

Regular meetings have taken place with the trade unions over the past 10 months. These have been productive.

The project board and member group have each met on 3 occasions. Project progress and comprehension have been explored at these meetings. These groups are tasked with helping to realise new pay, conditions and allowance structures and policies based on information from the feasibility study and findings of the equal pay audit.

### **6. Legal Comments**

The Head of Legal Services has been consulted on the content of this report and has no specific comment to make.

### **7. Finance comments**

The Director of Finance has no comments.

### **8. Equalities implications**

This review is designed to take account of equal value and meet employment legislation tests in equalities terms. By conducting an equal value review it will help the organisation towards attaining level 4 of the Equality Standard for local government.

**General Purposes Committee** On 19<sup>th</sup> December 2005

<p><b>Report title: Appointment to ALMO posts</b>  <b>Director of Finance ALMO,</b>  <b>Director of Business Support, ALMO</b></p>
<p><b>Report of:</b> Head of Personnel</p>
<p><b>1. Purpose</b>  To brief Members about the arrangements for recruiting to the ALMO posts of Director of Finance ALMO, and Director of Business Support, ALMO</p>
<p><b>2. Recommendations</b></p> <ul style="list-style-type: none"> <li>• To agree the appointment panel</li> <li>• To note the arrangements for recruitment</li> </ul>
<p><b>Report authorised by:</b></p>
<p><b>Contact officer:</b> Stuart Young, Head of Personnel  <b>Telephone:</b> 3174</p>
<p><b>3. Policy summary</b>  The policy in relation to Member involvement in officer appointments is contained within the Council Constitution agreed at Council on 27<sup>th</sup> May 2002. General Purposes Committee agreed a set of principles for the appointment of staff where Members are involved at its meeting on 2<sup>nd</sup> July 2002.</p>
<p><b>4. Access to information:</b>  Local Government (Access to Information) Act 1985  Council Constitution  General Purposes Committee 2<sup>nd</sup> July 2002 - report titled Appointments Process</p>

## **5. Recruitment Process**

The Council adopted a new constitution its meeting in May 2002. The Constitution requires that appointments to chief officer and deputy chief officer posts be a non-Executive function carried out via the General Purposes Committee.

The appointment to ALMO posts are proposed as a matter for the General Purposes Committee because whilst the positions will TUPE transfer to the ALMO, this will not take place for several months. The appointments are therefore initially to the Council's establishment and fall properly within the terms of General Purposes Committee

An advert has been run and it is planned for Members to shortlist candidates as soon after this committee as can be arranged. The appointment is anticipated in early January, again subject to finalising dates with the Members of the appointment panel.

It is suggested that two non-voting observers be permitted to attend the appointment from the ALMO shadow board. These would not be Councillors.

## **6. Recommendation**

Members are asked to identify an appointment panel for each of the appointments to the posts of Director of Finance ALMO and Director of Business Support ALMO.



**General Purposes Committee On 19 December 2005**

**Report title: Code of Conduct for staff**

**Report of: Head of Personnel**

**1. Purpose**

To propose revisions to the Code of Conduct and introduce standard systems for registering staff interests and for making declarations of hospitality in line with Audit Commission recommendations on financial aspects of corporate governance.

**2. Recommendations**

- a. Comment on and approve the proposed amendments to the Code of Conduct.
- b. Agree the standard format and process for making declarations of hospitality or registering interests.
- c. Agree that Personnel Services will hold, co-ordinate and monitor the declaration and registration files.

Report authorised by:

Contact officer: **Stuart Young**

Telephone: **3174**

**3. Access to information:**

Local Government (Access to Information) Act 1985.

No documents that require to be listed were used in the preparation of this report.

#### **4. Background**

Work on a revised Code of Conduct has been ongoing since 2003.

Consultations on changes to the code have been undertaken with the trade unions over a number of meetings during the course of 2004 and 2005.

The Head of Personnel and Head of Legal Services have worked together to revise the Code of Conduct and introduce a standard system for registration of interests and declarations of hospitality.

#### **5. Proposals**

A revised version of the Code of Conduct is attached. The main changes have been highlighted in red/pink. Additional changes discussed with the unions have been highlighted in green and those discussed at Management board have been highlighted in blue.

The main changes are outlined under the following headings:

- Examples of what constitutes Gross Misconduct
- Smoking
- Working in the council with others
- Working with councillors
- Hospitality including Gifts, Gratuities and Loans
- Working honestly
- Working with debt
- Private work
- Misuse or theft of council equipment etc.
- Confidentiality – the use of council information
- Working and contact with the media
- Use of the Council's Information and Telecommunications Systems
- Form - Declaration of receipt of gift or hospitality
- Form - Voluntary Declaration of Interests

It is proposed that Personnel Services will hold the registers for Hospitality and the Declaration of Interests. They will be filed by Directorate in chronological or alphabetical order as appropriate. Staff will give a copy to their senior manager, and assistant director, and a copy to Personnel by post or electronically via email.

Where staff declare an interest that could conflict with their role consideration will be given to redeploying the person. Any such decision of this nature must be made by the appropriate Chief Officer in liaison with Personnel.

#### **6. Legal Services Comments**

Legal services have worked closely with the authors of this report who have incorporated relevant legal advice.

**7. Finance comments**

The Director of Finance has no comments.

**8. Equalities implications**

The code of conduct outlines what constitutes appropriate standards of behaviour for staff including references to the council's equal opportunities policy.

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## CODE OF CONDUCT (including Disciplinary Rules)

### Introduction

Haringey Council is committed to providing high quality, cost effective services.

The people we serve are diverse. It is essential that all employees recognise this fact so the Council can fulfil its commitment to equal opportunities for all.

As an employee of Haringey Council you enjoy many benefits including:

- Generous levels of annual leave
- Good special leave provisions including maternity provisions, nominated carers and sick dependants leave
- A healthcare scheme
- Job sharing opportunities
- Flexible working arrangements for most employees
- Membership of the Local Government Pension Scheme
- Interest free season ticket loans
- Provision of a healthy and safe working environment

In return we expect you to do your job to the best of your ability and behave in a manner that enhances the Council's image.

This Code of Conduct includes the Disciplinary Rules and provides the standards of conduct that must be adhered to by all employees and workers for the council (including temps, agency, consultants, contract workers and anyone supplying a service to / for Haringey Council).

It is unlikely that any set of disciplinary rules will cover all the circumstances that might arise. There may be a requirement to have a further localised set of rules within directorates. Any such localised rules will be brought to the attention of all employees that the rules are intended to apply to.

If you fail to adhere to this Code of Conduct you may be disciplined under the Council's Disciplinary Procedure. In some cases the breach may be so serious that it will be regarded as Gross Misconduct which could lead to your immediate dismissal without notice.

The type of disciplinary sanction that may be applied will depend on a number of factors such as:

- **Your employment status**
- The seriousness and nature of the misconduct
- An employee's previous record
- Mitigating circumstances
- The nature of the job.

This Code of Conduct, together with the Disciplinary Procedure, will be issued to all employees.

Ignorance of this code will not be accepted as an excuse for misconduct and you are therefore advised to read it carefully. If there are any points that you do not understand, please raise these with your manager.

The following paragraphs set out the expectations that the Council will have about the way that you conduct yourself.

## Standards of Conduct

### 1. Actions that could lead to charges of Gross Misconduct

There are certain acts that the Council will not tolerate and these will be deemed to constitute gross misconduct. Gross misconduct is misconduct of such a nature that the authority is justified in no longer tolerating the continued presence at work of the employee concerned. Whilst any serious breach of conduct will be considered to be gross misconduct, the following are given as examples:

- Unauthorised removal or misuse of Council property
- **Inappropriate use of the internet, email, the council's electronic software, information communications systems or computer misuse**
- Acts of dishonesty
- Falsification of time sheets, expenses claims etc.,
- **Misuse of the Council's property or name**
- Theft
- Fraud
- **Deliberate or negligent** damage to Council property
- Sexual misconduct at work, including sexual harassment
- Racist actions, including racial harassment
- **Physical violence**
- **Bullying, offensive behaviour or harassment**
- Soliciting or accepting bribes
- Improperly using one's position with the Council for personal gain
- Drunkenness at work, including serious incapability through abuse of alcohol.
- Drug offences, including being under the influence of drugs at work
- Serious breach of health and safety rules.
- Gross negligence
- Breach of confidentiality
- **Wilful failure to carry out the duties of the post**
- **Carelessness, causing loss, damage or injury**
- **Culpable lack of care towards clients**
- **Any action that could bring the Council into disrepute**

It should be noted that the above examples are neither exclusive nor exhaustive. Where other breaches of a serious nature have occurred they could also be deemed to be gross misconduct.

## 2. Valuing Diversity

The Council has an Equal Opportunities Policy document, "**Achieving Equality, Respecting Diversity**". Employees will need to implement this policy in full and take individual responsibility for equal opportunities and valuing diversity. You will therefore need to read the policy.

Equal opportunities is about both employment and service delivery and this is reflected in the statement of intent which is repeated in full below:

"In the provision of services and the employment of staff, Haringey Council is committed to promoting equality of opportunity for everyone. Throughout its activities, the Council will treat all people equally, whether they are:

- seeking and using the Council's services;
- applying for a job or already employed by the Council;
- contracting to supply goods or services to the Council.

The Council is committed to eliminating discrimination and to achieve this the Council will not discriminate directly or indirectly through applying conditions or requirements which cannot be shown to be justified. It will not discriminate on the grounds of age, colour, disability, ethnic origin, gender, HIV status, marital status, nationality or national origins, race, religious beliefs, responsibility for dependants, sexuality or unrelated criminal conviction."

Failure to comply with the requirements on equal opportunities will liable employees to disciplinary action.

## 3. Health and Safety

At all times you must conduct yourself in such a way that you do not create a potential risk or injury or danger to yourself or anyone else.

You must comply with the procedure for reporting an accident. If you are uncertain about what to do, you should seek the advice of your manager.

Where there are specific safety rules that have been clearly indicated to you, you must comply with them at all times.

You must maintain general hygiene standards. However, if you work with food there may be specific hygiene rules that must be complied with.

Where safety clothing or equipment is necessary to carry out a particular job, you must use this at all times in doing the job.

#### 4. Smoking

The Council has a 'No Smoking at Work Policy' and all Council workplaces have been declared completely smoke-free. Therefore you must not smoke at work.

If you wish to smoke you must do so outside but not in front of council building entrances.

#### 5. Working in the Council and with others

You will be expected to treat colleagues or members of the public with respect and not to misuse your authority.

You will be expected to conduct yourself in a way that does not cause offence to clients or members of the public.

You must not fight with, or physically assault, colleagues or managers or clients or members of the public. Nor must you mistreat persons in the care of the authority. If a member of staff or of the public physically assaults you, you are permitted only to defend yourself from the attack. If another person is physically assaulted it is acceptable to take appropriate action to protect him or her.

You should not drink alcohol during working hours. You should not present yourself at work under the influence of alcohol or drugs if it in anyway impairs your expected performance. ~~such that your performance is unacceptable.~~ The Council has an 'Alcohol and Substance Misuse Policy', which aims to help if you have a drink or drugs problem.

You should behave at work in a manner that does not offend decency.

You should dress appropriately for the job that you do. You must be presentable, clean and smart when you attend work. Although if during the course of your work your job makes this impracticable appropriate account will be taken of this. ~~unless the work that you do makes this impracticable.~~ Where you are required to wear a uniform or a certain standard of attire for work, you must comply with this.

You must conduct yourself in a manner that at all times promotes a positive image of the Council.

You must not wilfully neglect your work.

You must complete timesheets, claim forms, bonus sheets, loan forms, etc., honestly.

Your conduct outside work must not conflict with your official conduct at work.



You will be expected to comply with reasonable management instructions and to observe any operational regulations and standing orders of the directorate or of the Council.

You must at all times comply with the Council's Financial Regulations.

You are required to comply with any statutory or contractual obligations with regard to your work.

You will be expected to comply with any provisions that may be required as a result of being a member of a professional body.

If you leave your job, you should make sure that you leave your files and records in good order for the person taking over from you. You must return any equipment that belongs to the council and you must return your ID and any permits that the council has given to you. You must also repay any monies that you owe the council at the time of your leaving, for example, car loans, season ticket loans, salary overpayments.

## **6. Working with councillors**

It is important that you have a good working relationship with our councillors so that we are successful and can give excellent services to the people who live in Haringey. Councillors and employees should respect and be polite to each other.

We have a 'Protocol on Members/ Officers relations' that tells you how we expect councillors and employees to behave. This is contained within the Council Constitution.

If your job involves you having contact with councillors, you should read and apply the standards shown in the 'Protocol on Members/ Officers relations' within the Constitution.

You are employed by Haringey Council, not by a councillor, so if an individual councillor pressures you to deal with a matter which goes against the 'protocol', you must tell your manager.

You must not use councillors to ignore our formal procedures in any way, for example, to influence the outcome of any matter relating to misconduct.

You must contact Members over the heads of managers about personal employment issues. You should speak to your manager and go through established procedures, for example, appraisal, grievance and appeal procedures. This will avoid any conflict between the councillor's and your role. However, you can still take up any relevant matters with your local ward councillor in their role as your elected representative.

If you have any complaints about other employees, you should speak to your manager and not a councillor.

You should always be polite and efficient when you deal with councillors. You should always make sure that you follow any process within your directorate for dealing with councillors, for example, when answering councillor's questions.

You should never interrupt any formal council business.

If you are not sure about any of the standards outlined above, you should ask your manager.

## 7. Hospitality including Gifts, Gratuities and Loans

Providing the public with the highest quality of service possible involves meeting people, being helpful, polite and honest all the time.

It is potentially a disciplinary offence to accept gifts, gratuities, loans or hospitality from individuals or groups who have, or may seek to have, dealings with the Council. Personnel hold a hospitality register that is used to hold hospitality declaration forms. You should record all gifts or offers of hospitality to avoid potential problems further down the line, such as your own or your manager's unclear understanding of permissions, or standards.

If you accept any bribes, money, favours, loans or gifts from an individual or an organisation that gives Haringey Council goods or services, or wants to, you may be guilty of corruption.

You should never put yourself in debt to someone if it may influence your work in any way.

You must tell your senior manager or Assistant Director ~~manager~~ if anyone tries to bribe you or another employee, or if there is any evidence of corruption or improper behaviour by others. If your manager is involved, you should report it to the chief internal auditor.

You must inform your senior manager or Assistant Director ~~manager~~ immediately where any gift, loan or hospitality, etc, has been offered/received. Apart from the circumstances outlined below for small tokens of appreciation and specific hospitality arrangements you should record offers of gifts, loans, hospitality using the hospitality declaration form and record it in the hospitality register, whether you accept it or not. If you refuse a hospitality straightaway, you should ~~must~~ still record it using the hospitality declaration form register, unless your senior manager or Assistant Director ~~manager~~ tells you otherwise.

**Small tokens of appreciation-** You may accept small tokens of appreciation that do not cost much, such as a coffee mug or diary if you have not asked for them and if your manager agrees. You don't need to ~~must~~ record these tokens on the hospitality declaration form unless your manager tells you otherwise. If your manager does not allow you to accept any small tokens, you must return them

politely but firmly. You should record this using the hospitality declaration form. ~~tell the person why and record it in the hospitality register.~~

**Hospitalities** - include drinks, meals, entertainment, sporting events, overnight accommodation, travel and holidays.

It is important to remember that hospitality is offered to employees by corporate or public organisations, not by individuals.

The appropriateness of a hospitality will depend on a number of factors including the scale involved, the role played by the officer within the Council, and whether or not it is in the interests of the Council to receive that hospitality. For example, officers ~~graded Senior Manager level and above are frequently~~ involved in meetings/ events with partner or potential partner organisations that involve hospitality and free food/ drink, etc.

In the vast majority of cases, it would be acceptable if you are given refreshments, for example, tea, coffee, sandwiches or a modest working lunch, when you visit sites, offices or homes while you are working. But you need to consider whether the refreshment is reasonable in the circumstances for the particular job you are doing. Whenever possible it is important to get the approval of your manager in advance.

Whatever the circumstances:

- You should never ask for a hospitality; and/or
- You should never accept hospitalities if it is meant to corrupt or influence, or could be seen to corrupt or influence or is against our interests.

The timing of any hospitality is also important. For example, if it is offered close to when decisions are being taken about prospective services that might be supplied.

It is important to remember that if you accept any hospitality you place yourself in a position where you ~~could be viewed as compromised are presumed corrupt~~ unless you can prove otherwise.

## 8. Working honestly

It is important that you work with integrity and honesty at all times.

You must not use your official position for the personal gain of yourself or another person.

If you are involved in recruitment and related to an applicant or have a personal or business relationship with them, you must declare it with your ~~senior manager or Assistant Director~~ **manager** and not be involved in the selection process. ~~should not be involved in giving them a job, unless your manager gives you permission.~~

You, your partner or spouse or relatives or friends will have private interests including financial interests such as land or house ownership or the ownership of shares or non-financial interests such as membership of voluntary bodies, political organisations or other organisations.

From time to time decisions taken by the Council or yourself may have a beneficial effect on those interests.

It is important that you do not place yourself in a position where your work and duty to the council can conflict with the private interests of yourself or someone you know.

Where you believe that there is such a conflict or a potential conflict you must report this to your **senior manager or Assistant Director manager**. A record must be made using the declaration of interests form and copied to Personnel. ~~and also record this in the register.~~

Declaration of interests will be held on a register held by Personnel Services.

Additionally, you must declare any relationships where this might have an impact or conflict with your responsibilities.

Some examples of the type of interests or influences that could cause conflict are if you, your friend, partner, associate or relative is or could be:

- applying for a service or benefit that you supply, deal with or influence, for example, Housing Benefit and student grants; or
- affected by procedures that you carry out, deal with or influence, for example, environmental health inspections; or
- involved with any political party or organisation seeking election **and it is relevant to your job; or**
- benefit from a financial interest (direct or indirect and whether or not it benefits you) in any contract with Haringey Council.

It is your responsibility to update your declaration if your circumstances should change in anyway by completing a new declaration of interests form.

### **Hospitality and Declaration of Interest declaration forms**

These can be found at the end of this code. They can be used to record your interests or cases of hospitality. A copy must be given to your **senior manager AND your Assistant Director manager**, and the Personnel Service, either by post or email.

## 9. Working with debt

You should not keep money that you owe to Haringey Council or any other Public Body unless you are allowed to by law. If you have genuine problems with paying money to this council or any other Public Body, you can speak to your senior manager or Assistant Director manager or personnel officer in confidence.

If you owe money to Haringey Council or any other Public Body it may raise questions about the Council's reputation and issues of probity, which could be considered to be a disciplinary matter, and you may not be able to carry on in your job. Therefore it is important that you speak with your senior manager or Assistant Director manager or personnel officer if you are having difficulties in making payments.

You may be able to get support on debt counselling from personnel or your trade union.

## 10. Private Work

It is important that you commit yourself to fulfilling the work you do for the Council. Therefore you must not work for any other organisation or provide services to anyone during the hours when you are contracted to work for the Council unless your Director, Assistant Director or Assistant Chief Executive has approved it. This includes unpaid voluntary work, or when you are on sick leave, or on suspension.

If you are graded Scale 6 or below, the Council will usually permit you to undertake additional work outside of your working hours. However, it must not, in the view of the Council, conflict with or react detrimentally with the interests of the Council or your work, or, impact upon the image of the Council. Appropriate authorisation must still be obtained.

Officers above Scale 6 must not engage in any other business or take up any other additional work without the express consent of the Council.

No matter what your grade, if you are considering doing any additional work you must advise your senior manager or Assistant Director manager.

If you have any doubts or queries about whether this rule will apply to work you are doing or considering doing, you should discuss these with your senior manager or Assistant Director manager first.

Private work, which might involve dealings with the Council, its contractors or suppliers, must be disclosed and can only be done with the permission of your Director.

## 11. Misuse/Falsification of Information

You must not falsify information in applying for a post with the Council. You must disclose any know relationship with a Member or senior officer of the authority when you apply for a post with the Council.

You must not make false or misleading statements, whether orally or in writing in respect of official business.

You must not disclose official business to the press or media unless authorised to do so.

You must report any matter where you are required to do so.

You must not destroy, remove or wilfully damage any document that is still required by the Council.

You must not disclose confidential information and/or documents relating to the Council, its employees, or, to any member(s) of the public with whom it has dealings, unless authorised to do so.

You must not provide a reference on behalf of the Council, unless it has been cleared by the Head of Service or another officer authorised to do so.

## **12. Absence and Time-Keeping**

You should attend work when required to and not absent yourself without permission.

If you have an unplanned absence from work you must notify your manager of the reason before your normal start time on the first day of absence, and by 10.00 at the latest. If you work on a shift\* or rota system, or, if your hours of work are significantly different to normal office hours (0845 to 1700) you must notify your manager no later than one hour after your normal start time. \*If you are a night shift worker you must notify your manager by 1600 if you will be unable to work on the first night of absence. Similarly, if you are a night shift worker and are returning to work following an absence you must notify your manager at least before 1600 on the day of your return.

You must comply with any requirements to attend work at or by a specific time, i.e. fixed start time or by the start of core time.

You must comply with annual leave and flexitime procedures where applicable.

## **13. Misuse of or theft of Council materials/equipment/resources**

You must not steal or misappropriate Council materials or equipment.

You must not maliciously damage Council property or cause waste, or, loss of, or, damage to Council property through neglect.

You must not use any of the Council's vehicles during or outside the working day unless authorised. You must not use a Council vehicle for personal journeys, including journeys to and from home or on a lunch break unless authorised.

You must not borrow any equipment from Council premises without authorisation from your senior manager or Assistant Director ~~manager~~.

You must not use any Council facility for private purposes, unless authorised by your senior manager or Assistant Director ~~manager~~.

You must not use the telephone to make private calls to exchanges outside the London area at the Council's expense. You can make personal calls within the London area provided these are kept to an absolute minimum.

You must return any property or equipment, which your senior manager or Assistant Director ~~manager~~ has allowed you to borrow or enjoy the use of as soon as you leave your job, or when your senior manager or Assistant Director ~~manager~~ tells you to if this is earlier.

#### 14. Criminal Offences

You must disclose the fact if you have a conviction for a criminal offence (unless your post is covered by the Rehabilitation of Offenders Act 1974, and the conviction is deemed "spent").

If your post is exempt from the Rehabilitation of Offenders Act 1974 (your posts involves working with vulnerable adults or children or is a profession deemed as exempt) you must declare all convictions.

If the council later finds out about a conviction that you were required to declare and you did not, the Council can take further action. This could include disciplinary action.

You must not commit a criminal offence at work.

You must advise your senior manager or Assistant Director if the police have arrested, cautioned, fined you or you are awaiting a court decision.

If you commit a criminal offence outside work the Council will have to decide whether the offence has an impact on your work. If the Council decides that such an offence does have an impact on your work it will take whatever action that is deemed to be appropriate. This could include disciplinary action.

You must be able to prove your right (or continued right) to work in the UK. If you are unable to prove your right (or continued right to work in the UK) or breach any work restriction the Council can take whatever action is deemed appropriate. This could include dismissal or disciplinary action.

## 15. Confidentiality- The Use of Council information

As a worker for the Council you will have access to and be entrusted with a large quantity of information. This may include, amongst other information, details of the Council's affairs, business, its financing, dealings, transactions, clients, contractors, suppliers, customers, residents and staff. All of this information may be confidential.

You must therefore, not at any time (unless you are required to do so in the proper course of your duties) divulge to any person or make use of any information to which you have access to during your employment/whilst working for the Council.

All such information and notes, memoranda, documents (however generated / stored – manually, electronically, scanned, including emails) and similar records relating to, or connected with such information that is acquired, received or made by you during the course of your employment/whilst working for the Council are the property of the Council. You must return this information to the Council upon termination or discontinuance of your employment, or upon ceasing to work for the Council, or upon the request of your manager/supervisor if earlier.

Note that it may be appropriate to share this information if you have concerns about malpractice in the council. The council has a Whistleblowing policy that outlines how you should deal with such concerns.

## 16. Working and contact with the media

All organisations need rules for dealing with the media. We have a press office and special officers who deal with the press and media.

You should not speak, write, give interviews, or take phone calls for 'information' if you are seen to work for us or are referring to council business, unless the press office and your manager have given you permission.

You should pass on all inquiries from the press, radio or television to the press office and your senior manager or Assistant Director manager, unless you normally deal with the media as part of your job (this includes trade union branch officials).

You may write or give an interview about things that are not connected with the Council as long as you are not seen to work for us.

You should tell your senior manager or Assistant Director manager if you think that any articles may appear in the press about you that will show you work for us.

You must never publicise material, which is confidential or against our interests or our employees' interests. If you have any concerns, you should speak to your senior manager or Assistant Director manager or go through recognised procedures, such as the grievance procedure.



## 17. Use of the Council's Information and Telecommunications Systems

The Council's information and telecommunications systems are provided for business use. This includes, but is not limited to, use of telephones, computers, the Internet, E-mail, faxes etc. However, the Council recognises that there may be the need for staff to use these systems on occasion for personal use. Such instances must be reasonable, kept to a minimum and be consistent with the Council's Information Security Policy. ~~and agreed with your manager first.~~

The Council has an Information Security Policy, which explains what you can and cannot do using the council's information systems. It is your responsibility to familiarise yourself with the policy and to comply with it. The Council has the right to monitor and log any and all aspects of use of its information systems. (See Harinet for further information.)

**DECLARATION OF RECEIPT OF GIFT OR HOSPITALITY**

You should record all gifts or offers of hospitality to avoid potential problems further down the line. However you do not need to record small tokens of appreciation that do not cost much, such as a mug or diary, or normal workplace lunches, **unless your senior manager or Assistant Director manager tells you otherwise**

**You must give a copy of this form to Personnel Services**

<b>Name</b>	
<b>Post</b>	
<b>Section</b>	
<b>Directorate</b>	
<b>Description of the gift received or hospitality provided</b>	
<b>What is your best estimate of the value of the gift or hospitality?</b>	
<b>Who gave it to you, and when and where did you receive it?</b>	
<b>State if you got permission to receive the gift/ hospitality, who gave you permission and when it was given?</b>	
<b>Were there any special circumstances that justified acceptance of the gift or hospitality?</b>	
<b>Do you have any contact in your job with the person providing the gift or hospitality? If so, please provide details.</b>	

<b>Employee signature</b>		<b>Date</b>	
<b>Director/ Asst Director Sign off</b>		<b>Date</b>	

## Declaration of Interests Form

You must not use your official position for the personal gain of yourself or another person.

You need to complete this form if you work in a job where there is potential for conflict between your role and your private life. It is in your interests to complete this form to avoid potential problems down the line with your employment in the council. **It is your responsibility to update your declaration if your circumstances should change in anyway by completing a new declaration of interests form.**

See more details about circumstances when you should make a declaration at the end of this form.

**Please write clearly**

<b>Your name</b>	
<b>Your job/ post title</b>	
<b>Your line managers name and job title</b>	
<b>Section</b>	
<b>Directorate</b>	
<b>Type of interest</b>	<b>Please enter as much information as possible</b>
Please provide details about yourself, partner, friends, relatives etc. if involved (e.g. paid employment, ownership of shares, arrangements for providing goods or services) with any company/ firm/ partnership/ organisation that provides any goods or services to the council.	
Please provide details about yourself, partner, friends, relatives etc. (if relevant to your job) of any land ownership/ occupation.	
Please provide details about yourself, partner, friends, relatives etc. of any other private interest which may conflict with your job role.	

## Guidance on when you should make a declaration

You, your partner or spouse or relatives or friends will have private interests including financial interests such as land or house ownership or the ownership of shares or non-financial interests such as membership of voluntary bodies, political organisations or other organisations. From time to time decisions taken by the Council or yourself may have a beneficial effect on those interests.

It is important that you do not place yourself in a position where your work and duty to the council can conflict with the private interests of yourself or someone you know.

Examples could be:

- applying for a service or benefit that you supply, deal with or influence, for example, Housing Benefit and student grants; or
- affected by procedures that you carry out, deal with or influence, for example, environmental health inspections; or
- involved with any political party or organisation seeking election and it is relevant to your job; or
- benefit from a financial interest (direct or indirect and whether or not it benefits you) in any contract with Haringey Council.

Where you believe that there is such a conflict or a potential conflict you must report this to your **senior manager or Assistant Director manager**. A record should be made using this declaration of interests form and copied to Personnel.

Please complete this form to the best of your ability. The Council recognises that you may not know details of the business affairs of members of your family but please complete the form to the best of your ability. You are required to update your declaration within one calendar month of becoming aware of any material change in its content.

The Council will hold this declaration in a Register of Staff Interests. You may ask for access to your declaration at any time and may correct or update it as required. This register is not open to public inspection, but may be inspected by your managers and key officers of the authority, by the authority's auditors and by the Local Government Ombudsman and the Standards Board.

### **Definitions -**

"Family" means your parents, parents-in-law, step-parents, husband, wife or partner, son, daughter, step-son, step-daughter, child or a partner, brother, sister, brother-in-law or sister-in-law.

"Immediate Family" means your husband, wife or partner

"Ownership" of land includes ownership of an option to buy land.

Agenda item:

**General Purposes Committee**
**on 19<sup>th</sup> December 2005**
**Report Title: Amendments to the Constitution relating to Licensing and Gaming**
**Report of: The Head of Legal Services and Monitoring Officer**
**Wards(s) affected: All**
**Report for: Recommendation to Council**
**1. Purpose**

1.1 To consider the adoption of Local Licensing Procedure Rules, an addition to the terms of reference of the Licensing Sub-Committees and amendments to the scheme of delegation to officers relating to the Licensing Act 2003 and gaming machine regulation

**2. Recommendations**

2.1 That Members recommend to full Council:

- (i) the adoption of the Haringey Local Licensing Procedure Rules for Hearings, as set out in Appendix 1 to this report, as a new Part C.9 of the Council's Constitution
- (ii) the amendment of Part E.7 of the Constitution, as set out in Appendix 4 to this report, so as to add certain gaming regulation functions to the terms of reference of the Licensing Sub-Committees
- (iii) the amendment of the Scheme of Delegation to Officers, at Part F.7 of the Constitution, as set out in Appendices 2 and 3 to this report, so as to give powers to:
  - (a) the Head of Legal Services to make arrangements for disposing of cases remitted by the Magistrates after Licensing appeals, and
  - (b) the Assistant Director, Enforcement, to grant permits for no more than two amusement with prizes gaming machines in premises licensed to sell or supply alcohol in accordance with policy agreed by the Licensing Committee

Report Authorised by:

**Davina Fiore – Monitoring Officer  
and Head of Legal Services**

Contact Officer: **Terence Mitchison – Senior Project Lawyer, Corporate**  
 x 5936 [terence.mitchison@haringey.gov.uk](mailto:terence.mitchison@haringey.gov.uk)

### **3. Executive Summary**

3.1 This report recommends (i) the formal adoption as part of the Constitution of the Local Licensing Procedure Rules already used to regulate hearings for the last 4 months, (ii) amending the functions of Licensing Sub-Committees to include new gaming regulation powers, and (iii) giving the Head of Legal Services new delegated power to make arrangements to deal with cases remitted by the Magistrates Court after an appeal, and (iv) giving new delegated power to the Assistant Director, Enforcement, to grant no more than two amusement with prizes gaming machines in accordance with the policy established by resolution of the Licensing Committee on 6 December.

### **4. Reasons for any change in policy or for new policy development (if applicable)**

4.1 Changes to the jurisdiction of the Council as Licensing Authority, after the main coming into force of the Licensing Act 2003, make it necessary to provide for the regulation of gaming machines in licensed premises.

### **5. Local Government (Access to Information) Act 1985**

5.1 The following background papers were used in the preparation of this report:

(i) The Council's Constitution, and (ii) reports to the Licensing Committee on 6 December 2005 agenda items 7 and 8.

### **6. Adoption of the Local Licensing Procedure Rules**

6.1 The "Haringey Council – Local Licensing Procedure Rules for Hearings under the Licensing Act 2003" are attached as Appendix 1 to this report. These rules were approved by the Licensing Committee on 15 March. At that time Members were advised that the Rules should stay outside the Council's Constitution in order to permit rapid amendment if necessary during a trial period of at least 3 months experience of their operation in practice.

6.2 The Local Licensing Procedure Rules have now been in regular use, on an approximately weekly basis, since late August. Together with the provisions of the Licensing Act 2003 and the Government's "Hearings Regulations" (S.I. 2005/44), the Local Licensing Procedure Rules have been regulating the hearings before Licensing Sub-Committees.

6.3 There have been over 30 contested hearings of applications for the conversion and variation of premises licences, objections by the Police to personal licences and more recently applications for new premises licences. In future, it is likely that Licensing Sub-Committees will be hearing applications for the "review" of existing premises licences where local residents complain of nuisance. The Local Licensing Procedure Rules have proved sufficiently flexible to deal with different types of case successfully.

6.4 The Local Licensing Procedure Rules were approved, with some relatively minor amendments, by the Licensing Committee on 6 December. The Licensing Committee

requested the General Purposes Committee (GPC) to recommend the Rules to full Council for adoption as part of the Council's Constitution.

6.5 The content of the Local Licensing Procedure Rules is within the jurisdiction of the Licensing Committee. The remit of the GPC is only to decide whether to recommend the Rules to full Council for adoption. In this context, the Government's "Local Government Act Constitutions Direction" 2000 states that Council Constitutions should include "any rules governing the conduct and proceedings and meetings of a Committee or Sub-Committee".

6.6 GPC Members will note that there are already three Codes or Protocols in the Constitution (Parts C4, C5 and C6) governing the conduct of Members of the Planning Applications Sub-Committee (PASC) and the hearing of representations before PASC. To secure consistency of treatment, it would be appropriate to adopt the Local Licensing Procedure Rules which cover equivalent matters relating to Licensing.

## **7. Delegation to Head of Legal Services relating to Remitted Appeal Cases**

7.1 Whenever any of the parties to a licensing application is aggrieved by a decision of a Licensing body, they have a right of appeal to the local Magistrates Court. In most cases it is likely that the Magistrates would exercise their jurisdiction to re-hear the case afresh and substitute their own decision for that of the Council, assuming that the Magistrates reached a different conclusion.

7.2 However, in some cases the Magistrates may use their power to remit the case back to the Licensing Authority with a "Direction" to dispose of the case in a particular manner, for example, by including certain evidence excluded at the initial hearing. In such a case there would be a re-hearing before a Licensing Sub-Committee of the Council.

7.3 The practical arrangements for this would need to be authorised by the main Licensing Committee. Since it would not be a cost effective use of resources to hold a Committee meeting only to make a relatively minor procedural decision, it is recommended that the formal procedural decisions be delegated to the Head of Legal Services acting in consultation with the Chair of the Licensing Committee. This would not remove the right of Members of the relevant Licensing Sub-Committee to make the eventual decision on the substantive issues in the appeal case at the end of the re-hearing.

7.4 The power to be delegated would cover guidance on how to apply the Direction of the Magistrates Court to the re-hearing. For example, this might include specifying which Members were (or were not) to participate in the re-hearing, what evidence was to be included or excluded and which persons were to be notified of the re-hearing and permitted to participate.

7.5 If in any case the Chair of the Licensing Committee considered that the procedural decision was so important that it needed a Member-level decision, then the Chair could require the matter to be referred to the full Committee rather than being dealt with under the delegated power.

7.6 The proposed text of the new delegated power is set out in Appendix 2 to this report. It would appear in Part F.7 section 2 (delegations to officers in the Chief Executive's Service) at the end of the list of statutory powers under the heading "Licensing Act 2003 – section 181". GPC Members are requested to recommend this to full Council for incorporation into the Constitution.

## **8. Proposed Changes relating to Gaming**

8.1 Appendix 5 to this report is the report on the Gaming Act provisions considered by the Licensing Committee on 6 December. In summary, the Council as Licensing Authority has acquired responsibility for many aspects of gaming regulation in premises licensed to sell or supply alcohol. This jurisdiction was taken over from the Magistrates Courts upon the main coming into force of the Licensing Act 2003 on 24 November.

8.2 The Licensing Committee agreed all the recommendations to it in paragraph 2.1 of the report. The first decision at 2.1 (a) was a resolution that permits for "fruit" or "slot" gaming machines would only be granted in main-purpose amusement arcades (as has long been the Council's policy) or in premises licensed to sell/supply alcohol excluding premises that only serve alcohol with meals (to accord with the legislation). In broad terms, fruit machines will only be allowed in amusement arcades, pubs and bars but not, for example, in fish and chip shops or non-alcohol cafes.

8.3 The Licensing Committee agreed at paragraph 2.1 (b) to grant no more than two fruit machine permits to premises licensed to sell/supply alcohol, in accordance with the policy above, without the need for a hearing. This simply continues the former practice of the Magistrates. To implement this decision, there needs to be an amendment to the current delegated power granted to the Assistant Director, Enforcement, so as to allow him/her to grant a maximum of two permits in premises licensed for the sale/supply of alcohol.

8.4 The proposed text to amend the delegated powers is set out in Appendix 3 to this report. It would appear in Part F.7, section 4, (delegations to officers in the Environmental Services Directorate) under the heading "Gaming Act 1968 - section 34". There is already a delegation covering decisions on permits outside amusement arcades. The changes would make clear that the delegation extended to granting "up to two" permits, but no more, in premises licensed for the sale or supply of alcohol with a proper bar. This would exclude premises only licensed to sell alcohol served with meals which by law cannot apply for fruit machine permits.

8.5 The scope of the delegated power here will be limited to grant or refusal. There is no procedure for objections by third parties. There is no power to impose conditions on permits. However applicants will be advised to ensure that fruit machines are sited so as to permit proper supervision and the prevention of any abuse.

8.6 The other delegated power under section 34 relates to amusement arcades. Members should note that there is no legal power for the Council to refuse to renew a permit for an amusement arcade except where there is clear evidence that proper measures have not been taken to exclude persons under age 18 or inspection by the Council has been obstructed. In such a case officers would, of course, refuse the permit. Applications for the new grant of permits for amusement arcades would be referred to



Members who would have a discretion to grant or refuse. A small technical amendment to the terms of the delegation makes this clearer.

8.7 Finally, the existing terms of reference of the Licensing Sub-Committees should be amended to include the new jurisdiction of these bodies to decide applications for more than two fruit machine permits in alcohol licensed premises. This addition will also cover the powers to determine the rare applications for permits for gaming under section 16 of the Lotteries and Amusements Act 1976 and section 6 of the Gaming Act 1968, as explained in paragraphs 3.3 (2) and (3) of Appendix 5.

8.8 The recommended amendment to the terms of reference is set out in Appendix 4 to this report. The terms of reference of the Licensing Sub-Committees are contained in Part E.7, section 3, paragraph 3.01. Three new sub-paragraphs (q), (r) and (s) are proposed to cover the matters agreed in principle by the Licensing Committee.

8.9 GPC Members are requested to recommend all the above changes to full Council for adoption as amendments to the Constitution.

## **9. Recommendations**

9.1 That Members recommend to full Council:

- (i) the adoption of the Haringey Local Licensing Procedure Rules for Hearings, as set out in Appendix 1 to this report, as a new Part C.9 of the Council's Constitution
- (ii) the amendment of Part E.7 of the Constitution, as set out in Appendix 4 to this report, so as to add certain gaming regulation functions to the terms of reference of the Licensing Sub-Committees
- (iii) the amendment of the Scheme of Delegation to Officers, at Part F.7 of the Constitution, as set out in Appendices 2 and 3 to this report, so as to give powers to:
  - (a) the Head of Legal Services to make arrangements for disposing of cases remitted by the Magistrates after Licensing appeals, and
  - (b) the Assistant Director, Enforcement, to grant permits for no more than two amusement with prizes gaming machines in premises licensed to sell or supply alcohol in accordance with policy agreed by the Licensing Committee.

## **10. Comments of the Director of Finance**

10.1 There are no specific financial implications

## **11. Comments of the Head of Legal Services**

11.1 The legal implications are set out in the body of the report

## **12. Equalities Implications**

12.1 There are no specific equalities implications

**13. Use of Appendices / Tables / Photographs**

- 13.1 Appendix 1 sets out the Haringey Local Licensing Procedure Rules for Hearings under the Licensing Act 2003 now proposed for recommendation to full Council and adoption as part of the Constitution.
- 13.2 Appendix 2 sets out the recommended new delegation to the Head of Legal Services of power to make arrangements for disposing of cases remitted to the Council by the Magistrates Court.
- 13.3 Appendix 3 sets out the recommended amendments to the delegation to the Assistant Director, Enforcement, of powers to grant permits for no more than two amusements with prizes gaming machines in premises licensed to sell or supply alcohol in accordance with policy agreed by the Licensing Committee.
- 13.4 Appendix 4 sets out the recommended addition of certain gaming regulation functions to the terms of reference of the Licensing Sub-Committees
- 13.5 Appendix 5 is the report to the Licensing Committee on 6 December about Gaming Act Provisions.

**APPENDIX 1**

**HARINGEY COUNCIL – LOCAL LICENSING PROCEDURE RULES FOR HEARINGS UNDER THE LICENSING ACT 2003**

Interpretation

1. “Act” means the Licensing Act 2003

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

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

“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 Members’ 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

“Hearings Regulations” means The Licensing Act 2003 (Hearings) Regulations 2005 (S.I. 2005 no. 44)

“Interested party” has the meaning prescribed in the Act

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

“Licensing Committee” means the Council’s statutory Committee under the Act

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

“Licensing Service” means the Service under the Assistant Director, Enforcement responsible for administering the Council’s functions under the Act

“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 Act, or Regulations made thereunder, in relation to an application

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

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

“Premises” means any premises or land in respect of which an application is made

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

“Responsible authority” has the meaning prescribed in the Act

“Sub-Committee” means a Licensing Sub-Committee to which the Licensing Committee of the Council has delegated powers to determine applications. Unless the context otherwise requires, this shall be interpreted to include the Council’s Licensing Committee when that Committee is hearing an\_ application within its terms of reference.

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

### Scope and Application

2. These Rules apply to all applications made in accordance with the Act, or Regulations made thereunder.
3. These Rules should be read and interpreted in conjunction the Hearings Regulations and the Act.

Pre-Hearing Procedure

4. 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.
5. 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.
6. If, in any case, the parties agree that a hearing is unnecessary, the Licensing representative, in consultation with the Chair, 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.
7. In any case where it has been decided that a hearing is unnecessary, the Sub-Committee shall consider the application at an ordinary meeting. In reaching its decision, the Sub-Committee shall take into account the form of application and accompanying documents, any written relevant representations and notices that have not been withdrawn and any report or other documents that appear to be relevant.

Membership and Quorum for Hearings

8. 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.
9. 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
10. The quorum for any hearing of a Sub-Committee shall be three Members and the quorum for any hearing by the Licensing Committee shall be four Members.

11. Any Member arriving after the commencement of a hearing, or leaving during the course of a hearing, shall take no part, or no further part, in the conduct of that hearing or the decision on the application in question.

#### Councillors' Participation in Hearings

12. 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 Act, 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.
13. A Councillor, who is a Member of the Sub-Committee determining the application in question, will have a prejudicial 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 must not participate in the decision upon the application and must not be present at the hearing in any capacity or at all.
14. Any Member of a Sub-Committee who has made a relevant representation by way of objection to an application on behalf of his/her constituents and who cannot attend the hearing personally by reason of Rule 13, should arrange to be represented by an agent or a fellow Ward Councillor who is not a Member of the Sub-Committee.
15. A Councillor will have a personal interest in an application if it might reasonably be regarded as affecting that Councillor (or his/her spouse/partner, relatives, friends, employer or business) to a greater extent than other residents in the area. A Councillor with a personal interest shall not participate in decision-making on the application in question as a Member of the relevant Sub-Committee. This is in order to avoid any possible allegation of bias.
16. Whenever a Councillor, who is not a Member of the Sub-Committee, intends to participate in a hearing in accordance with Rule 12, the Councillor must consider whether he/she has a personal or a prejudicial interest before the hearing. A Councillor with a personal interest, who is not a Member of the

Sub-Committee determining the application, may participate in a hearing in accordance with Rule 12 but must disclose such an interest first. A Councillor with a prejudicial interest, who is not a Member of the Sub-Committee determining the application, must not be present at the hearing in any capacity or at all. Members must be aware that their Code of Conduct applies to all Councillors at all times in whatever capacity they attend a hearing.

17. 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 connected to a party, then the Member must consider whether such involvement could amount to a personal or a prejudicial interest or whether such an interest could exist for any other reason. If there is any doubt on this matter, the Member must seek the advice of the Monitoring Officer or the legal representative.
18. 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.

#### Lobbying of Members and Expressions of Opinion by Members

19. If a Member of a Sub-Committee is approached by a party or a lobbyist for or against an application to be determined by that Sub-Committee, then the Member must: -
  - (a) explain that he/she cannot discuss the matter, and
  - (b) refer the lobbyist 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
  - (c) keep an adequate written record of the approach, and
  - (d) disclose the fact of the approach before the hearing in accordance with Rule 51(c).
20. 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.

21. 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.
22. 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.
23. Members of Sub-Committees are not to be influenced by party political factors or pressures when determining any application.

#### Non-Attendance at Hearings

24. 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.
25. Normally, a party who fails to attend a hearing in the circumstances described in Rule 24 above, will be allowed one further opportunity to attend the hearing adjourned to a specified date.
26. 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.

#### Calling Witnesses

27. 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



28. Where a party has given notice under Rule 27, 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.
29. Where a party has given notice under Rule 27, 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.

#### Documentary Evidence

30. 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.
31. Where a party has given notice under Rule 30, 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.
32. Where a party has complied fully with Rule 30, 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.
33. In any case where a party wishes to rely upon documentary evidence but has not fully complied with Rule 30, 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 32 applied to it, or

- (c) if any party does not so consent, then the Sub-Committee shall decide whether to admit the documentary evidence nonetheless
  - (d) in making its decision under Rule 33(c), the Sub-Committee shall have regard to any reasons given for the late production of the documentary evidence, or other non-compliance with Rule 30.
  - (e) in making its decision under Rule 33(c), 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 30, and also the extent of the prejudice to the party seeking to rely upon the evidence if its admission is refused.
  - (f) in making its decision under Rule 33(c), 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.
  - (g) in making its decisions under Rules 33(c) and 33(f) above, the Sub-Committee shall consider any representations by the parties and the advice of its legal representative.
34. 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 30. 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.
35. In any case where confidential details are excluded under Rule 34, the Licensing Service must be informed that a request will be made by the party under Rule 42. If permission is refused under Rule 43, 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 58.
36. 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.

37. Where a party has given notice under Rule 36, 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.
38. Rules 30 to 33 shall be applied flexibly to evidence of the type described in Rule 36 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.

#### Petitions

39. 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.
40. A petition must comply with Rule 39 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 30 to 33 shall apply.

#### Private Hearings and Confidential Evidence

41. In accordance with the Hearings Regulations, hearings shall take place in public unless a decision to the contrary is made under Rule 43 in any case.
42. 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.
43. 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.

44. For the purposes of Rule 43, 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 not be excluded except for very special reasons.
45. Where the Sub-Committee decide to hold part of a hearing in private, the officers of the Licensing Service will not be excluded except for very special reasons. The Committee Clerk and legal representative shall not be excluded.
46. Before making any decision under Rules 43 or 45, the Sub-Committee shall consider the advice of its legal representative.
47. 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.
48. Rules 41 to 47 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 44.
49. Rules 41 to 47 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 44.
50. Whenever any evidence or information has been treated as confidential under Rules 41 to 49, the Sub-Committee shall consider whether to alter the weight given to that evidence in accordance with Rule 58.

#### Commencement of the Hearing

51. 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.
- (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 24 and 25 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.
- (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 29.
- (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 30 to 37. 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 33 and 38.
- (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 43 to 49.
- (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.

Procedure and Evidence at Hearing

52. 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.
53. The hearing shall follow the order of the topic headings determined under Rule 51 (f) unless there is a good reason to depart from this agreed by the Sub-Committee.
54. 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.
55. A party shall not be permitted to cross-examine another party or their witness unless this has been allowed under Rule 51 (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.
56. 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 51 (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.
57. 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.
58. 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.
59. The Chair shall be responsible for the orderly conduct of the hearing. The Chair may require any person to be silent and 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.
60. 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. Rule 66 will apply to such a vote.
61. 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.
62. 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.

#### Decision Making

63. At the end of a hearing the Sub-Committee may confer publicly and announce its decision on the application(s) immediately.
64. Alternatively, the Sub-Committee may defer reaching its decision until a later time or date, in so far as this accords with the Hearings Regulations.
65. In any case, and whether or not Rule 64 applies, the Sub-Committee may retire with the Committee clerk and legal representative to another room to deliberate in private.

66. The Sub-Committee, if making a decision at that time, must reach their decision by a majority vote. The Licensing Committee, if making a decision at that time, must reach their decision by a majority vote but, in the event of an equality of votes, the Chair shall have a second, or casting, vote.
67. The decision(s) will then 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.
68. If the Sub-Committee require any clarification of matters of fact before reaching their decision(s), 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.
69. 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).

#### Waivers and Irregularities

70. 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 8 to 23 (inclusive). Any permanent variation of these Rules must be decided by the Licensing Committee.
71. 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.
72. 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.
73. 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.

#### Cases Remitted by the Magistrates on Appeal

74. 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.

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**APPENDIX 2**

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## **Part I.2**

### **Overview and Scrutiny Procedure Rules**

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#### **1. The arrangements for Overview and Scrutiny**

- (a) The Council will have one Overview and Scrutiny Committee, which will have responsibility for all overview and scrutiny functions on behalf of the Council.
- (b) The terms of reference of the Overview and Scrutiny Committee will be:
- (i) the performance of all overview and scrutiny functions ~~on behalf of the~~  
~~—— Council;~~
  - (ii) the commission and appointment of such Scrutiny Review Panels as it considers appropriate, with membership that reflects the political balance of the Council, ~~to fulfil these overview and scrutiny functions;~~
  - (iii) to decide and amend the terms of reference of all scrutiny reviews;
  - (iv) to receive reports from the Leader at *the earliest convenience* ~~its first meeting~~ after each annual council meeting on 'the state of the borough', the Executive's priorities for the coming year, and its performance in the previous year;
  - (v) to receive reports from local National Health Service bodies on the state of health services and public health in the borough area;
  - (vi) to monitor the Executive's Forward Plan to ensure that appropriate decisions are discussed;
  - (vii) to receive all appropriate performance management and budget monitoring information;

- (viii) to approve a programme of future overview and scrutiny work so as to ensure that the Overview and Scrutiny Committee's and scrutiny panels' time is effectively and efficiently utilised;
  - (ix) to consider all requests for call-in and decide whether to call-in a decision, how it should be considered and whether to refer the decision to the Executive or to Council;
  - (x) to ensure that referrals from Overview and Scrutiny Committee to the Executive either by way of report or call-in are managed efficiently;
  - (xi) to ensure community and voluntary sector organisations, users of services and others are appropriately involved in giving evidence to relevant scrutiny reviews panels.
- (c) The Overview and Scrutiny Committee may commission a number of Scrutiny Review Panels:
- (i) Scrutiny Review Panels are task orientated, time-limited advisory bodies appointed to examine a specific issue in depth and reporting to the Overview and Scrutiny Committee;
  - (ii) Panels will analyse submissions, request and analyse any additional information, and question the Executive Member(s), relevant Council officers and officers and/or board members of local NHS bodies;
  - (iii) subject to the approval of the Overview and Scrutiny Committee, Scrutiny Review Panels will be able to appoint external advisors and/or to commission specific pieces of research if this is deemed necessary;
  - (iv) Scrutiny Reviews Panels should make every effort to work by consensus; however, in exceptional circumstances Members may submit minority reports;
  - (v) the culmination of a Scrutiny Review Panel's work is the submitting of a report to the Overview and Scrutiny Committee, including key findings, conclusions and recommendations. Exceptionally, where progress has

become protracted or stimulating debate would be helpful, an interim report may be submitted, with the consent of the Chair of the Overview and Scrutiny Committee;

(vi) prior to publication, draft reports will be sent to the relevant Chief Officers or officers of the National Health Service for checking for inaccuracies and the presence of exempt and/or confidential information; Scrutiny Review Panel members will revisit any conclusions drawn from disputed information;

(vii) Following endorsement by the Overview and Scrutiny Committee,  
final reports and recommendations will ~~go~~ be presented to the next available Executive meeting. The Executive will note the report and request a responding report from the Chief Executive or Chief Officer and Executive Member responsible. The response is to be available within 6 weeks of the request and will include a detailed tabulated implementation action plan;

(viii) Following endorsement by the Overview and Scrutiny Committee, reports on NHS, non-executive or regulatory matters will be copied to the Executive for information

(ix) On receiving the responding report, the Executive will consider both reports and formally agree their decisions, and the implementation action plan at the next available Executive meeting.

(x) IN THE EVENT THAT THE EXECUTIVE DOES NOT ACCEPT ONE OR MORE OF THE RECOMMENDATIONS IN THE FINAL REPORT FROM THE OVERVIEW AND SCRUTINY COMMITTEE, THE CHAIR OF THE OVERVIEW AND SCRUTINY COMMITTEE HAS THE RIGHT TO REQUIRE THAT THE MATTER IN DISPUTE SHALL BE REPORTED TO THE NEXT AVAILABLE MEETING OF FULL COUNCIL FOR DETERMINATION.

~~(viii) The scrutiny report and the Executive response will then be submitted together to full Council at the earliest opportunity.~~

(xi) ~~Following agreement of a report and/or recommendations by Council,~~  
~~the appropriate Chief Officer(s) will within three months~~  
~~prepare an~~  
~~action plan for approval by Executive Member(s).~~ The implementation action plan will also be presented to the Overview and Scrutiny Committee who will be invited to monitor its implementation.

(xii) After an appropriate period, post implementation, Overview and Scrutiny Committee will carry out a follow up review to determine if the recommendations had the intended outcomes and to measure any improvements.

(d) When Scrutiny Review Panels report on non-executive or regulatory

functions the above rules are adapted as follows;

(i) Paragraphs (c)(i) to (vi) apply;

(ii) Paragraph (c)(vii) applies as if references to the "Executive/Executive meeting" and "Executive Member" were replaced by references to "meeting of /the non-executive body responsible" and its "Chair" as appropriate;

(iii) Paragraph (c)(viii) applies as appropriate;

(iv) Paragraph (c)(ix) will be replaced by this provision - "On receiving the responding report, the non-executive body responsible, at its next available meeting, will consider both reports, its proposed response and the implementation action plan and will make recommendations on these to full Council. At the next available meeting full Council will formally agree the response and the implementation action plan."

(v) Paragraphs (c) (x) does not apply.

(vi) Paragraphs (c) (xi) and (xii) apply.

(e) All Overview and Scrutiny meetings shall take place in public (except where exempt or confidential matters are considered).

- (f) The Overview and Scrutiny function should not be seen as an alternative to established disciplinary, audit or complaints mechanisms and should not interfere with or pre-empt their work.

## **2. Membership of the Overview and Scrutiny Committee and Scrutiny Reviews Panels**

- (a) All Councillors (except members of the Executive) may be members of the Overview and Scrutiny Committee, and Scrutiny Review Panels. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.
- (b) Councillors' membership of the Overview and Scrutiny Committee and Scrutiny Review Panels will be in proportion to the representation of different political groups on the Council.

## **3. Co-optees**

- (a) Each scrutiny panel and review shall be entitled to appoint up to three people as non-voting co-optees, in consultation with the Overview and Scrutiny Committee.
- (b) Statutory voting non-Councillor members of Overview and Scrutiny Committee will be paid an allowance in accordance with the Members' Allowances Scheme in Part C.7 of this Constitution.

## **4. Education representatives**

- (a) The Overview and Scrutiny Committee shall include in its membership the following representatives:
- (i) at least one Church of England diocesan representative (voting);
  - (ii) at least one Roman Catholic diocesan representative (voting);
  - (iii) 3 parent governor representatives (voting); and
  - (iv) a representative from the Race Equality Joint Consultative Committee (REJCC) (non-voting).

These voting representatives will be entitled to vote where the Overview and Scrutiny Committee or a Scrutiny Review Panel is considering matters that relate to relevant education functions. If the Overview and Scrutiny Committee is dealing with other matters, these representatives shall not vote on those matters though they may stay in the meeting and speak at the discretion

of the Chair. The Overview and Scrutiny Committee will attempt to organise its meetings so that relevant education matters are grouped together.

- (b) Each Scrutiny Review Panel, where the review's terms of reference relate wholly or in part to any education functions that are the responsibility of the Executive, shall include in its membership the following representatives:
- (i) at least one Church of England diocesan representative (voting);
  - (ii) at least one Roman Catholic diocesan representative (voting);
  - (iii) 3 parent governor representatives (voting); and
  - (iv) a representative from the REJCC (non-voting).

If the scrutiny review deals with other matters, these voting representatives shall not vote on those other matters, though they may stay in the meeting and speak at the discretion of the Chair.

## **5. Meetings of the Overview and Scrutiny Committee, and Scrutiny Reviews Panels**

- (a) In addition to ordinary meetings of the Overview and Scrutiny Committee, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chair of the Overview and Scrutiny Committee, by any two members of the Committee or by the proper officer if he/she considers it necessary or appropriate.
- (b) Meetings of Scrutiny Review Panels may be called by the Chair of the Scrutiny Review Panel, by any two members of the panel or by the proper officer if he/she considers it necessary or appropriate.
- (c) The ordinary meeting place for the Overview and Scrutiny Committee and the Scrutiny Review Panels shall be Haringey Civic Centre, High Road, Wood Green, London, N22 8LE but they may arrange to meet elsewhere whenever they see fit.

## **6. Quorum**

The quorum for the Overview Scrutiny Committee and for each Scrutiny Review panel shall be at least one quarter of its membership and not less than 2 voting members.



**7. Chair of the Overview and Scrutiny Committee and Scrutiny Reviews Panels**

- (a) The Chair of the Overview and Scrutiny Committee will be appointed by the Council.
- (b) The Chair of the Overview and Scrutiny Committee shall resign with immediate effect if a vote of no confidence is passed by the Overview and Scrutiny Committee.
- (c) Chairs of Scrutiny Review Panels will be drawn from among the Councillors sitting on the Overview and Scrutiny Committee. Subject to this requirement, the Overview and Scrutiny Committee may appoint any person as it considers appropriate as Chair having regard to the objective of cross-party chairing in proportion to the political balance of the Council. The Scrutiny Review Panels shall not be able to change the appointed Chair unless there is a vote of no confidence as outlined in Article 16.05 in Part 1.1 of this Constitution.

**8. Work programme**

Overview and Scrutiny Committee will determine the future scrutiny work programme and will commission task and finish Scrutiny Review Panels to assist it to perform its functions. The Committee will appoint a Chair for each review.

**9. Agenda items for the Overview and Scrutiny Committee**

- (a) Any member of the Overview and Scrutiny Committee shall be entitled to give notice to the proper officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the proper officer will ensure that it is included on the next available agenda.
- (b) The Overview and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and, if it considers it appropriate, from the Executive to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to ~~the Council and/or~~ the Executive within an agreed timescale.

**10. Policy review and development**

- (a) The role of the Overview and Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in the **Budget and Policy Framework Procedure Rules** in **Part F.3** of this constitution.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview and Scrutiny Committee and its Scrutiny Review Panels may make proposals to the Executive for developments insofar as they relate to matters within their terms of reference. The Scrutiny Review Panels must do so via the Overview and Scrutiny Committee.

**11. Reports from the Overview and Scrutiny Committee**

- (a) Following endorsement by the Overview and Scrutiny Committee, final reports and recommendations will go be presented to the next available Executive meeting. The procedure to be followed is set out in paragraphs 1(c) or 1(d) above, as appropriate. ~~The Executive will note the report and request a responding report from the Chief Executive or Chief Officer and Executive Member responsible, to be available within 6 weeks the request.~~
- (b) ~~On receiving the responding report, the Executive will consider both reports and formally agree their decisions, at the next available Executive meeting~~
- (c) ~~The scrutiny report and the Executive response will then be submitted together to the next meeting of full Council.~~
- (d) ~~Following agreement of a report and/or recommendations by Council, the~~
- (e) ~~appropriate Chief Officer(s) will within three months prepare an action plan for approval by Executive Member(s). The action plan will also be presented to the Overview and Scrutiny Committee, who will be invited to monitor its implementation.~~

**12. Making sure that overview and scrutiny reports are considered by the Executive**

- (a) The agenda for Executive meetings (including any meetings of single members) shall include an item entitled 'Issues arising from Scrutiny'. Reports of the Overview and Scrutiny Committee referred to the Executive shall be included at this point in the agenda unless either they have been considered in the context of the Executive's deliberations on a substantive item on the agenda or the Executive gives reasons why they cannot be included and states when they will be considered.
- (b) Where the Overview and Scrutiny Committee prepares a report for consideration by the Executive in relation to a matter where decision making power has been delegated to an individual Executive member, a Committee of the Executive or an Officer, or under Joint Arrangements, then the Overview and Scrutiny Committee will also submit a copy of their report to that individual for consideration, and a copy to the proper officer. If the member, committee, or officer with delegated decision making power does not accept the recommendations of the Overview and Scrutiny Committee, then the body/he/she must then refer the matter to the next appropriate meeting of the Executive for debate before making a decision.

### **13. Rights and powers of Overview and Scrutiny Committee members**

#### **(a) Rights to documents**

- (i) In addition to their rights as Councillors, members of the Overview and Scrutiny Committee and Scrutiny Review Panels have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 D.2 of this Constitution.
- (ii) Nothing in this paragraph prevents more detailed liaison between the Executive and the Overview and Scrutiny Committee and Scrutiny Review Panels as appropriate depending on the particular matter under consideration.

#### **(b) Powers to conduct enquiries**

The Overview and Scrutiny Committee and Scrutiny Review Panels may hold enquiries into past performance and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in these processes. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations,

within available resources. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so (and Scrutiny Review Panels require the support of the Overview and Scrutiny Committee to do so).

**(c) Power to require Members and officers to give account**

(i) The Overview and Scrutiny Committee and Scrutiny Review Panels may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions (Review Panels will keep to issues that fall within their terms of reference). As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Executive, the Head of Paid Service and/or any senior officer (at second or third tier), and chief officers of the local National Health Service to attend before it to explain in relation to matters within their remit:

- (A) any particular decision or series of decisions;
- (B) the extent to which the actions taken implement Council policy (or NHS policy, where appropriate); and/or
- (C) their performance.

and it is the duty of those persons to attend if so required. At the discretion of their chief officer, council officers below third tier may attend, usually accompanied by a senior manager. At the discretion of the relevant Chief Executive, other NHS officers may also attend overview and scrutiny meetings.

(ii) Where any member or officer is required to attend the Overview and Scrutiny Committee or Scrutiny Review Panel under this provision, the Chair of that body will inform the member or proper officer. The proper officer shall inform the member or officer in writing giving at least 10 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Overview and Scrutiny Committee or Scrutiny Review Panel. Where the account to be given to Overview and Scrutiny Committee or Scrutiny Review Panel will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

- (iii) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee or Scrutiny Review Panel shall in consultation with the member or officer arrange an alternative date for attendance, to take place within a maximum of 10 days from the date of the original request.

#### 14. Attendance by others

The Overview and Scrutiny Committee or Scrutiny Review Panel may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and officers in other parts of the public sector and may invite such people to attend. Attendance is optional.

#### 15. Call-in

The call in procedure is dealt with separately in this Part of the Constitution, immediately following the Overview and Scrutiny Procedure Rules.

#### 16. Procedure at Overview and Scrutiny Committee meetings and meetings of the Scrutiny Review Panels.

- (a) The Overview and Scrutiny Committee shall consider the following business as appropriate:
- (i) apologies for absence; ~~minutes of the last meeting;~~
  - (ii) urgent business; ~~declarations of interest;~~
  - (iii) declarations of interest; ~~deputations and petitions;~~
  - (iv) minutes of the last meeting; ~~consideration of any matter referred to the Committee for a decision in relation to call in of a decision;~~
  - (v) deputations and petitions; ~~responses of the Executive to reports of~~  
the Committee; and
  - (vi) consideration of any matter referred to the Committee for a decision in  
relation to call in of a decision; ~~the business otherwise set out on the~~

~~agenda for the meeting.~~

(xi) responses of the Executive to reports of the Committee;  
and

(xii) the business otherwise set out on the agenda for the meeting.

(b) A Scrutiny Review Panel shall consider the following business as appropriate:

(i) minutes of the last meeting;

(ii) declarations of interest;

(iii) the business otherwise set out on the agenda for the meeting.

(c) Where the Overview and Scrutiny Committee or Scrutiny Review Panel has asked people to attend to give evidence at meetings, these are to be conducted in accordance with the following principles:

(i) that the investigation be conducted fairly and all members of the Overview and Scrutiny Committee and Scrutiny Review Panels be given the opportunity to ask questions of attendees, to contribute and to speak;

(ii) that those assisting the Overview and Scrutiny Committee or Scrutiny Review Panel by giving evidence be treated with respect and courtesy;

(iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis; and

(iv) that reasonable effort be made to provide appropriate assistance with translation or alternative methods of communication to assist those giving evidence.

(d) Following any investigation or review, the Overview and Scrutiny Committee or Scrutiny Review Panel shall prepare a report, for submission to the Executive ~~and/or Council as appropriate~~, (via the Overview and Scrutiny Committee in the case of a Scrutiny Review Panel) and shall make its report and findings public.

**17. Matters within the remit of more than one Scrutiny Review Panel.**

Should there be any overlap between the business of any scrutiny reviews, the Overview and Scrutiny Committee is empowered to resolve the issue.





**APPENDIX 3**

[the words recommended for deletion are struck through and the words recommended for addition or insertion are shown in italics and underlined]

## **Part 1.3**

### **Call-in Procedure Rules**

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1. When a decision is made by the Executive, an individual member of the Executive or a committee of the Executive, or a key decision is made by an officer with delegated authority from the Executive, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the Civic Centre normally **within 2 working days of being made**.
2. The notice of the decision will be dated and will specify that the decision will come into force, and may then be implemented, on the **expiry of 5 working days after the publication** of the decision, unless a valid request has been received objecting to the decision and asking for it to be called-in. *This does not apply to "urgent" decisions.*
3. The Monitoring Officer will deem valid a request that fulfils all of the following 6 criteria:
  - (a) it is submitted by any five Members of the Council.
  - (b) it is received by the Proper Officer by 10 a.m. on the fifth day following publication.
  - (c) it specifies the decision to which it objects.
  - (d) it specifies whether the decision is claimed to be outside the policy or budget framework.
  - (e) it gives reasons for the call-in and outlines an alternative course of action.
  - (f) it is not *made in relation to* a decision taken in accordance with the urgency procedures in ~~section~~ *paragraph* 18 below.
4. The Proper Officer will forward all timely and proper call-in requests, once deemed valid by the Monitoring Officer, to the Chair of the Overview and Scrutiny Committee and the

Overview and Scrutiny Manager and will notify all Executive Members including the decision taker and the relevant Chief Officer.

5. A decision will be implemented immediately after a call-in request is deemed invalid by the Monitoring Officer or after the expiry of ten working days following the receipt of a valid call-in request by the Chair of the Overview and Scrutiny Committee's receipt of a call-in request, unless a meeting of the Overview and Scrutiny Committee takes place during the 10-day period.
6. If a call-in request ~~claims that a decision is contrary to the policy or budget framework, is deemed valid,~~ the Proper Officer will forward the call-in request to the Monitoring Officer and/or Chief Financial Officer for a report to be prepared for the Overview and Scrutiny Committee advising whether the decision does fall inside or outside the policy or budget framework.
7. Unless a decision is designated "urgent" pursuant to section 18, when it shall be implemented immediately, no action shall be taken to implement the decision until **5 working days** have elapsed after the date of the publication of the decision. In the event that a call-in request has been received, no action shall be taken until the Monitoring officer has determined the validity of the request.
8. Subject to paragraph 5, when a ~~valid~~ request for call-in is ~~received,~~ deemed valid, all action to implement the decision is suspended until the Overview and Scrutiny Committee has met to decide what action to take. The Committee must meet no later than 10 working days after the Chair has received a valid call-in request..
9. Discussion of any called-in decisions shall precede all other substantive items on the agenda of the Overview and Scrutiny Committee. Any reports of the Monitoring Officer and Chief Financial Officer shall be part of that agenda.
10. ~~If a~~ The Committee shall consider any report of the Monitoring Officer / Chief Financial Officer ~~confirms that~~ as to whether a called-in decision is ~~within~~ inside or outside the policy / budget framework. ~~or if there is no such report, or if~~ The Overview and Scrutiny Committee is of the view that shall have regard to that report and any advice but Members shall determine whether the decision is ~~within~~ inside or outside the policy / budget framework. ~~regardless of any advice to the contrary,~~ If the Overview and Scrutiny Committee determine that the decision was within the

policy / budget framework, the Committee has ~~four~~ three options:

~~(a) The Overview and Scrutiny Committee may fail to take any action, in which case the decision is implemented at **the expiry of the 10-day period** from the Chair of the Overview and Scrutiny Committee's receipt of a valid request for call-in.~~

(a) The Overview and Scrutiny Committee may decide not to take any further action, in which case the decision is implemented immediately.

(b) The Overview and Scrutiny Committee may decide to refer the decision back to the decision taker, in which case the decision taker **has 5 working days** to reconsider the decision before taking a final decision.

(c) The Overview and Scrutiny Committee may decide to refer the decision to Full Council.

11. When the Overview and Scrutiny Committee refers a decision to Council (when the decision is deemed to fall within the policy / budget framework), any Council meeting must **be held within 10 working days (with an extraordinary meeting being called if necessary) of the date of the Overview and Scrutiny Committee's referral.**

12. When considering a called-in decision (when this decision is deemed to fall within the policy / budget framework) the Council has ~~three~~ two options:

~~(a) The Council may fail to take any action, in which case the decision is **implemented immediately.**~~

(a) The Council may decide not to take any further action, in which case the decision is implemented immediately.

(b) The Council may refer the decision back to the decision taker, in which case the decision taker **has 5 working days** to reconsider the decision before taking a final decision.

13. Once a final decision has been made there is no further right of call-in. This decision or any decision having the same effect may not be called-in again for **a period of six months** following the date at which the final decision was taken.

14. If a report of the Monitoring Officer / Chief Financial Officer confirms the Overview and Scrutiny Committee determines that the decision is outside the policy / budget framework, the ~~Overview and Scrutiny~~ Committee shall refer the decision to the decision taker and ~~ask the decision taker~~ with a request to reconsider ~~the decision~~ it on the grounds that it is incompatible with the policy / budget framework. The decision taker **shall have 5 working days** in which to reconsider the decision.
- 15. The decision taker has two options:**
- (a) Amend the decision in line with the Overview and Scrutiny Committee's determination ~~Monitoring Officer's / Chief Financial Officer's advice~~, in which case the decision is implemented immediately.
- (b) Reaffirm the original decision, in which case the decision goes to a Council meeting which must **convene within 10 working days** of the reaffirmation of the original decision.
16. When considering a called-in decision where a decision taker fails to amend a decision in line with the Overview and Scrutiny Committee's determination ~~Monitoring Officer's / Chief Financial Officer's advice~~, that it falls outside the policy / budget framework, the Council has two options:
- (a) Amend the policy / budget framework to accommodate the called-in decision, in which case the decision is implemented immediately.
- (b) Require the decision taker to reconsider the decision again and refer it to a meeting of the Executive to be held within **5 working days** of the Council meeting. The Executive's decision is final.
- 17. Abuse of Call-in**
- (a) Members are expect to ensure that call-in is not abused, or causes unreasonable delay to the functioning of the Executive.
- (b) The call-in procedure is to be reviewed annually (see ~~section~~ paragraph 18 f), if such a review leads to the conclusion that the call-in procedure is being abused, the Constitution may be amended to include greater limitations.
- 18. Call-In and Urgency**

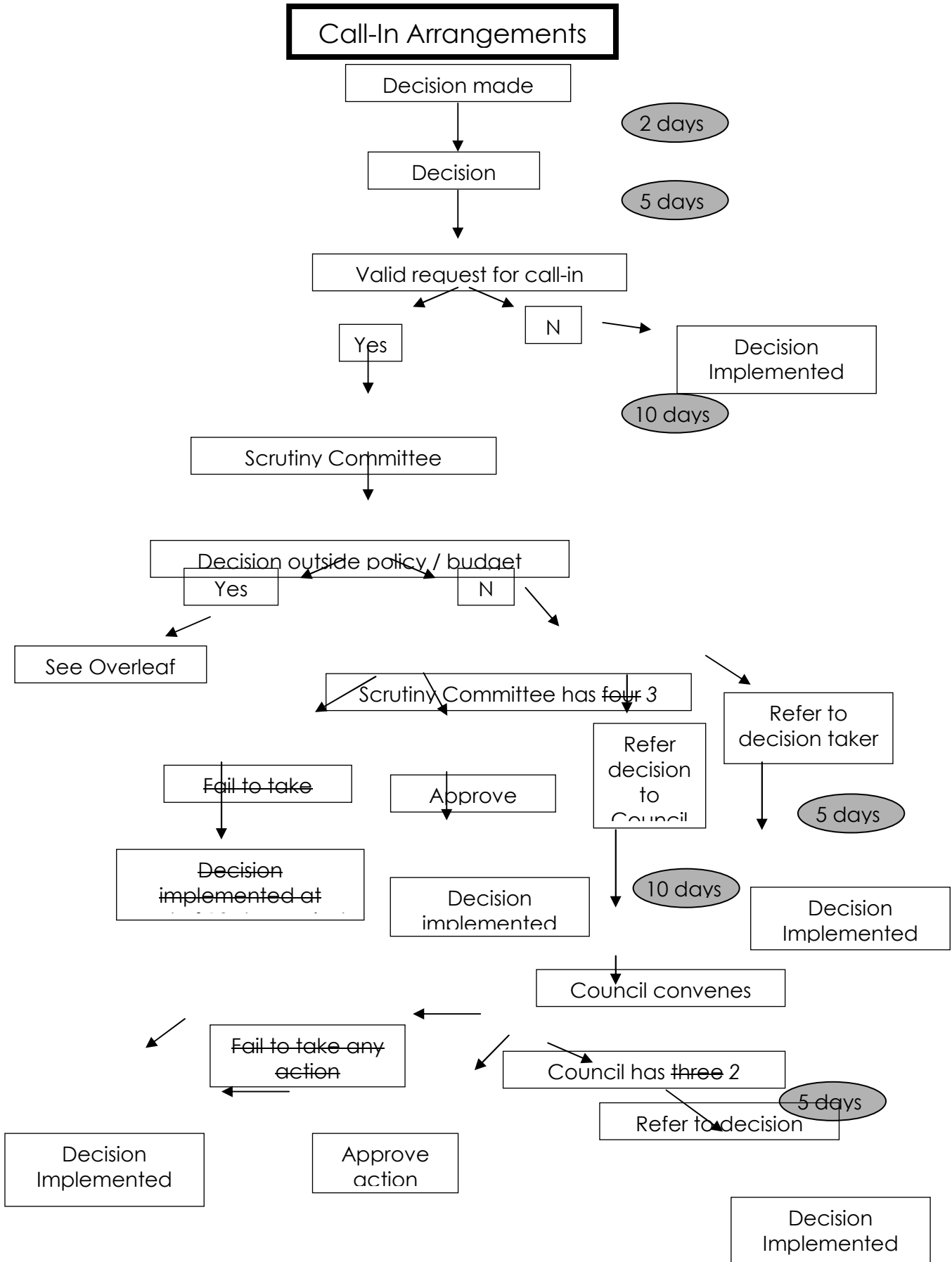
- (a) The call-in procedure set out above shall not apply when the action being taken is urgent or time-critical in terms of (b) below.
- (b) A decision will be urgent if any delay in implementation likely to be caused by the call-in procedure would seriously prejudice the Council's or the public's interests.
- (c) If a decision is urgent and therefore not subject to call-in in, this will be stated on the record.
- (d) In order for a decision to be deemed urgent, the Chair of the Overview and Scrutiny Committee must agree that the decision is both reasonable in all circumstances and that it should be treated as a matter of urgency. In the absence or unavailability of the Chair the consent of the ~~Vice-Chair of the Overview and Scrutiny Committee~~ the Mayor is required. In the absence of both, the consent of the Deputy Mayor shall be required.
- (e) Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (f) The operation of the provisions relating to call-in and urgency shall be monitored annually and a report submitted to Council with proposals for review if necessary.

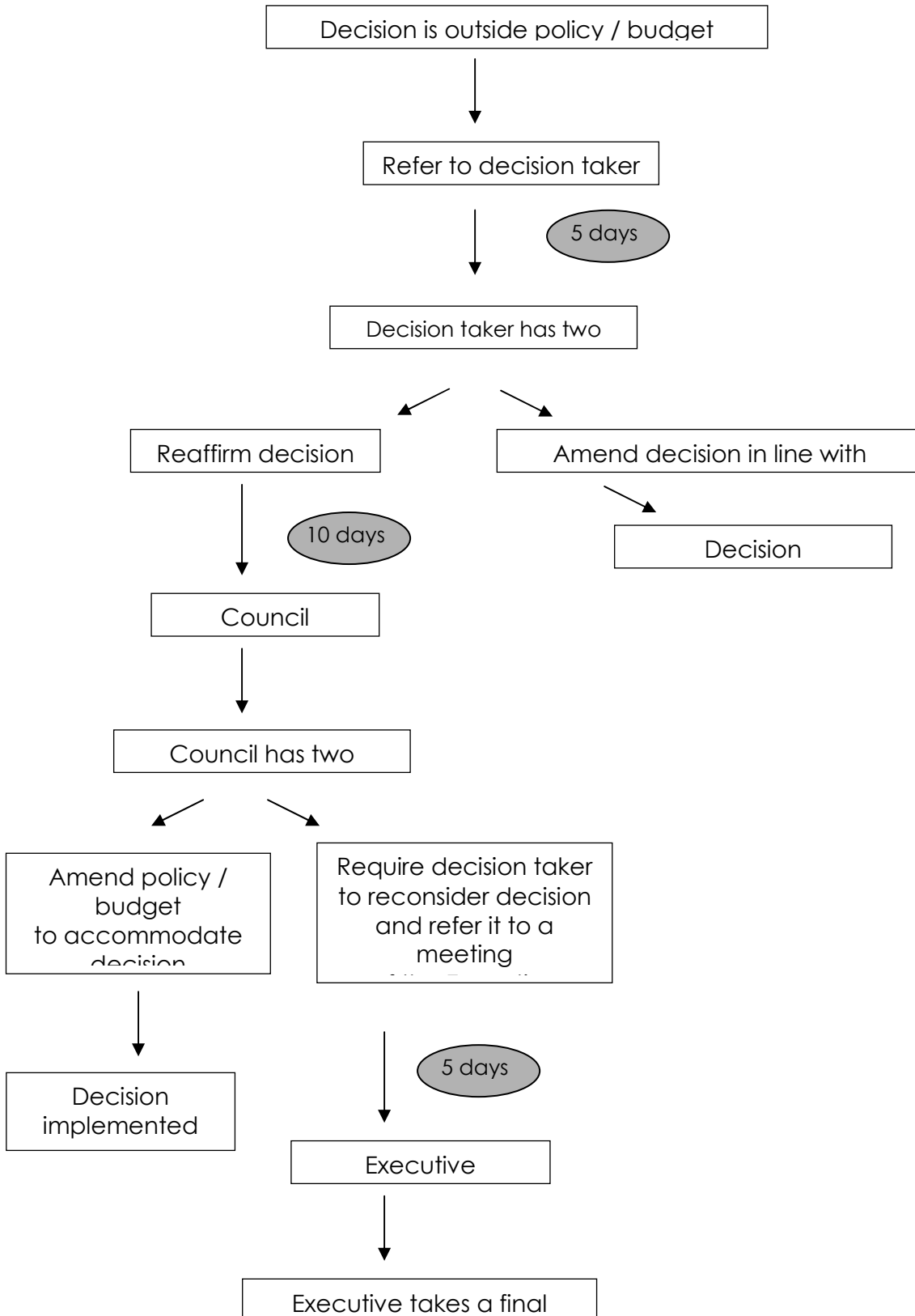
#### **19. Call-In and the Forward Plan**

- (a) The Overview and Scrutiny Committee should consider the Forward Plan as its chief source of information regarding forthcoming Executive decisions.
- (b) The Overview and Scrutiny Committee may select a forthcoming decision and examine the issues around it.
- (c) In order not to obstruct the Council in its business, the Overview and Scrutiny Committee may call-in a decision in advance of its actually being taken. In such a situation all the time-limits apply as above, except that a decision cannot actually be implemented any sooner that it would have been had the Overview and Scrutiny Committee not called it in.
- (d) Where the Overview and Scrutiny Committee has called-in a decision from the Forward Plan before it due date, the decision cannot be called-in again after the final decision has been taken.

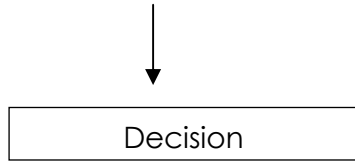
## **20. Monitoring Arrangements**

The operation of the provisions relating to call-in and urgency shall be monitored by the proper officer, and a report submitted to Council annually with proposals for review if necessary.











**APPENDIX 4**

[the words recommended for deletion are shown struck through and the words recommended for addition or insertion are shown in italics and underlined]

# Part E.1

## The Full Council Article

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### Article 6 - The Full Council

#### 6.01. Meanings

- (a) **Policy Framework.** A complete list of all the plans and strategies comprising the Council's Policy Framework is set out in the appropriate Schedule in **Part F, Decision Making**. These are the plans and strategies that Haringey Council has decided should be reserved to the full Council for approval:
- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council's borrowing requirements, the control of its capital expenditure and the setting of virement limits. The determination of the Council Tax Base is delegated to the Director of Finance in consultation with the Executive Member for Finance and the Executive Advisory Board.
- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

#### 6.02. Functions of the full Council

Only the Council will exercise the following functions:

- (a) Adopting and changing the Constitution;
- (b) Approving or adopting the **policy framework** as set out in the appropriate schedule in **Part F**

- (c) Approving the budget, levying Council Tax and setting the non-domestic rate multiplier;
- (d) Determining the borrowing limits for the authority for each financial year and the proportions of borrowing that are to be set at variable rates;
- (e) Approving any application to the Secretary of State in respect of any Housing Land Transfer as set out in Article 6.01 (c) above;
- (f) Subject to the urgency procedure contained in **the Access to Information Procedure Rules in Part D** of this Constitution, making decisions about any matter in the discharge of an Executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (g) Appointing the Leader and Members of the Executive;
- (h) Agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them and delegating functions to them from time to time as may be appropriate;
- (i) Agreeing recommendations arising from Scrutiny Reviews of non-executive functions ~~Considering reports of the Overview and Scrutiny Committee and the Executive's responses to those reports;~~
- (j) Deciding on recommendations arising from Scrutiny Reviews not accepted by The Executive and referred by the Chair of Overview and Scrutiny Committee;
- (k) Agreeing and/or amending the Scheme of Delegations to Officers;
- (l) Appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council;
- (m) Adopting and amending an allowances scheme under Article 4.05;
- (n) Changing the name of the area, conferring the title of honorary alderman or freedom of the borough and establishing any new Civic Link;

- (o) Confirming the appointment or dismissal of the head of paid service;
- (p) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills including the adoption of any legislation where the Council has a discretion;
- (q) All **local choice functions** set out in **Part F** of this Constitution which the Council decides should be undertaken by itself rather than the Executive, or any Committee, Sub-Committee or officer;
- (r) Entering into, or confirming existing, joint arrangements with other local authorities
- (s) Adopting the Members' Code of Conduct;
- (t) Approving Pilot Schemes for Local Elections;
- (u) Adopting Standing Orders for the Council and Standing Orders as to Contracts;
- (v) Making any decisions in respect of non-Executive functions which have not been expressly delegated elsewhere;
- (w) All matters that must be reserved to Council under the Finance Procedure Rules; and
- (x) All other matters that, by law, must be reserved to Council.

### 6.03. Council meetings

There are three types of Council meetings:

- (a) The annual meeting;
- (b) Ordinary meetings;
- (c) Extraordinary meetings.

They will be conducted in accordance with the **Standing Orders (Council Procedure Rules)** in **Part E** of this Constitution.

Council meetings will be chaired by the Mayor if he/she is present. If the Mayor is not present, Council will select another Councillor to take the Chair. The Deputy Mayor does not automatically chair the meeting

in the Mayor's absence. The Council may select the Deputy Mayor if it so wishes.

**6.04. Responsibility for functions**

The Council will maintain the tables in **Part E** of this Constitution setting out the responsibilities for the Council's functions that are not the responsibility of the Executive.







[the words recommended for deletion are shown struck through and the words recommended for addition or insertion are shown in italics and underlined]

## **Part E.7**

### **Terms of Reference: Full Council & Non Executive Bodies**

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#### **SECTION 1 - THE COUNCIL**

Only the Council will exercise the following functions:

- (a) Adopting and changing the Constitution;
- (b) Approving or adopting the policy framework as set out in **Article 6.01** (a), above;
- (c) Approving the budget, levying Council Tax and setting the non-domestic rate multiplier;
- (d) Determining the borrowing limits for the authority for each financial year and the proportions of borrowing that are to be set at variable rates;
- (e) Approving any application to the Secretary of State in respect of any Housing Land Transfer as set out in **Article 6.01** (c), above;
- (f) Subject to the urgency procedure contained in the **Access to Information Procedure Rules** in **Part D** of this Constitution, making decisions about any matter in the discharge of an Executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (g) Appointing the Leader and Members of the Executive;
- (h) Agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them and delegating functions to them from time to time as may be appropriate;

## THE FULL COUNCIL, REGULATORY AND OTHER NON-EXECUTIVE COMMITTEES

- (i) Agreeing recommendations arising from Scrutiny Reviews of non-executive functions ~~Considering reports of the Overview and Scrutiny Committee and the Executive's responses to those reports;~~
- (j) Deciding on recommendations arising from Scrutiny Reviews not accepted by The Executive and referred by the Chair of Overview and Scrutiny Committee;
- (k) Agreeing and/or amending the Scheme of Delegations to Officers;
- (l) Appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council;
- (m) Adopting and amending an allowances scheme under **Article 4.05;**
- (n) Changing the name of the area, conferring the title of honorary alderman or freedom of the borough and establishing any new Civic Link;
- (o) Confirming the appointment or dismissal of the head of paid service;
- (p) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills including the adoption of any legislation where the Council has a discretion;
- (q) All **local choice functions** set out in **Part F** of this Constitution which the Council decides should be undertaken by itself rather than the Executive, or any Committee, Sub-Committee or officer;
- (r) Entering into, or confirming existing, joint arrangements with other local authorities
- (s) Adopting the Members' Code of Conduct;
- (t) Approving Pilot Schemes for Local Elections;
- (u) Adopting Standing Orders for the Council and Standing Orders as to Contracts;

THE FULL COUNCIL, REGULATORY AND OTHER NON-EXECUTIVE COMMITTEES

(v) Making any decisions in respect of non-Executive functions which have not been expressly delegated elsewhere;

(w) All matters that must be reserved to Council under the Finance Procedure Rules; and

(x) All other matters that, by law, must be reserved to Council.

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Agenda item:

**General Purposes Committee****on 19<sup>th</sup> December 2005**Report Title: **Revisions to the Council's Statement of Licensing Policy**Report of: **The Head of Legal Services and Monitoring Officer**Wards(s) affected: **All**Report for: **Decision****1. Purpose**

1.1 To consider authorising statutory public consultation on proposed changes to the Statement of Licensing Policy relating to the relationship between Town Planning and Licensing functions

**2. Recommendations**

2.1 That Members note the contents of the report considered and approved by the Licensing Committee on 6 December.

2.2 That Members authorise the commencement of statutory public consultation on the revisions to paragraphs 8.1 and 8.2 to the Statement of Licensing Policy as set out in Appendix 2 to this report.

Report Authorised by:

**Davina Fiore – Monitoring Officer  
and Head of Legal Services**

Contact Officer: **Terence Mitchison – Senior Project Lawyer, Corporate**  
x 5936 [terence.mitchison@haringey.gov.uk](mailto:terence.mitchison@haringey.gov.uk)

**3. Executive Summary**

3.1 This report recommends that Members authorise the start of statutory public consultation on revisions to the Council's Statement of Licensing Policy. The changes affect the relationship between Planning decisions and Licensing decisions on the same premises. The main point is that Licensing bodies would always have to reach their own conclusions on matters connected with nuisance, amenity and hours of operation but relevant Planning decisions could be still be taken into account. The results of the consultation will be reported to both the Licensing and General Purposes Committees before any final decision on the revisions.

**4. Reasons for any change in policy or for new policy development (if applicable)**

4.1 Counsel's Opinion has been received recommending these changes in the Statement of Licensing Policy

**5. Local Government (Access to Information) Act 1985**

5.1 The following background papers were used in the preparation of this report:

(i) The Council's Statement of Licensing Policy and (ii) the report to the Licensing Committee on 6 December 2005 agenda item 6

**6. Report**

6.1 Members will find attached as Appendix 1 to this report, the report on this matter considered and approved by the Council's Licensing Committee on 6 December.

6.2 Attached as Appendix 2 to this report (and the previous report) are the proposed text changes to the Council's Statement of Licensing Policy which would meet the concerns about legality expressed in Counsel's Opinion.

6.3 Attached as Appendix 3 to this report (and the previous report) is the Opinion of Philip Kolvin. This Opinion explains that Licensing bodies cannot refuse to consider applications for premises licences that would involve hours or uses not authorised by Planning controls. Licensing bodies must reach their own view on the merits of each case and the evidence before them in accordance with the licensing objectives. They can and should give weight to recent and/or relevant Planning decisions about the premises in question. These issues would be resolved by the proposed changes to paragraph 8.2 in the Statement of Licensing Policy.

6.4 Counsel's Opinion agrees that the Statement of Licensing Policy should encourage applicants for a premises licence to obtain the necessary Planning Permission to avoid Planning Enforcement action. Officers can do this in strong and persuasive terms.

6.5 It is also necessary to make technical corrections to paragraph 8.1 of the Statement of Licensing Policy in order to reflect the changes to Planning law brought about by recent amendments to the "Use Classes Order". Planning permission is now required for changes of use from a restaurant to a public house or to a hot food takeaway. The new Use Classes are set out in paragraph 8.1.

6.6 The authorising of revisions to the Statement of Licensing Policy is within the remit of the General Purposes Committee (GPC). The legislation requires that before any revision to a Statement of Licensing Policy the Council must consult a list of specified bodies. These include the Police, Fire Authority, representatives of local residents and general businesses and representatives of the local licensed trade.

6.7 The results of this public consultation will be reported back to both the Licensing Committee and GPC. Advice will be given to Members about the weight to attach to

consultation responses when reaching the eventual decision on the revisions. GPC has the responsibility for recommending any changes in the Statement of Licensing Policy to full Council for adoption.

## **7. Recommendations**

7.1 That Members note the contents of the report considered and approved by the Licensing Committee on 6 December.

7.2 That Members authorise the commencement of statutory public consultation on the revisions to paragraphs 8.1 and 8.2 to the Statement of Licensing Policy as set out in Appendix 2 to this report.

## **8. Comments of the Director of Finance**

8.1 There are no specific financial implications

## **9. Comments of the Head of Legal Services**

9.1 The legal implications are set out in the body of the report

## **10. Equalities Implications**

10.1 There are no specific equalities implications

## **11. Use of Appendices / Tables / Photographs**

11.1 Appendix 1 is the report to the Licensing Committee on 6 December

11.2 Appendix 2 sets out the proposed text changes to the Statement of Licensing Policy.

11.3 Appendix 3 is the Opinion of Philip Kolvin

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Agenda item:

<b>Licensing Committee</b>	<b>on</b>	<b>6 December 2005</b>
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Report Title: <b>Licensing Decisions and the Relationship to Town Planning Controls</b>
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Forward Plan reference number (if applicable): <b>N/A</b>
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Report of: <b>Head of Legal Services</b>
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Wards(s) affected: <b>All</b>	Report for: <b>Non-Key Decisions</b>
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<p><b>1. Purpose</b></p>
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<p>1.1 To report to Members of the Committee on Counsel's Opinion about the relationship between Decisions under the Licensing Act 2003 and Town Planning Controls</p>
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<p><b>2. Recommendations</b></p>
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<p>2.1 That Members note and accept the advice in Counsel's Opinion attached as Appendix 3 to this report.</p>
--

<p>2.2 That Members provisionally approve for statutory consultation the proposed revisions to paragraphs 8.1 and 8.2 of the Council's Statement of Licensing Policy, as set out in Appendix 2 to this report.</p>
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<p>2.3 That Members request the General Purposes Committee to agree the commencement of the statutory consultation referred to in paragraph 2.2 above.</p>
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<p>2.4 That, Members agree to apply the Statement of Licensing Policy in the light of Counsel's advice when making decisions at Licensing Sub-Committee hearings during the period before the formal adoption of the proposed revisions referred to in paragraph 2.2 above.</p>
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<p>2.5 That Members agree not to impose conditions that would leave the hours of operation for licensable activities to be determined by the Planning Authority or by Planning Controls when making decisions at Licensing Sub-Committee hearings.</p>
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Report Authorised by:
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<b>Davina Fiore, Head of Legal Services and Monitoring Officer</b>
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Contact Officer: **Terence Mitchison, Senior Project Lawyer, Corporate**  
(x 5936) [terence.mitchison@haringey.gov.uk](mailto:terence.mitchison@haringey.gov.uk)

### **3 Executive Summary**

3.1 The report attaches a recent Counsel's Opinion which advises that the Licensing Committee and Sub-Committees must always reach their own view at hearings when determining hours, activities or conditions. Although the Licensing bodies should give appropriate weight to relevant Planning decisions, the Licensing decision cannot be "tied" to Planning controls. The General Purposes Committee will be asked to authorise statutory consultations on the proposed changes to the Council's Statement of Licensing Policy.

### **4 Reasons for any change in policy or for new policy development (if applicable)**

4.1 Receipt of Counsel's Opinion and the possibility of legal challenge on these issues.

### **5 Local Government (Access to Information) Act 1985**

5.1 The following background papers were used in the preparation of this report:

(i) the Council's Statement of Licensing Policy (ii) the Opinion of Philip Kolvin dated 21 October 2005 (iii) the Legal Service file on this matter.

### **6 Background**

6.1 The Council's Statement of Licensing Policy contains a section (no. 8) on "Planning" which is set out in Appendix 1 to this report. The paragraph that has given rise to the main concern is 8.2 which states:

"All premises that apply for a licence must have planning permission for the intended use and hours of operation or be deemed "lawful" for the purposes of planning control. The Licensing Authority will not consider a new application or variation of conditions if permitted licensable activities on the premises would constitute an unlawful planning use or if the hours of operation sought exceed those authorised by the planning permission."

6.2 Applications for new licences, or variations of hours, come before Licensing Sub-Committees when there are objections (technically called "relevant representations"). In many cases the applicant owns premises which have Planning Permission for opening hours less extensive than the hours sought in the Licensing application. In some cases the applicant is in the process of applying for Planning Permission to extend the hours to match those sought in the Premises Licence.

- 6.3 Where this has not seemed the appropriate course of action on the facts, Members have been reluctant to enforce the Statement of Licensing Policy strictly by refusing to consider the application or by restricting applicants for Premises Licences to the opening hours currently allowed by the Planning Permission.
- 6.4 In certain instances where the Operating Schedule submitted with the Licence application has sought hours in excess of the Planning Permission, a condition has been imposed on the Licence to the effect that
- “the hours permitted by this licence shall not exceed the hours permitted by Planning Controls for the time being in force”.
- 6.5 The effect of this is to prevent the premises from opening later than the Planning hours before Planning Permission for extended hours is obtained. But, once that Planning Permission is obtained, there would be no need for the owner to make a further Licensing application for the same extended hours.
- 6.6 There have been complaints from some quarters that the Council’s Statement of Licensing Policy has not been strictly enforced with regard to Planning Control. From an opposing point of view, many applicants and their representatives have questioned the legality of the Council’s policy here.
- 6.7 In order to resolve the uncertainty the Head of Legal Services, at the request of the Assistant Director Enforcement, obtained Counsel’s Opinion from Philip Kolvin a barrister with a reputation as a leading practitioner in the Licensing area and the Chairman of the Institute of Licensing. It has to be said that others involved with Licensing have in the past expressed different views but the Legal Service now believes that Philip Kolvin is correct and that his view would be upheld by the Courts.

## **7 Counsel’s Opinion**

- 7.1 Philip Kolvin’s Opinion is attached as Appendix 3 to this report. The “Opinion” is in the form of an e-mailed letter. Paragraph numbers have been added for ease of reference.
- 7.2 The main thrust of the Opinion is in paragraph (4). Counsel states emphatically that Licensing Sub-Committees cannot refuse to consider a new application or variation on the basis that grant would be for hours or uses not authorised by planning control.
- 7.3 Legally, the only basis for the Licensing Authority having the power to refuse or restrict hours and activities set out in an Operating Schedule is that the Licensing Authority itself (not the Planning Authority) must consider this necessary for the promotion of the four national licensing objectives i.e. (i) prevention of crime and disorder, (ii) public safety, (iii) prevention of public nuisance, and (iv) protection of children from harm.
- 7.4 Counsel explains, at paragraph (7) of his Opinion, that in every case it is necessary for the licensing Authority to arrive at its own view. The fact that Planning Permission covered the hours sought in an Operating Schedule should not automatically guarantee the grant of a Licence if, in the circumstances, this would be harmful to the licensing objectives. Nor should the absence of Planning Permission automatically result in refusal. In each case the Licensing Authority must consider the whole of the evidence before it at the hearing and reach its own conclusion on the merits.

7.5 The Licensing Authority may, and should, take into account any Planning decision that is relevant to the Licensing application and persuasive in the circumstances. Counsel gives the example, in his paragraph (6), of an Inspector's decision at a recent Planning Inquiry covering the same issue that comes before the Licensing Authority i.e. should the closing hour be limited to midnight to avoid nuisance. In such a case the Inspector's view must be given great weight by the Licensing Authority. Nonetheless, the Licensing Authority must reach its own conclusion on the totality of the evidence.

## **8 Revising the Statement of Licensing Policy**

8.1 Counsel advises, at paragraphs (4) and (8) of his Opinion, that the Councils' Statement of Licensing Policy (SLP) needs revision. The recommended changes are set out in Appendix 2 to this report. The critical sentence in paragraph 8.2 reads:

“The Licensing Authority will give appropriate weight to relevant Planning decisions and to the views of the Planning Authority on the compliance of the application with the licensing objectives.”

8.2 In paragraph (3) of his Opinion Counsel points out the inaccuracy of Paragraph 8.1 of the SLP. This has arisen because of a recent amendment to the Planning Use Classes Order. The effect of this is that changes of use from a restaurant to a public house or to a hot food takeaway all now require Planning permission. The necessary changes, reflecting the change in Planning law, are set out in Appendix 2.

8.3 The current SLP adopted in January 2005 has a three-year maximum life before it must be wholly re-considered and re-adopted. The Council must keep its SLP under review during the three-year period and make such revisions as it thinks appropriate.

8.4 Before any revision to the SLP is adopted the Council must go through the extensive statutory consultation exercise followed before the initial adoption of the SLP in January. This will include consultation with representatives of local businesses and residents, representatives of the licensed trade and personal licence holders, the Police and the Fire Authority.

8.5 Under the relevant legislation and the Council's Constitution this review is a “non-executive” function and therefore authorisation for the review must be given by the General Purposes Committee followed by formal adoption of the revised SLP by full Council.

8.6 Under the Licensing Act 2003, the Licensing Authority must “have regard” to its SLP when making decisions on applications. This means that the Licensing Authority can depart from parts of its SLP if there is good reason to do so, for example Counsel's Opinion accepted by the Licensing Committee. In the interim, until the formal adoption of the proposed revisions to the SLP, it is recommended that Members on the Licensing Sub-Committees should apply paragraphs 8.1 and 8.2 in the light of Counsel's advice.

## **9 Conditions**

- 9.1 In paragraph (9) of his Opinion, Counsel advises against imposing conditions of the kind mentioned in paragraph 6.4 of this report i.e. “the hours permitted by this licence shall not exceed the hours permitted by Planning Controls for the time being in force”. The reason for this is because the Licensing Authority should make its own decision on the hours rather than leaving the matter to the Planning Authority.
- 9.2 If a premises licence is granted for hours extending beyond those allowed by the Planning Authority, it would still be unlawful for the owner to open during those extended hours. But in this situation enforcement action would have to be taken by the Planning Authority.
- 9.3 Counsel points out that in these circumstances the Licensing Authority could still attach an informative to a premises licence to the effect that the applicant would still need to obtain Planning Permission to operate for the extended hours granted by the Licence.

## **10 Recommendations**

- 10.1 That Members note and accept the advice set out in Counsel’s Opinion attached as Appendix 3 to this report.
- 10.2 That Members provisionally approve for statutory consultation the proposed revisions to paragraphs 8.1 and 8.2 of the Council’s Statement of Licensing Policy as set out in Appendix 2 to this report.
- 10.3 That Members request the General Purposes Committee to agree the commencement of this statutory consultation.
- 10.4 That Members agree to apply the Statement of Licensing Policy in the light of Counsel’s advice when making decisions at Licensing Sub-Committee hearings during the period before the formal adoption of the proposed revisions.
- 10.5 That Members agree not to impose conditions that would leave the hours of operation of licensable activities to be determined by the Planning Authority or by Planning Controls when making decisions at Licensing Sub-Committee hearings.

## **11 Comments of the Director of Finance**

- 11.1 There are no specific financial implications.

## **12 Comments of the Head of Legal Services**

- 12.1 The legal implications are set out in the body of the report.

**13 Equalities Implications**

13.1 There are no specific equalities implications.

**14 Use of Appendices / Tables / Photographs**

14.1 Appendix 1 to this report is the existing text of paragraphs 8.1. and 8.2 of the Council's Statement of Licensing Policy

14.2 Appendix 2 to this report shows the proposed revisions to the Statement of Licensing Policy

14.3 Appendix 3 to this report is the Opinion of Philip Kolvin dated 21 October 2005.

## APPENDIX 2

## PROPOSED REVISIONS TO STATEMENT OF LICENSING POLICY

[the words proposed for deletion are shown struck through and the words proposed for addition or insertion are shown in italics and underlined]

## 8.0 Planning

- 8.1 Planning permission is usually required for the establishment of new premises and change of use of premises. Uses that are relevant to licensed premises are set out in the Town and Country Planning (Use Class) Order 1987 (as amended) and include:
- (a) a retail shop, licensed for the sale of liquor for example (A1);
  - (b) food and drink sold and consumed on the premises ~~or where hot food is sold for consumption off the premises, including restaurants and bars~~ (A3);
  - (c) public house, wine bar or other drinking establishment (A4);
  - (d) hot food sold for consumption off the premises (A5);
  - (e) assembly and leisure uses, including cinemas, concert halls, dance halls and indoor/outdoor sports and recreation (D2); and
  - (f) various "sui generis" uses which do not fall within a use class such as theatres.
- 8.2 All premises that apply for a licence ~~must have~~ will be encouraged to obtain planning permission for the intended use and hours of operation ~~or be~~ if not already deemed "lawful" for the purposes of planning control. The Licensing Authority will give appropriate weight to relevant Planning decisions and to the views of the Planning Authority on the compliance of the application with the licensing objectives. ~~not consider a new application or variation of conditions if permitted licensable activities on the premises would constitute an unlawful planning use or if the hours of operation sought exceed those authorised by the planning permission. The Licensing Authority will consider a degree of flexibility in this when dealing with applications for provisional statements, which applies to premises still to be constructed or altered for licensing purposes.~~

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**APPENDIX 3**

**OPINION OF PHILIP KOLVIN**

Dear Benita

(1) Since I am out of Chambers next week, I hope that this short e-mailed reply will suffice. A longer opinion would not contain more, or different, legal views.

(2) Your statement of licensing policy does not accurately represent the law in relation to the relevance of planning control. You have power to interfere with the contents of an operating schedule (e.g. by refusing a licence or attaching conditions) only if both the following are satisfied, namely, a) there has been a relevant representation and b) if it is necessary to promote the licensing objectives. If there is no relevant representation, you must grant as asked, subject of course to the mandatory conditions. This is regardless of whether planning consent is in place or not.

(3) Whereas paragraph 8.1 of your policy was once an accurate statement of the law, it no longer is, since a recent amendment to the Use Classes Order has created Classes A3, A4 and A5 to distinguish pubs, restaurants and takeaways.

(4) Paragraph 8.2 needs revision. You cannot refuse to **consider** a new application or variation on the basis that grant would be for hours or uses unauthorized by planning control. The legal reason for that is that the only basis to interfere is that interference is necessary to promote the licensing objectives. The practical reason is that planning control is a matter for the planning authority, who will decide whether a use is an offending one and whether to enforce against it.

(5) Thank you for sending me the extract from Hyde. Whereas under the old law, licensing authorities did have policies saying that planning permission had to be obtained first, the legal basis for such an approach was never entirely clear, and any legal basis has been removed by the Licensing Act 2003, which limits the discretion of licensing authorities to interfere, as I have indicated.

(6) What, then, is the role of planning? It is simply that the absence of planning consent **might** **GO** to the question of whether refusal is necessary to promote the licensing objectives. Imagine that there had been a planning inquiry which had specifically considered the question of hours and an Inspector had concluded, after hearing evidence, that the terminal hour should be limited to midnight to avoid nuisance. The licensing authority may find that persuasive if precisely the same issue arose before them. There is authority for that in the shape of *R v Manchester Crown Court ex parte Dransfield* [2001] LLR 556, in which Glidewell LJ stated: "... it is clear that [the inspector's] view or conclusion must be given great weight by the local [licensing] authority, and by the Crown Court on appeal, and there would have to be good reason for rejecting that view or conclusion..."

(7) But in every case it is still necessary for the licensing authority to arrive at its own view. The fact that the premises have the requisite consent does not guarantee a licence if the evidence shows that a grant would be harmful, although weight would be attached to the view of the planning authority or inspector on the issue. Nor is the absence of consent a guarantee of refusal. Each case is to be determined on its merits. The role of planning is to bring its own expertise to bear on the issue, in the same way as health and safety or police departments may bring their expertise to bear on the issue, by putting information or evidence before the sub-committee to help it decide whether interference is necessary in order to promote the licensing objectives.

(8) Thus, while your policy can say that premises need planning consent or a lawful planning use in order to operate, and that the licensing authority will give weight, where relevant, to the views of the planning authority on the compliance of the application with the licensing objectives, you cannot in your policy make planning consent a prerequisite to grant.

(9) There is no harm in attaching an informative to the licence explaining that the licence does not constitute a consent under any other regime and that it is necessary for the licensee to obtain any other consents which may be necessary for the lawful operation of the premises. It would not be proper, whether by informative or condition, to make a statement to the effect that the operating hours are limited to those permitted under planning control. I.e. where there have been relevant representations you should grant such hours as you believe are consistent with the licensing objectives, regardless of whether those hours are consistent with those lawful under planning legislation. But there is nothing wrong with informing the applicant that he may still need consents under other legislation to operate the licensed hours.

(10) You have raised the issue of XXXXX, where the operator may need a planning consent that he does not have. For the reasons just given, that is no bar to the licensing application proceeding, and you must determine it having regard to what is necessary to promote the licensing objective. The absence of planning consent may or may not be material to that issue, but it cannot and should not justify a failure to determine the application at all.

(11) You have also raised the question of what happens when standard objections are made regarding hours in particular areas, by reference to XXX, XXX and XXX. Because of the volume of applications, and also because some statutory and non-statutory organizations have policies of their own, standard objections have been lodged. But the approach of the licensing authority is to determine each application on its merits, having regard to the statement of licensing policy and national guidance.

(12) Finally on this issue, you note that XXXX has appealed a refusal where the hours applied for exceeded those permitted by the planning authority. It will be up to you to justify this refusal. It would not, in my view, be sufficient merely to call the licensing officer to explain what had happened before the sub-committee. You should call officers from planning / licensing and/or environmental control to explain why it is necessary to curtail the hours in order to promote the licensing objectives. I note that environmental control officers did not object to the application, so this narrows your choice down to planning (who are a must) and licensing. I note that there were some local residents and also a Neighbourhood Watch representative. If they are helpful, you should call them too. I see that the sub-committee's attention was drawn to the policy regarding planning. You will need to make it clear on appeal that you are defending the appeal on the merits, and not asking the magistrates to dismiss the appeal on the basis that that part of the licensing policy precludes a determination on the merits.

(13) On the ancillary issue – corkage. You are right that licensing control attaches to sale of alcohol, not to charges for removing the cork from alcohol purchased elsewhere, or to consumption of such alcohol. Since alcohol is not being sold, the activity is not licensable.

I hope this is helpful.

Regards

Philip Kolvin

Report Title: **Improving Performance for Adults with Physical/Sensory Impairments HIV/AIDS and Learning Disabilities Services**

Report of: **The Director of Social Services**

Wards(s) affected: **All**

Report for: **Key**

### **1. Purpose**

1.1 To seek approval for a range of measures to improve Physical Disabilities/Sensory Impairments, HIV/AIDS and Learning Disabilities performance

### **2. Recommendations**

- 2.1 That proposals to reconfigure the Physical Disabilities/Sensory Impairment and HIV/AIDS Services are agreed.
- 2.2 That proposals to restructure the Assessment and Care Management Learning Disabilities Service are agreed.
- 2.3 That proposals to stabilise staffing and the consequent changes to salary scales set out in Appendix D are agreed.

Report Authorised by: **Anne Bristow – Director of Social Services**

Contact Officer: **Bernard Lanigan - Service Manager Telephone 0208 489 3771**  
[bernard.lanigan@haringey.gov.uk](mailto:bernard.lanigan@haringey.gov.uk)

### **3. Executive Summary**

- 3.1 The service has been unsuccessful in its attempts to recruit to vacancies at Practice Manager and Social Work levels. Some vacancies have been covered through the use of Agency Staff at considerable additional cost, which in turn has resulted in fewer numbers of staff being available to undertake the volume of work.
- 3.2 The report proposes a number of actions necessary to stabilise the workforce of the Physical/Sensory Impairment, HIV and Learning Disabilities Social Work Teams.
- 3.3 The report proposes a number of actions to reconfigure the skills mix of the Assessment and Care Management Services.

**4. Reasons for any change in policy or for new policy development (if applicable)**

4.1 None

**5. Local Government (Access to Information) Act 1985**

5.1 None

**6. Background**

- 6.1 The Physical Disabilities Assessment & Care Management Team has been unsuccessful in recruiting up to its establishment of Practice Managers (1.5 Vacant of 2).
- 6.2 The Learning Disabilities Services has vacancies at Team and Practice Manager levels.
- 6.3 Neighbouring Authorities have increased salaries for Social Work Staff which is negatively impacting on the attractiveness of coming to work for Haringey.
- 6.4 The revised salary structures for Children & Families and Mental Health Services agreed by Members on the 18<sup>th</sup> June 2002 has also impacted on the attractiveness of working in the field of Physical and Sensory Impairment.
- 6.5 The recent agreement to improve the salary structure for Older People's Social Work is likely to lead to existing members of the Physical/Sensory Impairment and the HIV/AIDS Social Work Teams leaving this service.

**7. Description**

**Physical Disabilities/Sensory Impairment/HIV/AIDS**

- 7.1 A stable workforce is a basic requirement to deliver high quality services. The Physical/Sensory Impairment Social Work Service is fragile and not best placed to deliver or maintain a high quality service.
- 7.2 Throughout 2004/05 and 2005/06 there has been a steady increased demand for Community Care Services both for Physical/Sensory Impairment and HIV service users. The reduction in the Council's ASG allocation, combined with this increased demand for services have resulted in the current structure of the HIV Service becoming unaffordable.
- 7.3 In order to deliver the budget on target in 2004/05 and again in 2005/06 the HIV service has held a number of posts vacant in order to redirect the budget to pay for care. The service has been directly supported through being line managed by the Physical/Sensory Impairment Team/Practice Managers. This arrangement has ensured staff have a spread of management cover.

- 7.4 It is proposed to formalise this arrangement through the merger of the HIV and Physical/Sensory Impairment services. The merger would establish a single team with specialist posts for HIV/AIDS within an overarching Physical/Sensory Impairment Long Term Medical Conditions Team.
- 7.5 The merger requires the deletion of the following vacant posts, Team Manager PO4 x 1, Community Support Worker SO1 x 1 and Care Manager SWO X 4. The merger requires the establishment of one Practice Manager. A further 3 new posts of Care Managers at Scale 6 are required to undertake less complex work to support the Duty Social Work Service and undertake reviews.
- 7.6 It is furthermore proposed to delete the three existing Administrative Posts and establish 2 Community Care Officer at Scale 6 to provide a first level screening function for the Duty Service of the Assessment Team, the Carers Development Manager and Direct Payments Development Officer. There is currently no infrastructure for data capture of the Substance Misuse Services these re-designated posts will therefore 'act for' the Substance Misuse Providers to log service user data on Framework-i. It is proposed assimilate the existing post holders into these positions.
- 7.7 There are no redundancies associated with this proposal. Existing Care Managers (Unqualified) will slot into the proposed Care Manager Posts on protected salaries. These posts will be reduced to the new grade of Scale 6 through natural wastage.
- 7.8 The existing organisational structures for the Physical Disability Team and the HIV/AIDS Team are indicated at Appendix A with the proposed combined team structure at Appendix B.
- 7.9 Recruitment to current vacancies in the Physical/Sensory Impairment and HIV/AIDS Social Work Teams has not been successful, attracting only low numbers of poor quality applicant's . The current salary structure is preventing the service from recruiting a stable and competent workforce.
- 7.10 It is proposed to revise the salary structure of the reconfigured Physical Disability and HIV/AIDS Teams as set out in Appendix B.
- 7.11 It is proposed to implement the revised salary structure with effect from January 2006.
- 7.12 In addition financial resources from the Substance Misuse Costs Centre will also be utilised.

## **Learning Disabilities**

### **Learning Disability Referral and Assessment Team**

- 7.13 Learning Disabilities Services currently have a number of vacancies at Team Manager and Practice Manager levels, given experiences elsewhere across the Directorate recruitment to these posts on the current salary range is unlikely to attract suitable applicants. Therefore it is proposed to implement the salary structure outlined in Appendix D with effect from January 2006.
- 7.14 The Assessment and Care management Function in Learning Disability Services is based within a Combined NHS and Local Authority Multi-disciplinary Team. It has previously not been difficult to recruit to Social Work Vacancies in this area. The recent increase in the remuneration for Social Workers elsewhere across the Council, and in other authorities, may well result in staff leaving the service which in turn may then be difficult to replace. Action is needed to retain experienced staff.
- 7.15 A skills mix review of the functions associated with the Assessment and Care Management process has been undertaken. As a result it is proposed to reconfigure the Social Work Service of the Combined Team. It is proposed to reduce the number of Social Worker posts from 9 to 5. It is further proposed to establish 5 Care Manager posts. This will bring the service structure in line with that of Older People's Service and the proposals outlined above in respect of the Disability Service and provide the necessary flexibility to respond to both complex and routine work.
- 7.16 It is also proposed to reconfigure the management structure of the Combined Team. It is proposed to delete one Deputy Managers Post and establish an additional Practice Manager.
- 7.17 The staffing strategy, to implement these proposals include no redundancies. Social Workers(5.5 FTE) will be assimilated into the new structure. The service will carry a level of vacancy at Care Manager level to fund the 0.5 FTE over establishment and will revert to the new structure through natural wastage.

## **8. Consultation**

- 8.1 Staff affected by these proposals have been consulted with and are generally in agreement with the proposals.
- 8.2 HIV Service Users were consulted with on the informal management arrangements that have effectively been in place for some 20 months. Service users were initially concerned about a loss of access to Social Work, however when the budget pressures were explained people were generally more accepting of the proposal.
- 8.3 The Trades Unions have been consulted on the proposals in this report.

## **9. Summary and Conclusions**

9.1 This report proposes an organisational reconfiguring of social work teams in order to achieve a level of efficiency, which can be reinvested across the service to drive up service performance. The proposals set out a means to recruiting a competent and stable workforce

## **10. Recommendations**

10.1 That Members agree the reconfiguration of the Physical/Sensory Impairment and HIV/AIDS Services as proposed in Appendix B.

10.2 That Members agree the proposals to reconfigure the Learning Disability Services as set out in Appendix C

10.3 That Members agree the proposals to stabilise the workforce and the consequent changes to salary scales for the Disabilities/HIV and Learning Disabilities services set out in appendix D.

## **11. Legal and Financial Comments**

11.1 The proposed structure of the Service does not appear to identify any unlawful acts or breeches in terms of employment legislation. If anything, some individuals will have an increase in salary and a change in title, which will potentially improve their status in the long-term. The reasons behind the proposals establish a clear business need for change in order to improve recruitment and retention. Consultation with staff and unions appears to have taken place and the proposals, on the whole, are agreed.

## **12. Director of Finance Comments**

The cost of the proposed revised structure can be contained within existing budgets. However, it does not make any contribution towards the agreed efficiency savings required from the review of staffing structures / skill mix across the Adults Business Unit (£320,000 between 2005-06 and 2007-08), nor Adult's contribution towards the Trainee Social Work scheme (£393,300 between 2005-06 & 2008-09).

## **13. Equalities Implications**

13.1 Services to people with disabilities are currently not best served as a result of the number of hard to recruit to vacancies for Practice Managers and Social Workers.

13.2 The lack of a staffing resource to deal with the increased volume of work has resulted in people having to wait an unacceptable length of time before receiving an assessment of their needs. Equally individual service user reviews are not happening on time,

13.3 Implementing the proposals contained in this report will better enable the Authority to attract suitable qualified people to this area.

**14. Use of Appendices / Tables / Photographs**

14.1 Appendix A Current Organisational Structure Physical Disabilities and HIV/AIDS Team

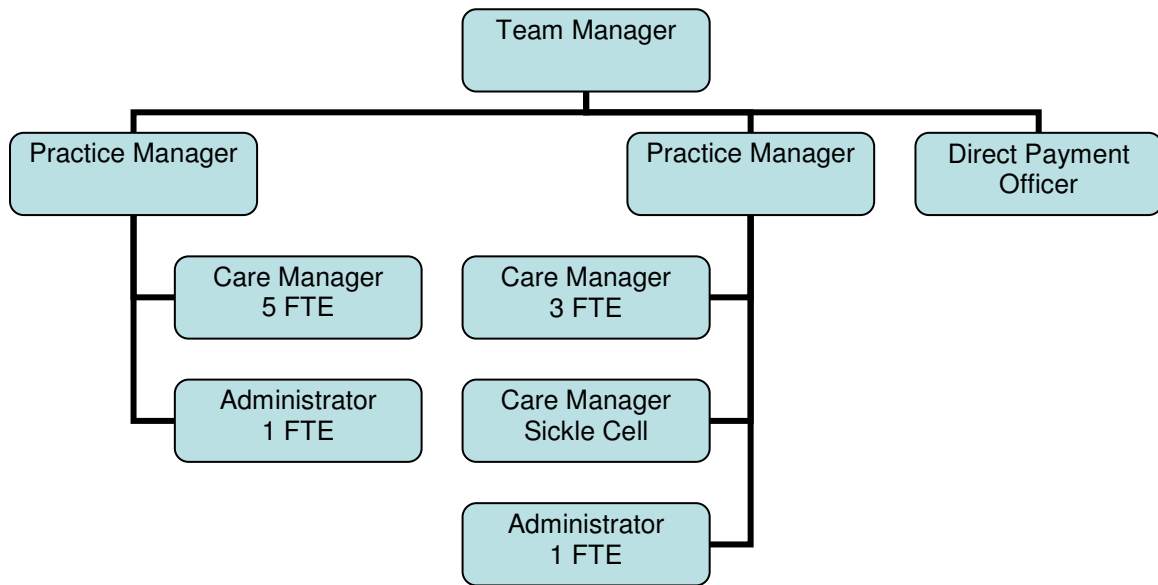
14.2 Appendix B Proposed Reconfiguration of the Physical/Sensory Impairment and HIV Service

14.3 Appendix C Current Learning Disability Structure and Proposed Structure

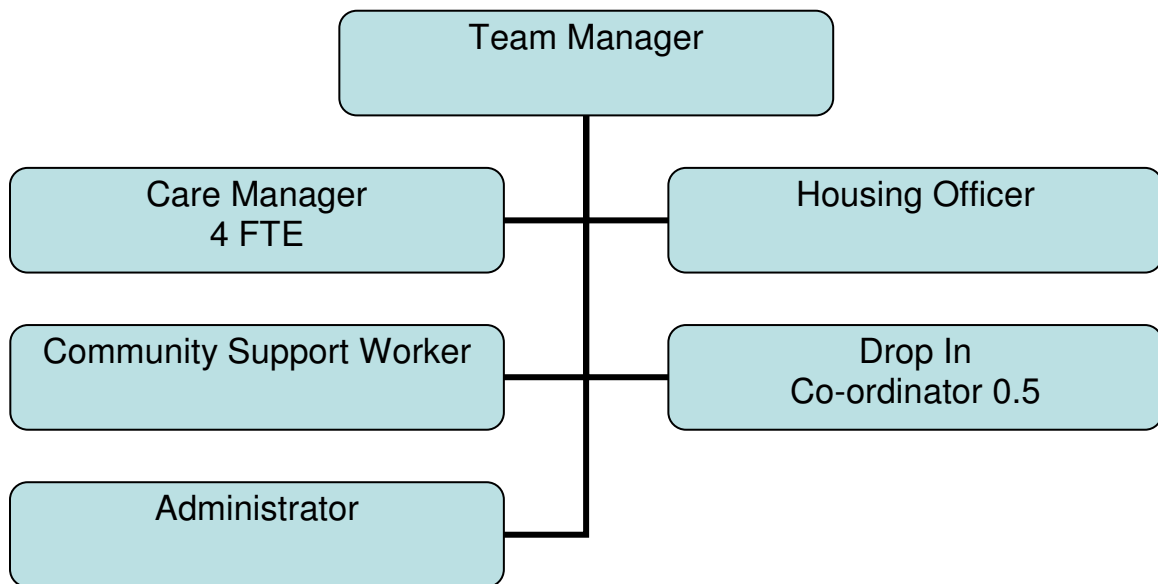
14.4 Appendix D Proposals for new salary scales for Social Care staff from 1<sup>st</sup> Jan 2006.



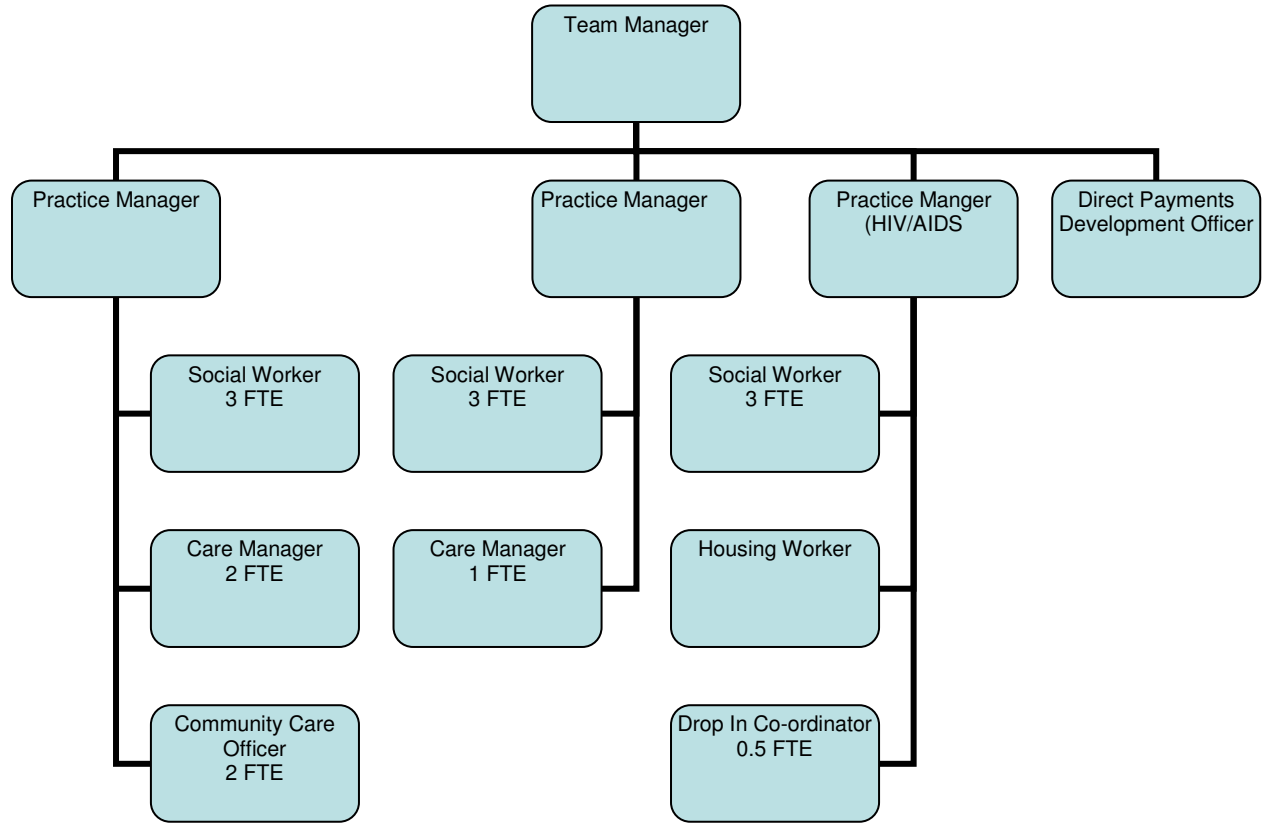
**Current Structure of the Physical Disabilities Team**



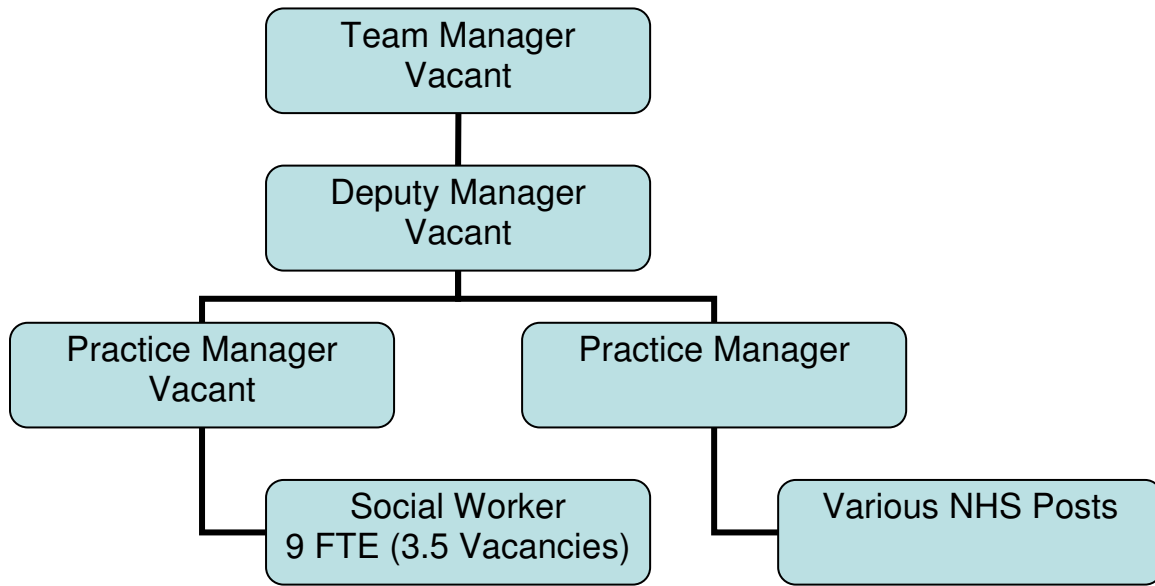
**Current Structure of the HIV/AIDS Team**



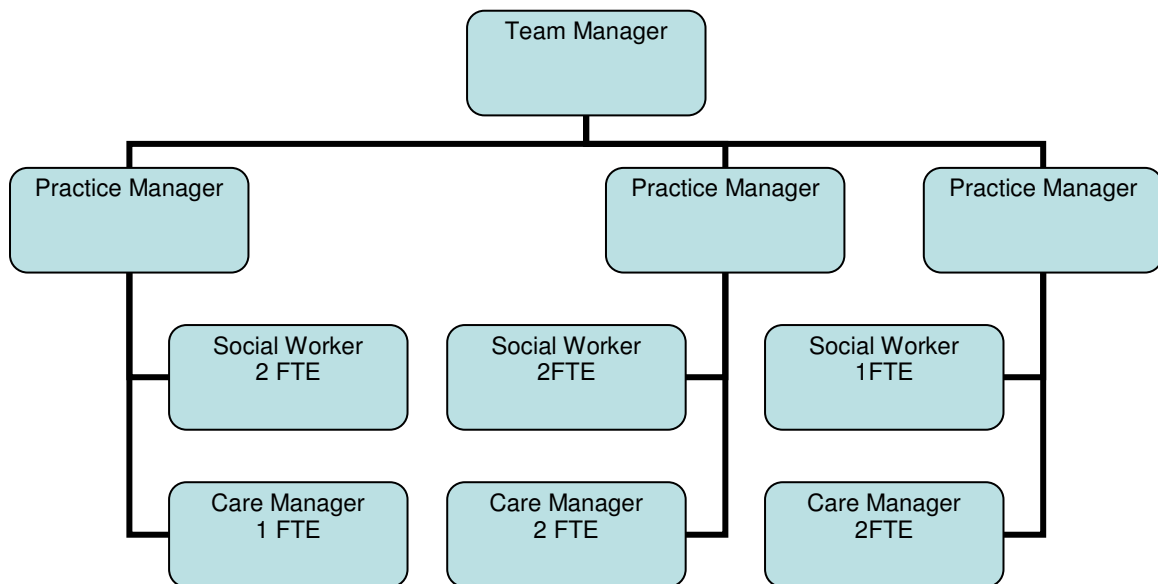
Proposed Disability/Long Term Conditions Team



**Current Learning Disability Structure**



**Proposed Learning Disability Structure**



## Appendix D

**Proposals for new salary scale for Learning Disabilities, Physical/Sensory Impairment and HIV Social Care Staff from 1<sup>st</sup> Jan 2006 for existing staff and new staff from date of appointment.**

The salaries quoted for the following staff are inclusive of London Weighting

<b>Title</b>	<b>Annual Salary</b>	<b>Spinal Point</b>
<b>Community Care Officer</b>	£21,894 - £23,250	26 -28
<b>Care Manager</b>	£21,894 - £23,250	26 -28
<b>Social Workers</b>		
Newly Qualified	£26,307	32
One year's post qualifying experience	£29,101	36
Two year's post qualifying experience	£33,159	41
Three year's post qualifying experience	£35,586	44
<b>Practice Manager</b>	£35,586 - £38,004	44 - 47
<b>Team Manager</b>	£40,491 - £43,146	50 - 53