



# SUMMONS

Councillors of the London Borough of  
Hammersmith & Fulham  
are requested to attend the  
Annual Meeting of the Council on  
Wednesday, 26 May 2004  
at Hammersmith Town Hall, W6

The Council will meet at 7.00pm.

18 May 2004  
Town Hall  
Hammersmith W6

Geoff Alltimes  
Managing Director



## ANNUAL COUNCIL MEETING - 26 MAY 2004

<u>ITEM</u>	<u>CLICK ON TITLES IN BLUE TO GO STRAIGHT TO ITEM</u>	<u>PAGE</u>
1.	<b>ELECTION OF MAYOR 2004/05</b>	
1.1	To receive nominations for the election of a Mayor for the 2004/05 Municipal Year.	
1.2	To appoint a Deputy Mayor for the 2004/05 Municipal Year.	
2.	<b>MINUTES – 25 FEBRUARY 2004</b>	
2.1	To approve and sign as an accurate record the Minutes of the Budget Council meeting held on 25 February 2004.	(attached)
	<a href="#">Appendix 1 – Mayor’s Announcements</a>	
	<a href="#">Appendix 2 – Public Question No.1</a>	
3.	<b>APOLOGIES FOR ABSENCE</b>	
4.	<b>DECLARATIONS OF INTEREST (IF ANY)</b>	
5.	<b>MAYOR'S ANNOUNCEMENTS (IF ANY)</b>	(circulated separately)
6.	<b>MANAGING DIRECTOR’S REPORT OF LEADERS &amp; WHIPS OF PARTY GROUPS FOR 2004/05</b>	
6.1	To note the Managing Director’s report on the various appointments made by the Party Groups on the Council for the 2004/05 Municipal Year.	6
7.	<b>COUNCIL CONSTITUTION 2004/05</b>	
7.1	To receive the Monitoring Officer’s report detailing the review of the Council’s Constitution 2004/05, and to agree to re-adopt it, with amendments, for a further Municipal year.	7 – 40
	<a href="#">Annex 1 – Proposed amendments to Council Constitution</a>	
	<a href="#">Annex 2 – amendments to Contracts Code</a>	

8.	<b>BUSINESS SPECIAL MOTIONS</b>	
8.1	<b><u>Special Motion No.1 – Appointment of a Leader, Deputy Leader &amp; Executive, and Chairs &amp; Memberships of Regulatory Committees and Scrutiny Panels.</u></b>	41 – 49
	<u>Annex 1 – the Executive 2004/05</u>	
	<u>Annex 2 – Memberships of Committees 2004/05</u>	
	<u>Annex 3 – Memberships of Scrutiny Panels 2004/05</u>	
8.2	<b><u>Special Motion No.2 – Council Appointments to Outside Organisations 2004/05</u></b>	50 – 52
	<u>Schedule of Appointments to Outside Organisations</u>	
9.	<b>MEMBERS' ALLOWANCES SCHEME 2004</b>	53 – 57
	To approve a revised Scheme of Allowances for members.	
10.	<b>COUNCILLORS' ANNUAL REPORTS TO COUNCIL</b>	
10.1	To receive the summary of work undertaken by Councillors in 2003/04.	58
10.2	To receive the annual Scrutiny Chairs' report on work undertaken in 2003/04	59 – 68
	[Note: Councillors will be given the opportunity to comment and to ask questions on these reports in the usual manner].	

jpc/AGM 2004



# COUNCIL

## — MINUTES —

(BUDGET COUNCIL MEETING)

WEDNESDAY 25 FEBRUARY 2004



PRESENT:

The Mayor (Councillor Charlie Treloggan)  
The Deputy Mayor (Councillor Mercy Umeh)

Councillors:

Mike Adam  
Colin Aherne  
Emile Al-Uzaizi  
Mrs Adronie Alford  
Chris Allen  
Will Bethell  
Brendan Bird  
Nick Botterill  
Charlie Boyle  
Stephen Burke  
Michael Cartwright  
Siobhan Coughlan  
Steve Cowan

Huw Davies  
Sian Dawson  
Caroline Donald  
Gavin Donovan  
Fiona Evans  
Stephen Greenhalgh  
Greg Hands  
Wesley Harcourt  
Andrew Jones  
Ghassan Karian  
Alex Karmel  
Jafar Khaled  
Antony Lillis

Amanda Lloyd-Harris  
Mark Loveday  
Reg McLaughlin  
Charlie Napier  
Jolyon Neubert  
Colin Pavelin  
Dame Sally Powell  
Andrew Slaughter  
Melanie Smallman  
Frances Stainton  
Tim Stanley  
Dr. Jenny Vaughan  
Josie Wicks  
David Williams

#### **44. MINUTES – 28 JANUARY 2004**

7.01pm - The minutes of the Ordinary Council Meeting held on 28 January 2004 were confirmed and signed as an accurate record.

#### **45. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Birdsey, Church, Gibbons and Graham.

#### **46. MAYOR & MANAGING DIRECTOR'S ANNOUNCEMENTS (IF ANY)**

The Mayor's Announcements were circulated to all Councillors and in the Chamber. (Copy attached as **APPENDIX 1** to these Minutes).

#### **47. DECLARATIONS OF INTERESTS**

Councillor Allen - declaration of personal interest on item 6.1 – Capital Programme - Resources 2003/04 – 2006/07 as a Trustee of the Fulham Palace Trust. Councillor Allen remained at the meeting, and voted on the item.

Councillor Al-Uzaizi - declaration of a personal interest on item 6.1 – Capital Programme - Resources 2003/04 – 2006/07 as a Trustee of the Fulham Palace Trust. Councillor Al-Uzaizi remained at the meeting, and voted on the item.

Councillor Botterill - declaration of a personal interest on item 6.1 - Capital Programme - Resources 2003/04 – 2006/07 as a Trustee of the Fulham Palace Trust. Councillor Botterill remained at the meeting, and voted on the item.

Councillor Cartwright - declaration of personal interest on item 6.1 – Capital Programme - Resources 2003/04 – 2006/07 as a Trustee of the Fulham Palace Trust. Councillor Cartwright remained at the meeting, and voted on the item.

Councillor Napier - declaration of personal interest on item 6.1 – Capital Programme - Resources 2003/04 – 2006/07 as a Trustee of the Fulham Palace Trust. Councillor Napier remained at the meeting, and voted on the item.

Councillor Stainton - declaration of personal interest on item 6.1 – Capital Programme - Resources 2003/04 – 2006/07 as a Trustee of the Fulham Palace Trust. Councillor Stainton remained at the meeting, and voted on the item.

Councillor Williams - declaration of personal interest on item 6.1 – Capital Programme - Resources 2003/04 – 2006/07 as a Trustee of the Fulham Palace Trust. Councillor Williams remained at the meeting, and voted on the item.

#### **48. PUBLIC QUESTION TIME (20 MINUTES)**

7.03pm - The Mayor called on those members of the public who had submitted questions for this meeting of the Council (as published in the Council Agenda) to ask their questions.

### **Public Questions Asked**

1. Mr. Adrian Whyatt, Flat 5 Park House, 13 Girdlers Road W14 – question to the Deputy for Environment & Contract Services

(The full text of all questions submitted and the reply given to the questioner is attached at **APPENDIX 2** to these minutes).

### **49. ITEMS FOR DECISION / COMMITTEE REPORTS (IF ANY)**

#### 7.06pm - **Capital Programme – Resources 2003/04 – 2006/07**

[Noted declarations of personal interest on this item by Councillors Allen, Al-Uzaizi, Botterill, Cartwright, Napier, Stainton and Williams as Trustees of Fulham Palace Trust. The Councillors remained at the meeting, and voted on the item.]

The report was moved for adoption by Councillor Andrew Slaughter, Leader of the Council, seconded by Councillor Aherne.

Speeches on the report were made by Councillor Boyle (for the Opposition) and Councillor Slaughter (for the Administration).

The report and recommendations were put to the vote:

FOR - 23  
AGAINST - 16  
ABSTENTIONS - 0

The report and recommendations were declared **CARRIED.**

#### 7.14pm – **RESOLVED –**

That the Council:

1. Approves a General Fund capital programme of £37.415 million for 2004/05;
2. Approves a Housing Revenue Account capital programme of £22.937m for 2004/05;
3. Notes that the Leader's Committee will be asked to approve those schemes to be included in the Capital Programme;
4. Authorises the Leader's Committee to approve over-programming of up to 20% on mainstream resources for both General Fund schemes and HRA schemes;
5. Approves the Prudential Indicators as set out in Appendix 1 to the report.

7.15pm – **Treasury Management Strategy & Overall Borrowing Limits 2004/05**

The report and recommendations were moved for adoption by Councillor Andrew Slaughter, Leader of the Council, seconded by Councillor Aherne.

Speeches on the report were made by Councillor Hands (for the Opposition) and Councillor Slaughter (for the Administration).

The report and recommendations were put to the vote (roll-call):

FOR - 24

(Councillors Aherne, Allen, Burke, Cartwright, Coughlan, Cowan, Davies, Evans, Harcourt, Jones, Karian, Khaled, McLaughlin, Napier, Pavelin, Powell, Treloggan, Slaughter, Smallman, Stanley, Umeh, Vaughan, Wicks, Williams)

AGAINST - 17

(Councillors Adam, Al-Uzaizi, Alford, Bethell, Botterill, Boyle, Dawson, Donald, Donovan, Greenhalgh, Hands, Karmel, Lillis, Lloyd-Harris, Loveday, Neubert, Stainton)

ABSTENTIONS - 0

The report and recommendations were declared **CARRIED.**

7.29pm – **RESOLVED –**

1. That the future borrowing and investment strategies be approved.
2. That in relation to the Council's overall borrowing for the financial year 2004/05, the Prudential Indicators set out in Section 2 of the report be approved.

7.30pm – **Revenue Budget & Council Tax Levels 2004/05**

Noted the final version of this report incorporating the GLA precept figures and corresponding local Council tax figures previously circulated to all members, and tabled at the meeting.

The report and recommendations were moved for adoption by Councillor Andrew Slaughter, Leader of the Council, seconded by Councillor Aherne.

Speeches on the report were made by Councillor Greenhalgh (for the Opposition) and Councillor Slaughter (for the Administration).

The report and recommendations were put to the vote:

FOR - 24



AGAINST - 17  
 ABSTENTIONS - 0

The report and recommendations were declared **CARRIED.**

7.51pm – **RESOLVED –**

1. That the Council Tax be set for 2004/05 for each category of dwelling, as calculated in accordance with Sections 30 to 47 of the Local Government Finance Act 1992, as outlined below and in full in Appendix A to the report:

(a) The element of Council Tax charged for Hammersmith & Fulham Council will be £890.07 per Band D property in 2004/05.

(b) The element of Council Tax charged by the Greater London Authority will be £241.33 per Band D property in 2004/05.

(c) The overall Council Tax to be set will be £1,131.40 per Band D property in 2004/05.

<b>Category of Dwelling</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	<b>H</b>
Ratio	6/9 £	7/9 £	8/9 £	1 £	11/9 £	13/9 £	15/9 £	18/9 £
a) H&F	593.38	692.28	791.17	890.07	1,087.86	1,285.66	1,483.45	1,780.14
b) GLA	160.89	187.70	214.52	241.33	294.96	348.59	402.22	482.66
<b>c) Total</b>	<b>754.27</b>	<b>879.98</b>	<b>1,005.69</b>	<b>1,131.40</b>	<b>1,382.82</b>	<b>1,634.25</b>	<b>1,885.67</b>	<b>2,262.80</b>

2. The Council's own total net expenditure budget for 2004/05 is set as £235.109m.

3. That a 2.5% increase in fees and charges be approved, unless otherwise varied through a Deputy's Decision or Leader's Committee report.

4. That the Director of Finance's budget projections to 2006/07 be noted.

5. That the Director of Finance's statements under Section 25 of the Local Government Act 2003 regarding adequacy of reserves and robustness of estimates be noted (paragraphs 5.2 and 6.1).

6. That the Director of Finance be authorised to collect and recover National Non-Domestic Rate and Council Tax in accordance with the Local Government Finance Act 1988 (as amended), the Local Government Finance Act 1992 and the Council Schemes of Delegation.

7. That all Chief Officers be required to report to Leadership Scrutiny Panel quarterly on their projected financial position compared to their revenue estimates (as part of the Corporate Monitoring Report).
8. That all Chief Officers be authorised to implement their service spending plans for 2004/05 in accordance with the recommendations within this report and the Council's Standing Orders, Financial Regulations and relevant Schemes of Delegation.

**50. SPECIAL MOTIONS**

There were no Special Motions submitted for debate at this meeting of the Council.

**51. INFORMATION REPORTS**

There were no information reports at this meeting of the Council.

\* \* \* \* \* CONCLUSION OF BUSINESS \* \* \* \* \*

Meeting ended: 7.52 p.m. - Wednesday, 25 February 2004

.....  
MAYOR

jpc/26/02/04

## **ANNOUNCEMENTS BY THE MAYOR**

1. On 30<sup>th</sup> January 2004, accompanied by the Mayoress, Ms Eleanor Carlson, I attended the London Mayors' Association visit & tour of Pinewood studios, Iver
2. On 4<sup>th</sup> February, I was delighted to attend and open Hammersmith & Fulham Art by Young People exhibition, Broadway Information Centre, W6
3. On 5<sup>th</sup> February, I was delighted to host the Metropolitan Police Commendation Awards, Mayor's Foyer, HTH
4. On 6<sup>th</sup> February, I attended the Metropolitan Police Passing Out Parade, Hendon Police Training Headquarters, Aerodrome Way
5. On 9<sup>th</sup> February, I was honoured to attend and host the Awards ceremony for Young People in Care, Mayor's Foyer, HTH,
6. On 10<sup>th</sup> February, accompanied by the Mayoress, Ms Eleanor Carlson, I was delighted to attend and open James Lee Nursery's new extension, Gliddon Road, W14
7. On 16<sup>th</sup> February, I attended the SBHA Sheltered Housing Scheme, Ely Court, SW6
8. On 19<sup>th</sup> February, I attended the Metropolitan Police Constables Federation event, City Hall, Queens Walk, SE1
9. On 20<sup>th</sup> February, I was delighted to attend HAFAD Awards ceremony , Greswell Centre, Greswell Street, SW6
10. On 20<sup>th</sup> February, I was delighted to host an awards ceremony for Albert & Friends and The Rough Puppet Theatre company and Symphony Orchestra the winners of the New Years Day Parade, Mayor's Foyer, HTH
11. On 21<sup>st</sup> February, accompanied by the Mayoress, Ms Eleanor Carlson, I attended the Mayor of Merton's Charity Ball, The All England Lawn Tennis & Croquet Club, Wimbledon
12. On 24<sup>th</sup> February, I was delighted to attend a photocall for 'H&F Schools' join BBC singers making tracks live', All Saints School, Bishops Avenue, SW6
13. On 24<sup>th</sup> February, I attended the SBHA Sheltered Housing Scheme, Elizabeth Barnes Court, Marinefield Road, SW6
14. On 25<sup>th</sup> February, I attended the opening of Gibbs Green Primary School 's new Sports Pitch, Mund Street, W14

**PUBLIC QUESTION TIME**

**LONDON BOROUGH OF HAMMERSMITH & FULHAM**

**COUNCIL MEETING – 25 FEBRUARY 2004**

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Question by: Adrian Whyatt, Flat 5 Park House, 13 Girdlers Road, W14

to the: Deputy for Environment & Contract Services

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**QUESTION**

Why were the toilets in Ravenscourt Park not made fully accessible to disabled users of the park when improvements were carried out last summer?

**REPLY**

I was asked last summer by Councillors Allen and Evans to carry out urgent repairs to re-open the toilets in Ravenscourt Park near the Tea Room for public use.

It would not have been possible, within my revenue budget, to carry out major refurbishment necessary to make the toilets fully accessible at that time. What we did do last summer, was minor repairs and decorations pending the major scheme this year. The major scheme does include the provision of a wheel chair accessible toilet facility.

The Council has a programme of making it's buildings accessible where that can be done by making reasonable and cost effective alterations and adjustments.

You will have seen major works to Fulham Town Hall and Fulham Central Library. This year we will have a further programme of works that will include provision of disabled facilities within Ravenscourt Park Tea Room amongst other projects.

The total value of the specific DDA programme of works is £700,000 over a two-year programme.

ipc/24/02/04

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## MANAGING DIRECTOR'S REPORT TO ANNUAL COUNCIL - 26 MAY 2004

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The Council is asked to note that the following Councillors have been appointed by the Party Groups on the Council to the positions indicated:

### ADMINISTRATION

Leader	-	Councillor Andrew Slaughter
Deputy Leader	-	Councillor Christine Graham
Chief Whip	-	Councillor Colin Aherne
Deputy Whip	-	Councillor Fiona Evans

### OPPOSITION

Leader	-	Councillor Stephen Greenhalgh
Deputy Leader	-	Councillor Nicholas Botterill
Opposition Whip	-	Councillor Frances Stainton
Opposition Dep. Whip	-	Councillor Michael Adam

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**26 MAY 2004**

**CONTRIBUTOR: ANNUAL REVIEW OF THE COUNCIL'S CONSTITUTION ALL WARDS**

**DPA**

As Monitoring Officer, the Director of Policy & Administration is required 'to review the Council's constitution each year to ensure that its aims and principles are given full effect'.

In early 2003, the constitution adopted by the Council the previous year under the Local Government Act 2000 was reviewed in detail by the Leadership Scrutiny Panel. A number of changes followed from this review (re-introduction of Public Question Time and reduction in number of full Council meetings).

In terms of the main elements of the Council's Constitution, no major changes are proposed by the Administration for the coming year.

However, a number of technical and drafting changes are proposed to the Constitution by way of updating or amendments to reflect internal Departmental staffing changes and/or responsibilities, minor re-wording to improve clarity, or other administrative matters.

The changes and amendments proposed to the Constitution are shown in the schedule at **Annex 1** to this report.

The Monitoring Officer is satisfied that the Council's Constitution is continuing to fulfil its stated purposes, as set out in Article 1. The Council's executive and scrutiny processes have operated as intended, and as laid out in the Constitution, during 2003/4. Service delivery by the Council remains at 'excellent' levels as defined by the Audit Commission through the CPA process. Standards of conduct by Councillors and officers remain high, with no adverse findings by the Standards Board for England or other bodies during the course of the past year.

### **Schemes of Delegation**

As in previous years, the detailed schemes of delegation from the Council to Chief and other officers have been reviewed and updated where necessary.

The only substantive changes have been: the introduction of a Director of the Children's Trust, reflected in the Director of Social Services scheme of delegation; the introduction of a

Head of Customer First, reflected in the Managing Director's scheme of delegation; while the Director of Housing's scheme of delegation has been revised to reflect the changes brought about by the establishment of the Housing ALMO. No other changes have been made in the levels of function or financial limits delegated by the Council to Officers.

### **Contracts Code**

The Council's Contracts Code has been updated to reflect recent changes in tendering arrangements, negotiation, contract award and TUPE/two-tier workforce provisions. The Contracts Code contents list is included in the Constitution, and the full version of the Code is available in both hard copy and electronic format from the Best Value Unit. The proposed changes to the Contracts Code are shown at **Annex 2** to this report.

### **RECOMMENDATIONS**

- 1. That the minor updates, amendments and corrections proposed to the Constitution, as set out in Annex 1 to the report, be agreed.**
- 2. That the proposed changes and updates to the Contracts Code, as set out in Annex 2 to the report, be agreed.**
- 3. Subject to agreement of the above, that the Council's Constitution be re-approved and re-adopted.**

## **LOCAL GOVERNMENT ACT 2000 - BACKGROUND PAPERS**

<b>No.</b>	<b>Brief Description of Background Papers</b>	<b>Name/Ext. of holder of file/copy</b>	<b>Department/Location</b>
1.	Review of the Constitution Working papers/file	Henry Peterson, Director of Policy & Administration X 2100	Mezzanine Floor, Hammersmith Town Hall

**SCHEDULE OF UPDATES & AMENDMENTS PROPOSED TO THE COUNCIL CONSTITUTION (Annual Council Meeting – 26 May 2004)**

NOTES:

1. Page numbers shown in **bold** refer to the 2004 version of the Constitution, a copy of which has been sent to each Councillor.

ARTICLE/ RULE NO.	PAGE	TITLE/SUBJECT	PROPOSED CHANGE	REASON(S) FOR CHANGE
Article 6	<b>16</b>	<b><u>Overview &amp; Scrutiny Committees</u></b>	Insert provision to ELSP terms of reference:  “Scrutiny of social services functions insofar as they relate to schools and schools’ services. Scrutiny of the Children’s Trust in conjunction with the Health & Social Care Scrutiny Panel”.	To permit scrutiny of joint Education / Social Services matters where these overlap.
Article 6	<b>16</b>	<b><u>Overview &amp; Scrutiny Committees</u></b>	Para.6.01 – ERSP terms of reference clarified to read:.....”Any aspect of policy & provision related to the local environment and the local economy; and public consultation on how the licensing objectives, set out in the Licensing Act 2003, are being met.”	To clarify the terms of reference and to reflect new legislative duties under the Licensing Act 2003.
Article 6	<b>16</b>	<b><u>Overview &amp; Scrutiny Committees</u></b>	Change of name of HSSSP to “Health & Social Care Scrutiny Panel”	To reflect more accurately the nature of the work undertaken by the Panel
Article 6	<b>18</b>	<b><u>Overview &amp; Scrutiny Committees</u></b>	Para.6.03 – insert new para.(c) – regarding addition of health scrutiny provisions	The inserted provisions are drawn directly from the new regulations on health scrutiny, and refer, for example, to powers to establish joint committees with other Councils.



Part 3	<b>38</b>	<b><u>Responsibility for Functions - Deputies Portfolio's</u></b>  (Leader)	Add additional para .to generic function – ....“Where an executive councillor is absent or has a prejudicial interest in a matter or is otherwise unable to act, decisions in respect of matters within his or her portfolio may be taken by the Leader (or the Deputy Leader in the case of the Leader) or by Leader’s Committee”.  [NB: A similar generic paragraph will also appear in all other Deputies portfolios]	To add provision enabling the Leader to act in the absence of an executive Deputy and in emergencies.
Part 3	<b>69</b>	<b><u>Responsibility for Functions – Terms of Reference - Appointments Committee</u></b>	To amend membership so that, where an appointment relates to the portfolios of two Deputies, both Deputies will be members of the panel making the appointment.	To enable both appointing Deputies to be a member of the appointments panel when appropriate.
Part 3	<b>91 (new)</b>	<b><u>Responsibility for Functions – Terms of Reference - Approval of Accounts Committee</u></b>	Revised terms of reference for the Committee.	To ensure the terms of reference of the Committee fully reflect SAS610 and the Accounts & Audit Regulations 2003. [Note: The Committee was formerly called the <i>Special Committee to consider the Auditor's Comments on the Annual Accounts</i> , established by the Council on 24/9/03]
Part 3	<b>92 (new)</b>	<b><u>Responsibility for Functions – Terms of Reference - Licensing Committee</u></b>	To insert terms of reference for new Licensing Committee	s.6 of the Licensing Act 2003 requires the Council to establish a Licensing Committee. The new Committee will be established & operate in parallel with the old system (Licensing Panel) until such time as the old system fully ceases.

Part 3	<b>96 (new)</b>	<b><u>Responsibility for Functions – Terms of Reference – Strategic Partnership Board</u></b>	Insert terms of reference for new non-statutory non-executive Advisory Body	The Council has established a strategic partnership with its partner Agilisys, and the new advisory body will be responsible for overseeing that work.
Part 3	<b>102</b>	<b><u>Responsibility for Functions - General Scheme of Delegation – Section A</u></b> <u>(Financial &amp; Contractual)</u>	Para.10 – should read:  “To set the level of fees and charges”...	To correct earlier proofing error.
Part 3	<b>103</b>	<b><u>Responsibility for Functions - General Scheme of Delegation – Section A</u></b> <u>(Staffing &amp; Employee relations)</u>	Para.13(g) – amend wording to read:  ... “To authorise the extension of service each year for staff working beyond normal retirement age (65) where this is supported by their department”.	Amendment of the General Scheme of Delegation (to all Chief Officers) to pave the way for the 2006 Age Discrimination rules prohibiting forced retirements.
Part 3	<b>105</b>	<b><u>Responsibility for Functions - Managing Director - detailed Scheme of Delegation</u></b>	Add new para.9:  ... “To discharge the functions under s.138(1) of the LGA 1972 (powers of Principal Councils with respect to emergencies or disasters) as Head of Paid Service (Gold) appointed by the London Borough Councils from time to time to act when a Catastrophic Incident has been declared by the Minister of State for London Resilience.”	To enable MD to act on behalf of all the London Boroughs when designated as “Gold” Head of Paid Service during a Catastrophic Incident (e.g. act of terrorism), as agreed by the Council at its meeting on 28/1/04.
Part 3	<b>112</b>	<b><u>Responsibility for Functions - Director of Finance - detailed Scheme of Delegation</u></b>	The DF scheme of delegation has been revised and updated	To update scheme

Part 3	118	<b><u>Responsibility for Functions - Head of Valuation &amp; Property Services - detailed Scheme of Delegation</u></b>	The HVPS scheme of delegation has been revised and updated	To update scheme
Part 3	129	<b><u>Responsibility for Functions - Director of Policy &amp; Administration – detailed Scheme of Delegation</u></b>	Add under Proper Officer function at end of para.10.1:  “...and the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 (as amended).”	To reflect legislative changes relating to the Monitoring Officer function and to update the Director of Policy & Administration’s scheme of delegation accordingly.
Part 3	130	<b><u>Responsibility for Functions - Director of Policy &amp; Administration – detailed Scheme of Delegation</u></b>	Insert new para.10.3 to read:  “To convene determination hearings and conduct such investigations as are necessary into misconduct allegations referred from an Ethical Standards Officer / the Standards Board for England within the statutory 3 month timescale and to publish such findings.”	To reflect legislative changes relating to the Monitoring Officer function and to update the Director of Policy & Administration’s scheme of delegation accordingly
Part 3	132	<b><u>Responsibility for Functions - Head of Legal Services – detailed Scheme of Delegation</u></b>	The HLS scheme of delegation has been revised and updated	To update scheme
Part 3	140	<b><u>Responsibility for Functions - Director of Direct Services – detailed Scheme of Delegation</u></b>	The DDS scheme of delegation has been revised and updated	To update scheme

Part 3	151 –179	<b><u>Responsibility for Functions - Director of Housing Services – detailed Scheme of Delegation</u></b>	The DHS scheme of delegation has been revised and updated to take account of the new Housing ALMO	To update scheme and to reflect legislative changes and other internal staffing changes/ responsibilities.
Part 3	180	<b><u>Responsibility for Functions - Director of Social Services – detailed Scheme of Delegation</u></b>	The DSS scheme of delegation has been revised and updated to take account of the new Children’s Trust	To update scheme and to reflect legislative changes and other internal staffing changes/ responsibilities.
Part 3	186-231	<b><u>Responsibility for Functions - ENVD detailed Scheme of Delegation to officers</u></b>	The ENVD detailed scheme has been revised and updated.	To update Scheme to reflect legislative changes and internal staffing changes/ responsibilities.
Part 4	234	<b><u>Rules of Procedure - Council Procedure Rule 3 – Other Council meetings</u></b>	Rule 3 - Add header note to clarify the meaning of the term “signed” in this context means either in manuscript, by fax or by email.	In recognition of the move to e-government and to facilitate speed of business.
Part 4	235	<b><u>Rules of Procedure - Council Procedure Rule 4 – Notice of meeting</u></b>	Rule 4 - Add header note to clarify the meaning of the term “signed” in this context means either in manuscript, by fax or by email.	In recognition of the move to e-government and to facilitate speed of business.
Part 4	239	<b><u>Rules of Procedure - Council Procedure Rule 12 – Public Questions</u></b>	Rule 12 Para.12 (b) – insert after “Deputy” in line 2:  ....“one question (and one supplementary question on his/her reply)”....  ( consequential remaining wording after “reply” in para.12(g) deleted as redundant)	This amendment makes clear and explicit the provision of this rule in order to avoid any ambiguity or confusion.

Part 4	<b>240</b>	<b><u>Rules of Procedure - Council Procedure Rule 14 –Special Motions</u></b>	<p>Rule 14 - Insert revised wording governing Special Motions, as agreed by the Council at its meeting on 24/9/03.</p> <p>Add header note to clarify the meaning of the term “signed” in this context means either in manuscript, by fax or by email.</p>	<p>To update the Constitution accordingly.</p> <p>In recognition of the move to e-government and to facilitate speed of business.</p>
Part 4	<b>247</b>	<b><u>Rules of Procedure - Council Procedure Rule 20 – Declarations of Interest</u></b>	<p>Rule 20 Para.20(b) – insert after the word “unless” in line three:</p> <p>...”they are entitled to remain under the Code of Conduct or”... .</p>	<p>Amendment to reflect the slightly different rules which apply in relation to declarations of interest at Scrutiny panels</p>
Part 4	<b>251</b>	<b><u>Rules of Procedure - Council Procedure Rules – Petitions &amp; Deputations – Annex A</u></b>	<p>Add header note to clarify the meaning of the term “signed” in this context means either in manuscript, by fax or by email.</p>	<p>In recognition of the move to e-government and to facilitate speed of business.</p>
Part 4	<b>276</b>	<b><u>Rules of procedure – Overview &amp; Scrutiny Procedure Rules</u></b>	<p>Para.2. – Insert new para.2.3 regarding addition of health scrutiny provisions.</p>	<p>The inserted provisions are drawn directly from the new regulations on health scrutiny, and refer, for example, to powers to establish joint committees with other Councils.</p>
Part 4	<b>277</b>	<b><u>Rules of procedure – Overview &amp; Scrutiny Procedure Rules</u></b>	<p>Para.4 – Add power to remove co-optees who do not attend for 6 months (as with councillors) without having their apologies for absence accepted by the panel. (This is now a statutory provision in relation to parent governor co-optees.)</p>	<p>These changes bring the attendance of co-optees broadly into line with that of councillors.</p>
Part 4	<b>278</b>	<b><u>Rules of procedure – Overview &amp; Scrutiny Procedure Rules</u></b>	<p>Para.9 – amended to read that the work programme will be drawn up on behalf of the Chair, rather than by the Chair.</p>	<p>For clarification purposes</p>

Part 4	<b>281</b>	<b><u>Rules of procedure – Overview &amp; Scrutiny Procedure Rules</u></b>	Para.17 – add additional paragraph regarding the scrutiny of health matters and the duty of senior health representatives to attend if required.	To clarify that it is the duty of senior health representatives to attend meetings of the Health & Social Care Scrutiny Panel if requested to do so.
Part 4	<b>284</b>	<b><u>Rules of procedure – Overview &amp; Scrutiny Procedure Rules</u></b>	Para.22 – amended to reflect the slightly different rules on declarations of interest at Scrutiny panel meetings, in accordance with the Code of Conduct.	For clarification. (In effect, as scrutiny panels are not decision-making bodies, a member with a non-financial prejudicial interest may still remain and participate in a scrutiny panel meeting.)
Part 4	<b>292</b>	<b><u>Rules of procedure - Contract Procedure Rules (Contracts Code)</u></b>	Minor amendments and updates	The Council's Contracts Procedure Rules (Contracts Code) has been revised and updated to reflect legislative and EU changes for 2004.
Part 5	<b>351- 379</b>	<b><u>Codes &amp; Protocols - Guidance for members on Outside Organisations</u></b>	To replace existing Protocol with revised Guidance for members, as agreed by the Council at its meeting on 24/9/03.	To update the Constitution accordingly
Part 5	<b>383-394</b>	<b><u>Codes &amp; Protocols – Guidance for members on Planning &amp; Licensing matters</u></b>	To replace existing protocol with updated version.	The guidance for members has been updated in the light of the Licensing Act 2003 and other recent legislative changes.
Part 6	<b>402</b>	<b><u>Members' Allowance Scheme</u></b>	The Members' Allowance Scheme has been revised.	The Members' Allowances Scheme was last updated and revised (with effect from May 2003) by the Council on 24/9/03. Although all allowances are updated each year in line with the national Local Govt. pay award, it is necessary under the 2003 Members' Allowances Regulations for the Council to re-approve its scheme on an annual basis.

Part 7	403-416	<b><u>Council Management Structure Charts</u></b>	Delete and replace old structure charts for all Departments	To show new establishments and other Senior Departmental Officer and/or internal staffing / structural changes made since May 2003.
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jpc/AGM 2004

**1. INTRODUCTION**

- 1.1 The purpose of the Contracts Code (the Code) is to provide a corporate framework for procurement within the Council. The Code sets out Procurement Policies and Procurement Practices to be followed in tendering works, services and supplies.
- 1.2 The Code was originally published in the mid-1990s and has been updated on a regular basis. The last occasion was in June 2002 when it became part of the Council's Constitution. It is about providing transparency and probity in procurement decisions and provides a framework in which Member and officers operate.
- 1.3 Procuring high quality, cost-effective goods, works and services lies at the very heart of best value and the aim of the Code is to assist in achieving the Council's corporate objectives. The Code links into the best value and continuous improvement agenda.

**2. PROPOSALS**

- 2.1 A review of the working of the Code has been undertaken following its adoption in 2002. During this period there have also been minor changes in respect of EU procurement rules and statutory guidance from the ODPM. The proposed changes have been subject to wide consultation and include comments received.
- 2.2 The attached schedule sets out the proposed changes to the Code.

**3 SUMMARY OF CHANGES**

- 3.1 Revised changes to EU Procurement thresholds are made at 2 yearly intervals and are statutory changes.
- 3.2 **CHAPTER 3 – 2.6:** The minor amendment to para. 2.6.1 in Chapter 3 now sets out a monetary value for "low value" gifts at £10.00. The current wording refers to the acceptance of inexpensive goods of a trivial or seasonal nature (a pen, diary or calendar with a company logo will not have a great value).
- 3.3 **CHAPTER 3 – 5.1.1 & 5.1.3:** Both changes build on existing provisions within the Code and are designed to highlight the need for Directors to comply with existing UK legislative requirements.
- 3.4 **CHAPTER 3 – 8.4:** These changes were agreed to bring the arrangements for consultants into line with similar thresholds elsewhere in the Contracts Code.
- 3.5 **CHAPTER 4 – 4.3.2 (a):** Rewording of paragraph on advice from Head of Legal Services to comply with EU Procurement rules.



- 3.6 **CHAPTER 4, SECTION 9:** The changes have been brought about by the continued use of the negotiation to procure services (and some works). The changes have been designed to make the process easier to understand, and to ensure compliance with statutory requirements of the EU Procurement Directives.
- 3.7 **CHAPTER 4 - 11.5.4:** The additional wording is being proposed as a requirement to be included in the invitation to tender documents sent out with tenders. It is important for tenderers to sign and return a form of tender as it is designed to act as a deterrent against fraudulent activity.
- 3.8 **CHAPTER 4 – 15.2** A consequential amendment highlighting the provisions of TUPE in relation to service based contracts.
- 3.9 **CHAPTER 4 – 15.3** A consequential amendment changing “Leader’s Committee” to the “Deputy Leader and relevant deputies” (this meets current practices). Leader’s Committee will award the contract as a Key Decision, but this is part of the Council’s processes to involve Deputies before tenders are sought.
- 3.10 **CHAPTER 6 – SECTIONS 2 & 3.** There has always been a differentiation between the invitation procedures for **(a) supplies contracts** to those for **(b) works and services contracts**. It was decided that in order to simplify procedures there should be a specific section for works contracts and another for services.
- 3.11 **Section 2 – Works:** Mainly re-wording of existing provisions contained in the current Contracts Code. The normal practice is for invitations to be sought by using the corporate Approved List as the preferred method or where there is no Approved List (or where EU Procurement rules apply) by seeking expressions of interest through a public advertisement. For large value works contracts the Council will use Egan principles and the processes have been codified.
- 3.12 **Section 3 - Services:** Re-wording of existing provisions contained in the current Contracts Code, with minor changes from existing practices. In addition to current arrangements, whereby tenderers are sought through Approved Lists or by placing Contract Notices, it is proposed to give the option of selecting service providers through advertisements placed in service specific journals. The Code already contains similar arrangements for supply contracts and this proposal may reduce some of the Council’s tendering costs for low value service contracts that are outside EU procurement rules.
- 3.13 **CHAPTER 7 – 4.4, 4.5 & 4.6:**  
**Paragraph 4.4** minor amendment to include the position of Deputy Chief Whip to the list of persons responsible for opening tenders over £300,000.  
**Paragraph 4.5** was previously paragraph 3.5 in Chapter 7 of the Code (no change to existing wording).

**Paragraph 4.6** is completely new and reflects the difficulties that have arisen when opening some tenders. Instructions to tenderers say that a form of tender must be returned (see 3.7 above). Where no form of tender is included the tender will be declared invalid. Where a completed form of tender is returned but has not been signed the tenderer will be given the opportunity of sending through a faxed signed copy whilst tenders are being opened allowing the tender to be accepted. However, the original form of tender must be in the Council's possession within 2 days.

### 3.14 **CHAPTER 7 - SECTION 10 - Tender acceptance and tender award.**

**10.1** – No change.

**10.2** – The change has been inserted to clarify current arrangements. If either a Director or Deputy with delegated powers chooses not to exercise those powers then the decision is passed up to the next level of decision making (officer decision to be made by a Deputy, or a Deputy's Decision to be made by Leader's Committee).

**10.3.1:** Requires directors to ensure that when making their decision it complies with the Contracts Code.

**10.3.2:** Sets out the format the report should take.

**10.3.3:** Similar to existing wording in para 10.1.1 (no change to tolerances).

**10.3.4:** Quotations (up to £20k) can be accepted by a single Director (or AD acting with delegated authority).

**10.3.5:** Regular tenders between £20k - £100k require two signatures (e.g. Director and AD).

**10.3.6:** Irregular tenders between £20k -£100k require three signatures (Client-Director, DF, MD).

**10.3.7-10.3.9:** Similar to existing arrangements.

**10.4.1:** Sets out the rules for acceptance by Deputies.

**10.4.2:** Requires the additional approval of the Deputy Leader if the criteria set out for acceptance in 10.4.1 are not met (e.g. outside tolerances).

**10.4.3 – 10.4.5:** No change over existing arrangements.

**10.5.1 – 10.5.2:** No change.

**10.5.3:** Consequential amendment - removal of a reference to a report being submitted by the Director of Policy & Administration (or by a client agent acting on behalf of the Director or Client Department) – otherwise no change.

**10.5.4 – 10.5.5:** Minor consequential changes.

**10.6.1 – 10.6.2:** Minor consequential changes.

### 3.15 **CHAPTER 9 – SECTION 1: TUPE & TWO-TIER WORKFORCE PROVISIONS.** Changes to this section have been made following new statutory requirements from the ODPM on the issues of TUPE and the two-tier workforce (and enforced using new powers contained in the Local Government Act 2003).

3.16 With reference to "two-tier" workforce provisions, these were introduced last year by the ODPM in Annex D to Circular 03/2003. This is statutory guidance that all local authorities are required to follow. The circular advises that any internal service that is subjected to competition or transferred to another public body will be covered by the TUPE regulations and that comparable

pension provisions must be made available (e.g. through admitted status to the Local Government Pensions Scheme).

- 3.17 In addition, councils are now required to put in their contracts clauses that will prohibit the creation of a "two-tier" workforce both in terms of conditions or employment (including pay), and in relation to pensions. Therefore, a private sector company (or another public sector organisation) taking over a service currently provided by LBH&F will be required when recruiting new staff to that contract to offer employment on fair and reasonable terms and conditions which are, overall, no less favourable than those of the transferred employees (and to offer reasonable pension arrangements). The recent contract with Greenwich Leisure Ltd (for the management of Broadway Squash and Lillie Road Fitness Centre) contained clauses dealing with this issue.
- 3.18 It is hoped that the changes will clarify the issues surrounding TUPE. Staff-side have been consulted and UNISON have agreed to the proposed changes contained in this section of the Code.

## SCHEDULE OF PROPOSED CHANGES

### GLOBAL CHANGES

#### Revised EU Public Procurement Thresholds

<i>Special Drawing Rights (SDRs)</i>	Current € thresholds	Current £ equivalent thresholds	Revised € thresholds	Revised £ equivalent thresholds
<i>200,000</i>	249,681	154,477	236,945	153,376
<i>n/a</i>	750,000	464,024	750,000	485,481
<i>n/a</i>	1,000,000	618,698	1,000,000	647,308
<i>5,000,000</i>	6,242,028	3,861,932	5,923,624	3,834,411

*For information, SDRs are defined in terms of a basket of major currencies used in international trade and finance. At present, the currencies in the basket are the Euro, the Pound sterling, the Japanese yen and the United States dollar. The amounts of each currency making up one SDR are chosen in accordance with the relative importance of the currency in international trade and finance. The determination of the currencies in the SDR and their amounts is made by the IMF Executive Board from time to time.*

### PROPOSED CHANGES TO OTHER PARTS OF THE CONTRACTS CODE

#### CHAPTER 3 – GENERAL PRINCIPLES OF THE CODE

##### Section 2.6 : Acceptance of Gifts & Hospitality

Re-wording of paragraph 2.6.1. (*changes shown in bold*)

- 2.6.1 Acceptance of gifts and hospitality by any person of the council involved in the procurement process could be viewed as accepting a bribe or other corrupt practices. The basic rule is that no gift or money should be accepted. The only exception to this basic rule is **that employees may be allowed to keep insignificant gifts or tokens of a trivial or inexpensive seasonal nature such as pens, diaries, etc. up to a low value of £10.00**

#### CHAPTER 3 – GENERAL PRINCIPLES OF THE CODE

##### Section 5 – Record Keeping

Re-wording of paragraph 5.1.1. (changes shown in bold)

- 5.1.1 **The Council in accordance with the following Statutory Instruments (which regulate those tendering exercises which are subject to the EU Public Procurement Directives)**
- **Section 22(4) of SI 1991 No. 2680 Public Procurement: The Public Works Contracts Regulations 1991; and**
  - **Section 23(4) of SI 1993 No. 3228 Public Procurement: The Public Services Contracts Regulations 1993; and**

- **Section 23(4) of SI 1995 No. 201 Public Procurement: The Public Supply Contracts Regulations 1995** is required to keep a register of contracts awarded. In accordance with best practice this register will be extended to those contracts not covered by these regulations. Each department shall maintain a Departmental Contracts Register (refer to form CR/DR) to record each contract that is awarded which is valued over £20,000.00

Re-wording of paragraph 5.1.3. (changes shown in bold)

- 5.1.3 The Corporate and Departmental Contracts Registers will be available for inspection by Councillors. **Each entry will be referenced by the Contract reference number (section 5.4 below) and each entry will contain the following information-**
- (a) The work(s), and/or the service(s) and/or the goods purchased (or hired) under the contract and the value of the contract.**
  - (b) Details of the organisations whose tenders were considered (and where subject to EU Public Procurement Directives and UK Regulation which procedure was followed – Open, Restricted or Negotiated).**
  - (c) Names of the unsuccessful organisations at pre-qualification stage (Open & Negotiated Procedures) and at tender stage.**
  - (d) The name of the organisation or person to whom a contract was awarded and the reason for the award**
  - (e) Details of any known sub-contractor(s)**
  - (f) Where the Negotiated procedure has been used, the reason for using that procedure.**

## **CHAPTER 3 – GENERAL PRINCIPLES OF THE CODE**

### **Section 8 –Consultants and Counsel**

Re-wording of paragraph 8.4 (changes shown in bold)

- 8.4 The procedure to be followed in appointing external consultants will depend on the estimated value of the commission in question, as follows:
- (1) less than £50,000 - the appointment of an external consultant may only be made with the consent of the Director;**
  - (2) £50,000 but less than £300,000 - the appointment of an external consultant may only be made with the consent of the relevant Deputy (or Deputies);**
  - (3) £300,000 or more the appointment of an external consultant may only be made with the approval of the Leader's Committee (as a Key Decision).**

## CHAPTER 4 – PRE-INVITATION PROCEDURES

### Section 4.3 - Term Contracts - Determination of Contract Values

Proposed wording for paragraph 4.3.2 (changes shown in bold)

- 4.3.2 For Services and Supplies Contracts, the value will be determined as the total agreed or estimated contract value over the life of the contract, except that:
- (a) **for an indefinite-term Services Contract or a hire/lease Supplies Contract, the contract value will be determined as the monthly payment multiplied by 48;**
  - (b) for a renewable Services or Supplies Contract, or for an indefinite term Supplies purchase contract the contract value will be based on the aggregate value of such contracts over the last relevant 12 months, adjusted to reflect future needs, or will be based on the estimated payments for the 12 months following first delivery of the services or goods.

## CHAPTER 4 – PRE-INVITATION PROCEDURES

### Re-modelled Section 9 (previously titled “Negotiated Contracts”)

#### 9. STRATEGIC PARTNERSHIP & OTHER NEGOTIATED CONTRACTS

##### 9.1 Negotiations leading to Strategic Partnership & similar arrangements.

9.1.1 In most instances, the use of negotiation to secure contracts that involve the development of strategic partnership arrangements (including PFI and those let under the “Egan” principles) will usually be restricted to those contracts arising out of a Best Value review and/or those where the estimated value exceeds £500,000.

9.1.2 Strategic Partnership and other service delivery arrangements are about building and sustaining a relationship with a service provider, to ensure that the contract or service agreement works and continues to work over a sustained period of time. The process aims to build a more unified approach to procurement, with the client and contractor working as a team with mutual objectives, as a means of realising benefits on both sides (costs, service delivery and profitability). In all instances, such arrangements will be particularly applicable to high value/high risk services and projects. Partnerships should be based on the following principles:

- Shared values and objectives.
- A commitment to the local community.
- Good communications, trust, openness and honesty.
- Pooled knowledge and mutual learning.
- Teamwork, joint service development and problem solving.
- Benchmarking to measure success, feeding back into continuous improvement in performance.
- Incentives for delivering objectives.
- Shared risk and reward.
- Joint investment (where applicable).

- 9.1.3 Member approval is required for all schemes that involve negotiations leading to Strategic Partnership and other service delivery arrangements. Such approval must be obtained prior to the commencement of any tendering process. For schemes that involve “Egan” principles the process is outlined in Chapter 6 section 2
- (a) involves a contract with an estimated value below £1,000,000 and/or which is less than four years in duration (including joint working with another council), approval through a Deputies Decision report signed by the Deputy Leader and the relevant Deputy or Deputies for the service;
  - (b) involves a contract with estimated value of £1,000,000 or more and/or which is expected to run for more than four years (including joint working with another council), approval through a report approved by Leaders Committee.
- For transparency purposes, the timetable and process to be undertaken in connection with the award the contract will be outlined in the initial report to Members. The process will follow the procedures outlined in the next paragraph.
- 9.1.4 It is likely that in most cases the EU Public Procurement Directives will apply and the contracts will be let under the Negotiated Procedure involving a competitive dialogue. The process must involve the establishment of a tender appraisal panel (TAP). The membership of the TAP may include the Leader, Deputy Leader and other relevant Deputies and the purpose of the TAP is to oversee the negotiation process.
- 9.1.5 The initial report (referred to in 9.1.3 above) will set out the key stages to manage the process, including such matters as -
- the publication of a Prior Information Notice: to alert the Market
  - at least 52 days later, the publication of a Contract Notice seeking expressions of interest within 37 days (minimum)
  - evaluation of the expressions of interest (based upon technical ability and financial standing)
  - approval by Members of those organisations to be sent Invitations to Negotiate (ITN),
  - the submission of Best Negotiating Position (BNP) documents by those sent an ITN
  - analysis of each organisation's BNP
  - formal presentations by a selection (or all) of organisations covering service delivery based upon their BNP
  - identification of a preferred service provider and a reserve service provider to continue competitive dialogue (subject to Deputies approval)
  - receipt a Best and Final Offer (BAFO) from the preferred service provider
  - final report back to Leader's Committee recommending contract award
  - continuing dialogue with the preferred service provider clarifying service delivery and implementation issues.
- 9.1.6 To ensure transparency of process all meetings undertaken throughout the process must be minuted and certified as a true record by the persons acting on behalf of the Council. Copies of all minutes will be available to all Members, Chief Officers and those officers involved in the process.

## **9.2 Negotiated Contracts (other than Strategic Partnership arrangements)**

- 9.2.1 Negotiation will consist in an exploration by the Council and the Contractor(s) of the means by which the Council can achieve best value for money on a mutually acceptable basis.
- 9.2.2 In certain exceptional circumstances a Contract may be negotiated directly with one or more Contractors without recourse to competitive quotations or competitive tendering.
- 9.2.3 **Prior written consent** is required before any direct negotiation is undertaken, based upon the following estimated values -
- (a) Less than £20,000.00 - consent of the Client Director (who will take into consideration, where appropriate, the views of other officers);
  - (b) More than £20,000.00 but less than £50,000.00 - consent of the Client Director and the Managing Director (who will take into consideration, where appropriate, the views of other officers);
  - (c) More than £50,000.00 but less than £300,000.00 - consent of the relevant Deputy or Deputies acting on the advice of the Client-Director (who will take into consideration, where appropriate, the views of other officers). The Leader's Office will be sent copies of all decisions;
  - (d) For any matter over £300,000.00 - consent of the Deputy Leader and the relevant Deputy or Deputies, which will consider a report detailing the justification for negotiation and incorporating the views of the Client(s), the Head of the Best Value Unit, the Head of Legal Services and the Chief Financial Officer.
- 9.2.4 For contracts where the estimated value is below £50,000 consideration may be given to negotiating contracts under the following circumstances-
- (a) there is an emergency where the estimated value is less than £50,000.00 (as set out in Chapter 4 section 3 paragraph 9), brought about by events which could not have been foreseen by the Council, which means that the normal tendering time limits cannot be met; or
  - (b) additional works are required from the contractor which through unforeseen circumstances, had not been included in the original contract or new works are required from the contractor which are a repetition of the works carried out under the original contract; or
  - (c) the Contract concerns the provision of personal social services to individuals, where normal tendering arrangement cannot be applied.
- 9.2.5 Negotiation will only be undertaken by at least two officers, one of whom must be trained and/or have experience in negotiation (guidance is set out in Appendix F). Minutes must be taken and certified as a true record by the persons acting on behalf of the Council. A record of all exchanges, whether oral or written, will be annexed to the Contract Control Document. The Contract Control Document will also record:
- (a) the authority to conduct negotiations;
  - (b) the justification for the use of negotiation, including the reason for selecting a particular Contractor to negotiate;
  - (c) the names and designations of the officers undertaking the negotiations;
  - (d) the course and outcome of the negotiations.



- 9.2.6 For those contracts which are subject to the EU Public Procurement Directives the rules governing the "Negotiated Procedure" are complex. The Directives differentiate between:  
negotiation preceded by the publication of a notice; and  
negotiation without prior publication of a notice.  
Different rules govern the use of each procedure. Advice should be sought from the Head of the Best Value Unit and/or Head of Legal Service on their interpretation, in relation to policy and law, respectively.
- 9.2.7 The renewal of a Contract by negotiation with an existing Contractor may, in exceptional circumstances, be justified where the estimated value is below the EU thresholds and/or £300,000 (which ever is lower) and in the circumstances listed below. Prior approval must first be obtained from the Managing Director (acting on advice from the Head of the Best Value Unit) before consideration is given to entering into negotiation:
- (a) goods are required as a partial replacement for, or an addition to, existing goods and purchasing from a different supplier would mean buying equipment with different technical characteristics, leading to:
    - (i) incompatibility with the existing equipment, or
    - (ii) disproportionate technical difficulties in the operation and maintenance of existing equipment; or
  - (b) through unforeseen circumstances, additional Works and/or Services are required from a contractor, and provision for those Works and/or Services was not made at the time the original Contract was awarded, provided that the additional Works and/or Services:
    - (i) cannot for technical or financial reasons be carried out under a separate Contract without great inconvenience to the Council, or
    - (ii) can be carried out separately, but are strictly necessary to the later stages of the original Contract,and provided that the value of all Contracts for additional Works and/or Services does not exceed 50% of the value of the original Contract; or
  - (c) new Works and/or Services are required from a contractor provider to whom a contract was previously awarded, provided that:
    - (i) the Works and/or Services relate to a project, the first contract for which was awarded by competitive tendering, and
    - (ii) notice was given at the time of advertising the first contract that negotiation might be used for the award of subsequent contracts, and
    - (iii) the negotiated procedure is used only during the two years following the commencement of the first contract.
- 9.2.8 Minutes must be taken and certified as a true record by the persons acting on behalf of the Council.

### **9.3 EU Procurement: Negotiation without tender notice**

9.3.1 Direct negotiation of a Contract with one or more contractors/suppliers/ service providers may be justified in the circumstances set out in *Article 11 paragraph 3 of Directive 92/50/EEC (Services); Article 6 paragraph 3 of Directive 93/36/EEC (Supplies); and Article 7 paragraph 3 of Directive 93/37/EEC (Works).*

The following are generalisations or examples of the criteria laid down by the EU Directives. It is not an exclusive list and further advice must be sought from the Head of the Best Value Unit or Head of Legal Services before being used.

- 1 where a tendering exercise has been carried out but no tenders were received (and there is no intention of significantly altering the terms of the Contract) and a decision has been made not to re-tender the Contract; or
- 2 where an irregular tendering exercise has arisen whereby no contract award can be made, the original tenderers may be invited to negotiate on the basis that there are no substantial changes to contract terms and conditions; or
- 3 where a product involved is manufactured for research & development
- 4 where, for technical or artistic reasons, or reasons connected with protection of exclusive rights, the products supplied may be manufactured or delivered only by a particular supplier
- 5 for reasons of extreme urgency (brought about by events unforeseeable by the Council and not of the Council's making), where the time limits laid down under the negotiated, open or restricted procedures cannot be met.
- 6 for additional deliveries or services by an original supplier, meeting certain requirements.

### **9.4 Negotiation with OJEC advertisement**

9.4.1 Negotiation of a Contract with one or more contractors/suppliers/service providers may only be undertaken **following the publication of a notice** using the justification set out in

*Article 11 paragraph 2 of Directive 92/50/EEC (Services); Article 6 paragraph 2 of Directive 93/36/EEC (Supplies); and Article 7 paragraph 2 of Directive 93/37/EEC (Works).*

The following are generalisations or examples of the criteria laid down by the EU Directives. It is not an exclusive list and further advice must be sought from the Head of the Best Value Unit or Head of Legal Services before being used.

- (a) in the event of irregular tenders being received in response to an open or restricted procedure
- (b) because the risks involved do not permit prior overall pricing (very exceptional cases only); or
- (c) the nature of the particular Service is such that tender documents cannot be drawn up with sufficient precision for a tendering exercise to be carried out; or

9.4.2 A notice in a prescribed form must be sent for publication in the OJEC. The relevant proforma and advice on their completion are available from the Head of the Best Value Unit.

- 9.4.3 Contractors will be allowed a minimum of 37 days to express their interest. However, where urgency makes compliance with this minimum period impractical it can be reduced to a minimum of 15 days provided that the invitation to negotiate the contract is sent by the most rapid means of communication available.
- 9.4.4 Negotiation will take place with Contractor selected from among those responding to the notice. Provided that there are enough suitably qualified Contractors the number selected to negotiate must be not less than two.

## **CHAPTER 4 – PRE-INVITATION PROCEDURES**

### **SECTION 11 – INVITATION TO TENDER**

#### **Proposed additional wording**

In paragraph 11.5 add the following sub-paragraph

- 11.5 (d) the form of tender, duly signed and dated. Where the form of tender is omitted the tender will be declared invalid;

## **CHAPTER 4 – PRE-INVITATION PROCEDURES**

### **SECTION 15 - SPECIFICATIONS**

Proposed changes to existing wording (highlighted in bold)

- 15.2 Specifications for all Contracts being carried out following a Best Value Review **that could involve the transfer of employees under the Transfer of Undertakings (Protection of Employment) Regulations 1981 (TUPE)** will be approved by the Tender Appraisal Panel and recommended to the Leader's Committee prior to any tender list being prepared.
- 15.3 For all contracts with estimated values above £1,000,000.00, a summary of the specification will be contained in the report prepared by the Tender Appraisal Panel to the **Deputy Leader and relevant service Deputy(ies)** for approval.

## CHAPTER 6 – INVITATION PROCEDURES FOR WORKS AND SERVICES

### Re-modelled sections 2 & 3

#### 2 TENDERS FOR WORKS CONTRACTS

- 2.1 There are two procedures by which tenders will be sought. Selective tendering through:
- (a) the corporate Approved List, where there is a suitable category and where the estimated value is below the EU Works Directive threshold (the preferred method); or
  - (b) an advertisement seeking expressions of interest through a Contract Notice where the contract is not covered by a suitable category on the Approved List or the estimated value equals or exceeds the EU Works Directive threshold.
- Contracts subject to the EU Works Directive are those where the total estimated value of the Contract equals or is greater than £3,834,411.00 (equivalent to 5,000,000 SDR or €5,923,624).
- 2.2 For contracts with an estimated value of less than £20,000.00 three quotations from contractors on the Approved List are acceptable.
- 2.3 A minimum of THREE Approved List Contractors will be invited to tender (apart from the DSO) for all contracts in excess of £20,000.00, subject to the exceptions previously detailed (see Chapter 3). General guidance to Directors is that a total of six tenderers (depending on the size of the contract) are in most instances appropriate.
- 2.4 If the DSO has the capability and is willing to tender, it will also be invited to tender. In which case, external tenderers should be told in the Invitation to Tender that the DSO/In-house Provider has also been invited to submit a bid.
- 2.5 Negotiation of Egan style contracts will consist in an exploration by the Council and the Contractor(s) of the means by which the Council can achieve best value for money on a mutually acceptable basis. The use of negotiated contracts under the “Egan” principles will usually be considered and applied to contracts whose estimated value exceeds £500,000.
- 2.6 The Approved Contractors will be selected and entered onto a tender list in accordance with the procedures outlined in Appendix Three (Approved List Tendering)
- 2.7 For contracts with an estimated value of £20,000.00 or more, the method to be used to invite tenders will be in writing. Telephone calls may be made to all prospective tenderers, prior to sending out the invitation to tender, to establish whether they are prepared to submit a tender. Those invited to tender will be required to complete a written form of tender).
- 2.8 Before any invitations to tender are issued, it is the responsibility of the Departmental/Divisional Contracts Liaison Officer to ensure that all nominated Contractors have a current "Approved Status" on the Approved List. (Other markers on the Approved List refer to "Application Pending"; "Suspended" and "Removed" status and organisations listed as such should not be used). The use of Tender Lists (other than for contracts subject to EU procedures) as a methods of invitation will be justified only after consultation with the Head of the Best Value Unit.

## Egan Contracts

2.9 The 1998 report Rethinking Construction by Sir John Egan (the Egan Report) sought to achieve improvements for both the public and private sectors in major construction projects. It identified potential savings on capital costs, construction time, contractors' profitability and performance. To accomplish this the public sector were urged to adopt a partnering approach with all parties (contractors, specialist sub-contractors, suppliers, consultants, etc). Egan Partnership Schemes have been approved by the DETR (now ODPM), HM Treasury, Local Government Task Force and National Audit Office.

2.10 Where a decision has been made at Director level that a contract will be let under Egan principles the decision making process will comprise 3 key stages at which Deputies must be asked to make decisions. (1) the use of Egan principles and the selection of shortlist. (2) identification of preferred negotiating partner (and back-up partner). (3) award of contract.

**Stage 1.**The Deputy Leader and the relevant Deputy(ies) must agree a report outlining the proposal and the specific use of negotiation or Egan partnering principles. The report will set out a shortlist of prospective tenderers. It will include details of the proposed timetable, and the processes to be adopted in selecting a prospective partner. It must highlight any timetabling difficulties particularly at stage 3 (tender award).

**Stage 2.**The Deputy Leader and the relevant Deputy(ies) must agree a report to authorise negotiations with a preferred partner (contractor) and identify a backup partner. The report will also provide an update on the current timetable, which may affect the method of awarding the contract at Stage 3.

**Stage 3.**The award report will be agreed by Leader's Committee as a Key Decision. The report will set out the heads of the agreement negotiated between officers and the contractor's staff (final negotiated figure, programme of works, consultation, completion date(s), etc).

### 3. TENDERS FOR SERVICES CONTRACTS (EXCLUDING CONSULTANTS & COUNSEL, AND SOCIAL SERVICES COMMUNITY CARE CONTRACTS)

3.1 With the exception of paragraph 3.2 below and contracts for (i) the use of consultants (including counsel); and (ii) Community Care service contracts, there are three procedures by which tenders will be sought. Tendering from:

- (a) a departmental (or corporate) Approved List, where there is a suitable category and where the estimated value is below the EU Services Directive threshold (the preferred method); or
- (b) an advertisement seeking expressions of interest through a Contract Notice;
- (c) service provider's advertising their services in a reputable trade journal.

If option (b) is used the contract notice should be placed in a relevant trade journal or magazine. In most instances, Directors also should consider the merits of placing a notice in a local newspaper.

3.2 Paragraph 3.1 above does not apply to any contract that is subject to the EU Public Procurement (Services) Directive (92/50/EEC) as set out in Appendix G (full application only) where the total estimated value of the Contract equals or is greater than £153,376 (equivalent to 200,000 SDR or €236,945).

- 3.3 If the Contract is subject to the EU Public Procurement Directives a notice will also be placed in the Official Journal of the European Communities (OJEC) in the prescribed form. The Council's preferred method under the EU Procurement Directives for the selection of tenderers is the "Restricted Procedure" (see Chapter 3 – Section 9). A separate notice may be placed in the trade journal or magazine (and/or local newspaper), however will not contain any information that is not included in the OJEC notice and will not be published before the OJEC notice has been despatched for publication.
- 3.4 A minimum of THREE suitably qualified external Contractors will be invited to tender. In addition, if an in-house service is eligible, and willing to tender it will be invited to tender.
- 3.5 The prospective Tenderers will be selected from among those responding to the notice in accordance with the selection procedure set out in the advertisement and the responses to the questionnaires sent out to interested parties.
- 3.7 If less than three external Contractors respond to the notice, the Client Director will determine whether:
- (a) to invite all those to tender who have responded and to seek exemption from the appropriate deputy(ies), or
  - (b) to re-advertise the Contract.
- 3.8 The reason for the course of action chosen in the preceding paragraph will be entered in the Contract Control Document.

## CHAPTER 7 – TENDER EVALUATION & AWARD

### Section 4 - Provisions for opening written quotations and tenders

Amendment to clause 4.4, sub-clause (c) relating to the opening of tenders:

- 4.4 The opening of the quotations/tenders will be carried out as follows. Not less than 2 officers will be present on each occasion as set out below
- (a) ... *unchanged*
  - (b) ...*unchanged*
  - (c) for all contracts where the estimated value exceeds £300,000.00 tenders will be opened by the Mayor, **or** the Deputy Mayor, **or** the Chief Whip, **or the Deputy Whip** in the presence of the Director of Policy and Administration and the Client Agent/Director.

Two new clauses –

- 4.5 To ensure transparency, no tender will be considered if received after the closing time and date. A late tender will be opened after all other valid tenders have been opened, and only in order to discover the name of the sender. A late tender for a “Best Value” review contract will be opened by the Director of Policy & Administration in the presence of the Head of Legal Services. The Head of Legal Services will then notify the late tenderer that their tender submission cannot be considered. A late tender for any other type of contract will be opened by the Client Agent/Director in the presence of another officer. The Client Agent/Director will then notify the late tenderer that their tender submission cannot be considered.
- 4.6 The person responsible for opening tenders shall ensure that there is a form of tender. In accordance with the Instructions to Tenderers, organisations that fail to submit a form of tender shall be declared invalid. Where a form of tender has been returned duly completed but not signed the organisation shall be given the opportunity of faxing a replacement form containing the signature(s) and requiring the original to arrive at the council's offices not later than two working days later.

## CHAPTER 7 – TENDER EVALUATION & AWARD

### Section 10 - Tender acceptance and tender award

#### Complete re-write of section 10 except paragraph 10.7

#### 10.1 Valid Tenders

10.1.1 The term "valid tender" in the context of Section 10 shall mean any tender capable of being accepted after the application of the provisions of Section 7 of this Part of the Code.

#### 10.2 Exemptions from the Contracts Code (All tender values)

10.2.1 A situation, which does not fall within the rules for tender acceptance under this Code, must be recommended for acceptance by the Deputy for the Service and the Deputy Leader and/or Leader's Committee.

10.2.2 Officers (or Deputies) who have delegated powers to accept tenders, as set out in this section of this Chapter of the Code, may, under exceptional circumstances, choose not to exercise such powers but to refer the matter to the appropriate Deputy(ies) (or Leader's Committee) for approval .

#### 10.3 Delegated powers of Chief Officers relating to the acceptance of Quotations & Tenders below £100,000.00

10.3.1 In accepting quotations and tenders Directors will ensure that the requirements specified in Chapter 4 (section 3), have been complied with. Generally, in assessing tenders it is expected that a minimum of 3 external tenders will be received. (If not, then the Decision should be referred to the relevant Deputy(ies).)

10.3.2 A formal tender acceptance report **must be agreed before a tender is accepted or the contract commences**. The format of the tender acceptance report is to be determined by the responsible director but must include details as follows:

- (a) the purpose of the contract.
- (b) the value of the pre-tender estimate.
- (c) confirmation that all tenderers are approved (either on the Approved List or following public advertisement).
- (d) the value of all tenders received.
- (f) copies of correspondence where a tenderer has withdrawn.
- (g) a full explanation as to why a tender has been rejected as being invalid.

10.3.4 Those involved in the decision making process to accept a tender shall ensure that the following tolerances are adhered to. For:

- (a) tenders where the pre-tender estimate is less than £50,000 the tender being recommended for acceptance shall not be more than £5,000 of the estimated value, and
- (b) tenders where the pre-tender estimate is £50,000 or more but less than £100,000 the tender being recommended for acceptance shall not be more than £20,000 of the estimated value.

However, where the tender being proposed for acceptance is below the pre-tender estimates by

- (c) 25% or more for contracts valued under £50,000, or
- (d) 20% or more for contracts valued under £100,000 but more than £50,000



full justification must be provided. In such cases, the written confirmation of the tenderer must be attached to the tender acceptance report setting out that they are able to complete the whole contract in accordance with the specification

10.3.5 Acceptance of quotations, where the actual value is below £20,000 may be made by individual Directors.

10.3.6 Acceptance of quotations and tenders where the actual value is £20,000 or more, but less than £100,000 must be a joint decision taken by (a) two Directors, or (b) a Director and a second tier officer within the same department or (c) a Director acting as client and a second tier officer within another department acting as service provider.

10.3.7 Acceptance of tenders where the actual value is £20,000 or more, but less than £100,000 and where less than 3 external tenders are received either due to

- (a) the irregular nature of one or more of the tenders; and/or
- (b) non responses by one or more of the tenderers, and/or
- (c) prior approval was obtained due to the specialist nature of the contract to seek less than 3 tenders

then the decision to award the contract will be taken jointly by three Directors: Client-Director, Director of Finance and the Managing Director (the Director of Policy & Administration shall be the third signatory where the “Client-Director” is either the Director of Finance or Managing Director).

10.3.8 Those involved in the decision making process may accept a tender that is not the lowest provided it is supported by a recommendation of a formally constituted Tender Appraisal Panel on the basis that the bid represents the most economically advantageous tender to the Council, in terms of Best Value. For contracts awarded on the basis of the most economically advantageous tender, the contract award will be reported to the Policy & Performance Group for information.

10.3.9 Directors will ensure that the relevant Deputy or Deputies receive quarterly monitoring reports detailing all contracts awarded under delegated powers. Copies of these monitoring reports will also be sent to the Leader and Deputy Leader for information.

10.3.9 Where a contract is being awarded to a contractor from the Approved List the Departmental/Divisional Contracts Liaison Officer will confirm to the Head of the Best Value Unit, within 5 working days of the tender acceptance decision, the names of all tenderers and the tendered amounts, and indicate, by highlighting, the successful tenderer.

#### **10.4 Acceptance of Tenders: those between £100,000 and £300,000**

10.4.1 Tenders with an estimated value between £100,000 and £300,000 will be approved by the relevant Deputy or Deputies, acting on the advice of the Client-Director and/or a tender appraisal panel. The report will indicate the basis upon which the recommendation is being sought, that:

- (a) three valid tenders have been received and is either the
  - (i) lowest tender or
  - (ii) most economically advantageous tender (as recommended by a tender appraisal panel), or
  - (iii) lowest and most economically advantageous tender.
- (b) it meets predetermined tolerances for tender acceptance

- (i) the value is not more than a £20,000 when compared with the pre-tender estimate; or
- (ii) the value is not less than 20% below the pre-tender estimate. (Where a tender falls into this category a full justification for its acceptance must be provided, and in such cases, the written confirmation of the tenderer must be attached to the tender acceptance report setting out that they are able to complete the whole contract in accordance with the specification.)

The report will incorporate the comments of the Director of Finance, the Head of the Best Value Unit and, where appropriate, those of other officers. In all cases the Leader and Deputy will be sent copies of all tender acceptance reports signed by the relevant Deputy or Deputies.

10.4.2 For tenders that do not meet the requirements of the preceding paragraph the Deputies Decision Report will require the additional approval of the Deputy Leader.

10.4.3 In the two preceding paragraphs the delegated authority report should take the form as set out in **Appendix K** (form CODA).

10.4.4 Where the contract is awarded on the basis of being the Most Economically Advantageous, the report will be referred to the Policy & Performance for information

10.4.5 Where a contract is being awarded to a contractor from the Approved List the Departmental/Divisional Contracts Liaison Officer will confirm to the Head of the Best Value Unit, within 5 working days of the tender acceptance decision, the names of all tenderers and the tendered amounts, and indicate, by highlighting, the successful tenderer.

## **10.5 Acceptance of Tenders - Contracts over £300,000.00**

10.5.1 In accordance with the provisions contained in the Local Government Act 2000, the council is required to publish a forward plan of key decisions due over the next four months that involve expenditure (or savings) of over £300,000 (or affect more than one ward). It will be the responsibility of directors to complete the forward plan pro-forma for all key decisions due in the next four months and to forward them to the Director of Policy and Administration.

10.5.2 The decision to accept any valid tender where the actual or notional contract value is £300,000 or more may only be taken by the Leader's Committee.

10.5.3 The report to Leader's Committee recommending tender acceptance will set out the tendered sum and will provide analysis on all the contractors' or service providers' proposals and other relevant issues arising from the required Methods and Resources Statements. The report will incorporate the comments of the Director of Finance, the Head of the Best Value Unit and, where appropriate, those of other officers. However, where:

- (a) the lowest valid tender is not being recommended the Client-Director must record the reasons in the report;
- (b) a Most Economically Advantageous Tender, is being recommended for acceptance then a full justification must be provided;
- (c) the tender recommended for approval is either
  - (i) outside the 5% tolerance limit where the pre-tender estimate was less than £500,000, or

- (ii) outside the £25,000 tolerance limit where the pre-tender estimate was £500,000 or over  
then this should be specifically noted in the report for capital budget monitoring purposes;
- (d) the tender being recommended for acceptance is excessively low (i.e. one that is 85% of the pre-tender estimate) then a full justification shall be given in the report.

10.5.4 A copy of the approved report referred to in the preceding paragraphs will be annexed to the Contract Control Document together with a details of all other relevant decisions.

10.5.5 Tender acceptance reports for Corporate Supply contracts will be reported to the Procurement Steering Group for information, and/or where the contract is awarded on the basis of the Most Economically Advantageous tender received, the report will be referred to the Policy & Performance Group for information.

## **10.6 Acceptance of Tenders – “Best Value” Contracts**

10.6.1 The authority to accept a tender as result of a Best Value review exercise is reserved for the Leader's Committee acting on advice from the Tender Appraisal Panel. The detailed arrangements are set out at **Appendix E** (Revised Contracts Procedure 2000).

10.6.2 Details of the tender acceptance report will be reported to the Policy & Performance Group for information.

## CHAPTER 9 – SPECIAL PROCEDURES

### Section 1 – Procedures relating to TUPE and Pensions

#### Additional wording to clauses 1.1.1 in bold-

- 1.1.1 This procedure deals principally with the arrangements to be undertaken in letting a contract where a DSO/DLO/in-house service provider will be tendering. **Departments should familiarise themselves with the Statutory Guidance contained in Annex D to the ODPM Circular 03/2003 on “TUPE and two-tier workforce arrangements”.**

#### New section 1.2

### 1.2 TUPE and Pensions – General

- 1.2.1 Directors need to take into account statutory guidance contained in the ODPM Circular 03/2003 in relation to
- staff consultation;
  - the *Transfer of Undertakings (Protection of Employment) Regulations 1981* (TUPE);
  - pensions arrangements for existing staff and pensions arrangements for new joiners to an outsourced workforce;
  - treatment of new joiners to an outsourced workforce
  - monitoring arrangements and enforcement; and
  - sub-contracting
- 1.2.2 The effect of TUPE is to transfer any employees employed in the “undertaking” (ie the part of the business to be transferred) from their current employer to the new provider on the same terms and conditions of employment as they enjoyed prior to the transfer.
- 1.2.3 Under TUPE, any dismissal of existing staff which results from the transfer will be automatically unfair unless it can be shown to be for an economic, technical or organisational reason unconnected to the transfer.
- 1.2.4 Where Council staff are to be TUPE-transferred, an early task is to collate all the necessary information on staff which will be provided to bidders as part of the tender pack under suitable terms of confidentiality.
- 1.2.5 TUPE also imposes obligations regarding consultation with the unions. These must be undertaken at an early stage. Failure to do so could result in the Union or the affected employees making a claim against the Council for a compensatory award up to a maximum 13 weeks’ pay per affected employee.
- 1.2.6 Pensions issues will also have to be considered. New providers must provide comparable pensions schemes – either by gaining certification that their existing scheme is comparable to the Local Government Pensions Scheme (LGPS) or by seeking “admitted body” status to the LGPS. The Finance Department (Pensions Section) and Legal Services must therefore be consulted at the earliest opportunity as actuarial calculations may be required for inclusion in the tender documents (NB: the cost of obtaining these figures must be budgeted for as part of the tendering costs).

## Section 1.4 (previously 1.3) – Instructions to Tenderers

Changes to existing clauses 1.4.1 - 1.4.3 additional sentence (shown in bold type)

- 1.4.1 As stated above, the Instructions for Tendering and the letter of invitation to tender will draw prospective tenderers' attention to the principal requirements of the TUPE Regulations, and will advise them to obtain their own professional advice. **It will also draw their attention to the requirements with regard to the “two-tier” workforce and advise bidders of the position regarding pensions, should TUPE apply.**
- 1.4.2 At the same time, it will be made clear to tenderers, that in line with Government advice and Council policy, that in the event of TUPE applying, they will be required to provide broadly comparable pension arrangements to transferring employees **or (at their option) enter into an admission agreement to the LGPS**, or otherwise to compensate staff for the absence of such provision
- 1.4.3 Prospective tenderers will therefore be advised that, if they bid on the basis of TUPE applying and a transfer occurring, they will be required, as part of their tender submission, to submit sufficient details of their pension proposals to enable the Council to make an assessment of **them. The Council's pensions information requirements will be included as part of the tender documents, together with details of the LGPS (as detailed at 1.6 below. Prospective tenderers will be advised to obtain their own professional advice on these matters.** They will also be advised that, in these circumstances, failure to provide the pension information as part of their tender submission will lead to the rejection of their tender.

## Section 1.5 (previously 1.4) – Contract Conditions

Add a new clause 1.5.2

- 1.5.2 A standard set of clauses relating to the issue of avoiding the creation of a two-tier workforce will be included in all contracts. The following is an example of the based on ODPM Circular 03/2003-

*Where the service provider recruits new staff to work on a local authority contract alongside staff transferred from the local authority, it will offer employment on fair and reasonable terms and conditions which are, overall, no less favourable than those of transferred employees. The service provider will also offer reasonable pension arrangements as described in the clauses below.*

*The service provider will consult representatives of a trade union where one is recognised, or other elected representatives of the employees where there is no recognised trade union, on the terms and conditions to be offered to such new recruits. The arrangements for consultation will involve a genuine dialogue. The precise nature of the arrangements for consultation is for agreement between the service provider and the recognised trade unions. The intention is that service provider and recognised trade unions should be able to agree on a particular package of terms and conditions, in keeping with the terms of contract conditions, to be offered to new joiners.*

*The service provider will be required to offer new recruits taken on to work on the contract beside transferees one of the following pension provision arrangements:*

- (a) membership of the local government pension scheme, where the employer has admitted body status within the scheme and makes the requisite contributions;*
- (b) membership of a good quality employer pension scheme, either being a contracted out, final-salary based defined benefit scheme, or a defined contribution scheme. For defined contribution schemes the employer must match employee contributions up to 6%, although either could pay more if they wished;*
- (c) a stakeholder pension scheme, under which the employer will match employee contributions up to 6%, although either could pay more if they wished.*

*On a retender of this contract the new service provider will be required to offer one of these pensions options to any staff who transfer to it and who had prior to the transfer a right under the contract to one of these pension options.*

*Throughout the length of the contract, the service provider will provide the local authority with information as requested which is necessary to allow the local authority to monitor compliance with these employment conditions. This information will include the terms and conditions for transferred staff and the terms and conditions for employees recruited to work on the contract after the transfer.*

*Such requests for information will be restricted to that required for the purpose of monitoring compliance, will be designed to place the minimum burden on the service provider commensurate with this, and will respect commercial confidentiality. Such requests will follow the same principles of proportionality and confidentiality.*

*The local authority will enforce the obligations on the service provider created under these contract conditions. Where it appears to the local authority that the service provider is not meeting its obligations, or where an employee of the service provider or a recognised trade union writes to the authority to say that it has been unable to resolve a complaint directly with the service provider, the local authority will first seek an explanation from the service provider. If the service provider's response satisfies the local authority that the Code is being followed, the local authority will inform any complainant of this. If the response does not satisfy the local authority, it will ask the service provider to take immediate action to remedy this. If, following such a request, the service provider still appears to the local authority not to be complying with the Code, the local authority will seek to enforce the terms of the contract, which will incorporate this Code. In addition, where a service provider has not complied with these contract conditions, the local authority will not be bound to consider the service provider for future work.*

*Where the service provider transfers staff originally in the employ of the local authority to a sub-contractor in consequence of the terms of the service provider's obligations to the local authority, the service provider will be responsible for the observance of these contract conditions by the sub-contractor.*

## **Section 1.6 (previously 1.5) – During the tender period - Workforce information**

In paragraph 1.6.3 add a new sub-paragraph (g)

- 1.6.3.(g) information regarding any claims which the affected employees may have against the Council at the time of the transfer (including any personal injury claims as well as employment claims etc) –

Two new paragraphs 1.6.4 and 1.6.5

1.6.4 With regard to pensions, the following information is required:

- membership (or not) of the LGPS
- date of birth
- current pensionable pay
- full / part time worker
- period of member ship of the LGPS to date
- sex
- office/manual worker
- contribution rate to LGPS
- National Insurance No.

1.6.5 Other, more “general” pension information provided to bidders should include:

- copies of any relevant Government Circulars/ Guidance
- a guide to the LGPS eg a copy of the member’s booklet
- a pro forma list of discretions and entitlements
- a draft admission agreement
- an actuarial note on admission agreements and bulk transfers
- an actuary’s letter

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**SPECIAL MOTION NO. 1 – APPOINTMENT OF A LEADER, DEPUTY LEADER  
& EXECUTIVE, AND CHAIRS & MEMBERSHIPS OF REGULATORY  
COMMITTEES & SCRUTINY PANELS.**

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Standing in the names of:

- (i) Councillor Andrew Slaughter
- (ii) Councillor Chris Graham

"This Council agrees the following appointments under its Constitution for the Municipal Year 2004/05:

- a) The Leader & Executive Deputies (**Annex 1**);
- b) Chairs & Memberships of Regulatory and other Committees (**Annex 2**);
- c) Chairs & Memberships of Scrutiny Panels (**Annex 3**)

and notes their respective Portfolios / Terms of Reference, as set out in the Council's Constitution."

jpc/AGM 2004



LEADER	-	Councillor Andrew Slaughter
DEPUTY LEADER	-	Councillor Chris Graham
DEPUTY FOR REGENERATION	-	Councillor Dame Sally Powell
DEPUTY FOR SOCIAL INCLUSION	-	Councillor Reg McLaughlin
DEPUTY FOR EDUCATION	-	Councillor David Williams
DEPUTY FOR ENVIRONMENT & CONTRACT SERVICES	-	Councillor Michael Cartwright
DEPUTY FOR HOUSING	-	Councillor Stephen Cowan

jpc/AGM May 2004

**REGULATORY & OTHER COMMITTEES MEMBERSHIPS 2004 / 2005**

[ \* s.101 Committee LGA 1972 \*\* s.53 Committee LGA 2000 \*\*\* s.6 Licensing Act 2003]

1. **PLANNING APPLICATIONS COMMITTEE \***

Councillor Wesley Harcourt - Chair  
Councillor Charlie Treloggan - Vice-Chair  
Councillor Colin Aherne  
Councillor Michael Cartwright  
Councillor Jafar Khaled  
Councillor Dame Sally Powell  
Councillor Frances Stainton  
Councillor Will Bethell  
Councillor Caroline Donald  
Councillor Alex Karmel

2. **LICENSING PANEL\***

Councillor Chris Allen - Chair  
+ One member drawn from the Administration members  
+ One member drawn from the Opposition members (Councillor Karmel)

3. **LICENSING COMMITTEE\*\*\***

Councillor Chris Allen (Chair)  
Councillor Colin Aherne  
Councillor Brendan Bird  
Councillor Min Birdsey  
Councillor Dominic Church  
Councillor Fiona Evans  
Councillor Wesley Harcourt  
Councillor Jafar Khaled  
Councillor David Williams  
Opposition Councillor - to be advised  
Opposition Councillor – to be advised  
Opposition Councillor – to be advised  
Opposition Councillor - to be advised  
Opposition Councillor – to be advised  
Opposition Councillor – to be advised

4. **PERSONNEL APPEALS PANEL\***

Councillor Colin Aherne - Chair  
+ One member drawn from the Administration members  
+ One member drawn from the Opposition members (Councillor Mrs.Alford)

5. APPOINTMENTS PANEL\*

Leader – (Chair)

Deputy Leader

Deputy\* relevant to area of appointment

(Note: \* Where an appointment relates to the portfolios of two Deputies, both Deputies will be members of the panel)

Leader of the Opposition (or a named substitute)

1 Other relevant Opposition member

Exceptions : Appointment of Managing Director

All members of Executive

Leader of the Opposition

4 Other Opposition members (Cllrs. Botterill, Stainton, Alford, & Lillis )

6. PENSIONS FUND INVESTMENT PANEL\*

Leader (Chair)

Deputy Leader (Vice-Chair)

Councillor Melanie Smallman

Councillor Michael Adam

Councillor Greg Hands

7. STANDARDS COMMITTEE\*\*

2 Administration members - (Councillors Aherne and Allen)

1 Opposition member - (Councillor Botterill)

3 Independent Members - (Christopher Troke (Chair),  
Steven Moussavi & Rafela Fitzhugh)

8. STANDARDS COMMITTEE APPOINTMENTS PANEL\*

Leader (Chair)

Deputy Leader

Leader of the Opposition

9. APPROVAL OF ACCOUNTS COMMITTEE\*

Leader

Deputy Leader

Leader of the Opposition

## STAFF JOINT COMMITTEES

### 10. COUNCIL AND STAFF JOINT COMMITTEE (CSJ)

Leader  
Deputy Leader  
1 other Deputy (who may vary according to the item under discussion)  
Councillor Charlie Treloggan  
Councillor Amanda Lloyd-Harris  
Councillor Charles Boyle

### 11. COUNCIL, MANUAL & CRAFT EMPLOYEES JOINT NEGOTIATING COMMITTEE (C/MACE)

Leader  
Deputy Leader  
1 other Deputy (who may vary according to the item under discussion)  
Councillor Charlie Treloggan  
Councillor Amanda Lloyd-Harris  
Councillor Charles Boyle

### 12. JOINT JOB EVALUATION APPEALS PANEL (JJEAP)

2 Administration members  
1 Opposition member

[Membership to be appointed from among the full and deputy members of the Personnel Appeals Panel]

### 13. JOINT HEALTH, SAFETY AND WELFARE COMMITTEE (JHSW)

Councillor Wesley Harcourt - Chair  
Councillor Fiona Evans  
Councillor Jafar Khaled  
Councillor Mercy Umeh  
Councillor Caroline Donald  
Councillor Gavin Donovan

14. LOCAL JOINT NEGOTIATING COMMITTEE FOR CHIEF OFFICERS (JNC)

Leader (Chair)  
Deputy Leader  
2 other Deputies or Chief Whip  
Leader of the Opposition  
One other Opposition member

NON-STATUTORY ADVISORY / CONSULTATIVE BODIES

[Note: The bodies below are Advisory Bodies only and have no legal decision-making powers]

15. FULHAM PALACE MANAGEMENT BOARD

Councillor Chris Allen (Chair)  
+ One Administration member  
+ One Opposition member

16. TRAFFIC MANAGEMENT ADVISORY PANEL

(same membership as Planning Applications Committee, with the exception of the Deputy for Environment & Contract Services if s/he is also a member of the Planning Applications Committee)

17. LBHF / AGILISYS STRATEGIC PARTNERSHIP BOARD

Lead Member Customer First / Chair - Councillor Siobhan Coughlan

jpc/AGM 2004

**OVERVIEW & SCRUTINY PANELS MEMBERSHIP 2004 / 05**

(a) EDUCATION AND LEISURE SCRUTINY PANEL

- (i) 8 voting Councillors including the Chair and Vice-Chair in the ratio of 5 Administration members and 3 Opposition members.

Councillor Chris Allen (Chair)  
Councillor Stephen Burke  
Councillor Jafar Khaled  
Councillor Charlie Napier  
Councillor Mercy Umeh  
Councillor Mark Loveday  
Councillor Amanda Lloyd-Harris  
Councillor Sian Dawson

- (ii) The panel shall appoint co-opted members (up to a maximum of 8). At least two, but no more than five, shall be parent governor representatives. Members who have been co-opted as representatives of Diocesan bodies and as parent governor representatives shall have voting rights. All other co-optees shall be non-voting.

(b) ENVIRONMENT AND REGENERATION SCRUTINY PANEL

- (i) 8 voting Councillors including the Chair and Vice Chair in the ratio of 5 Administration members and 3 Opposition members.

Councillor Huw Davies (Chair)  
Councillor Min Birdsey  
Councillor Dominic Church  
Councillor Wesley Harcourt  
Councillor Andrew Jones  
Councillor Nicholas Botterill  
Councillor Michael Adam  
Councillor Gavin Donovan

- (ii) The Panel may appoint a maximum of 8 co-opted members who shall be non-voting.

(c) HEALTH AND SOCIAL CARE SCRUTINY PANEL

- (i) 8 voting Councillors including the Chair and Vice Chair in the ratio of 5 Administration members and 3 Opposition members.

Councillor Colin Pavelin (Chair)  
Councillor Chris Allen  
Councillor Min Birdsey  
Councillor Huw Davies  
Councillor Jenny Vaughan  
Councillor Antony Lillis  
Councillor Emile Al-Uzaizi  
Councillor Amanda Lloyd-Harris

- (ii) The Panel may appoint a maximum of 8 co-opted members who shall be non-voting.

(d) HOUSING SCRUTINY PANEL

- (i) 8 voting Councillors including the Chair and Vice Chair in the ratio of 5 Administration members and 3 Opposition members.

Councillor Melanie Smallman (Chair)  
Councillor Dominic Church  
Councillor Jafar Khaled  
Councillor Andrew Jones  
Councillor Charlie Napier  
Councillor Mrs. Adronie Alford  
Councillor Charles Boyle  
Councillor Jolyon Neubert

- (ii) The Panel may appoint a maximum of 8 co-opted members who shall be non-voting.

(e) LEADERSHIP SCRUTINY PANEL

- (i) 8 voting Councillors including the Chair and Vice Chair in the ratio of 5 Administration members and 3 Opposition members.

Councillor Siobhan Coughlan (Chair)

Councillor Stephen Burke

Councillor Dominic Church

Councillor Melanie Smallman

Councillor Jenny Vaughan

Councillor Stephen Greenhalgh

Councillor Caroline Donald

Councillor Jolyon Neubert

- (ii) The Panel may appoint a maximum of 8 co-opted members who shall be non-voting.

jpc/AGM 2004



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**SPECIAL MOTION NO. 2 – COUNCIL APPOINTMENTS TO OUTSIDE ORGANISATIONS 2004/05**

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Standing in the names of:

- (i) Councillor Colin Aherne
- (ii) Councillor Fiona Evans

"This Council agrees the Council's appointments to Outside Organisations for 2004/05, as set out in the Schedule ***attached***".

jpc/AGM May 04

**COUNCIL APPOINTMENTS TO OUTSIDE ORGANISATIONS 2004/5**

**(Annual Meeting - May 2004)**

<b>NAME OF OUTSIDE ORGANISATION</b>	<b>NUMBER OF REPS/RATIO</b>	<b>NOMINATION</b>	<b>TERM/EXPIRES</b>
<b><u>Association of London Government (ALG)</u></b> Leader's Committee	1 Rep. + 2. Deps. (1 vote per authority)	Rep. Cllr. Dame Sally Powell  Dep.1 Cllr. Slaughter Dep.2 Cllr. Treloggan	1 year to 31.5.05
<b><u>ALG Transport and Environment Committee</u></b> (Assoc. Joint Cttee )	1 Rep + up to 4 Deps. Ratio (1:0)	Rep. Cllr.Michael Cartwright Dep.1 Cllr.Josie Wicks	1 year to 31.5.05
<b><u>ALG Panels</u></b> [+ = Nominations only]  Housing Forum  + Health & Social Care Forum  + Lead Member, Equalities	1 Rep.+ 1 Dep.  [Nomination]  [Nomination]	Rep. Cllr. Stephen Cowan (Dep. Cllr.Charlie Treloggan)  [Cllr.Stephen Burke] (Dep. Cllr.Reg.McLaughlin)  [Cllr.Sanjay Dighe - L.B. Harrow]	1 Year to 31.05.05
<b><u>ALG Grants Committee</u></b> (formerly London Boroughs Grants Cttee)	1 Rep. + up to 4 Deps. Ratio (1:0)	Rep: Cllr. Reg Mclaughlin (Dep. Cllr. Chris Allen)	1 year to 31.5.05
<b><u>Greater London Provincial Council</u></b>  (Council nomination only - Appointments made by ALG Leader's Cttee)	1 Nomination + 2 Deps. (Ratio 1:0)	Rep. Cllr. Charlie Treloggan (Dep. Cllr.Andrew Slaughter)	1 year to 31.05.05
<b><u>LHUC</u></b>  <b>LHUC Exec. Sub Cttee</b> (LHUESC)	1 Rep. + 2 Deps. (Ratio 1:0)  1 Rep + 2 Deps (Ratio 1:0)	Rep. Cllr.Sally Powell (Dep. Cllr.Charlie Treloggan)  Rep. Cllr.Stephen Cowan	1 year to 31.05.05  1 year to 31.05.05

<p><b><u>Local Government Association (LGA)</u></b></p> <p>- General Assembly</p> <p>- <u>LGA Panels/Committees</u>  [** = Council Nomination only]</p> <p>** Policy and Strategy  ** Planning  ** Social Affairs  ** Education  ** Equalities</p>	<p>Up to 4 Reps &amp; 4 Votes</p> <p>[ Nomination]  [ Nomination]  [ Nomination]  [ Nomination]  [ Nomination]</p>	<p>1. Cllr. Slaughter  2. Cllr. Graham  3. Cllr. Dame Sally Powell  4. Cllr. Aherne*</p> <p>* (Cllr. Aherne holds 4 votes on Assembly)</p> <p>[Cllr.Dame Sally Powell]  [Cllr. Michael Cartwright]  [Cllr. Reg McLaughlin]  [Cllr. David Williams]  [Cllr.Sanjay Dighe - L.B.Harrow]</p>	<p>1 year to 22.07.05</p>
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jpc/May 2004

26 MAY 2004

**MEMBERS' ALLOWANCES SCHEME 2004/05**

**ALL WARDS**

## Summary

This report seeks approval for a revised Scheme of Allowances for members, in line with current legislation (*The Local Authorities (Members' Allowances) (England) Regulations 2003*).

## **CONTRIBUTORS**

PAD (CSD/LSD), FD

## RECOMMENDATION:

**That the members' Scheme of Allowances, as set out in the attached, be approved and adopted .**

## 1. REVIEW OF ALLOWANCES

- 1.1 The current scheme of allowances was approved and adopted by the Council on 24 September 2003. That review introduced inflation linking to allowances in line with the main annual local government pay award (which will happen when there is settlement). That review also introduced allowances for co-opted members.
- 1.2 No further changes are therefore proposed on this occasion, with the exception of the creation of a new special responsibility allowance for the Chair of the Strategic Partnership Board.
- 1.3 The authority is required to consider the views of the appointed independent panel, which in London is the panel co-ordinated through the Association of London Government, and chaired by Professor Malcolm Grant (the Grant Report). The position of Chair of the Strategic Partnership Board has responsibilities that fall within the types of responsibilities contained in either Band One of the Grant Report – a range at 2001 levels of £1,900-7,100. It is proposed that the allowance be introduced at the lowest SRA level in the Hammersmith and Fulham scheme in line with scrutiny panel chairs, regulatory body chairs and the like.

## 2. COMMENTS OF DIRECTOR OF FINANCE

- 2.1 The allowances budget provides for inflationary increases and because of low take up of the provision for pensions, there is an underspend projected which could finance this small increase.

## 3. COMMENTS OF THE HEAD OF LEGAL SERVICES

- 3.1 The proposed scheme of allowances is in accordance with the Local Authority (Members' Allowances) Regulations.

### **LOCAL GOVERNMENT ACT 2000** **LIST OF BACKGROUND PAPERS**

<b>No.</b>	<b>Description of Background Papers</b>	<b>Name/Ext. of Holder of File/Copy</b>	<b>Department/ Location</b>
1.	Local Authorities (members' allowances) (England) Regulations 2003 no 1021	Peter Savage ext 2017	PAD, room 230 Hammersmith Town Hall
2.	The remuneration of councillors in London: 2003 review	Peter Savage ext 2017	PAD, room 230 Hammersmith Town Hall
3.	New Council Constitutions: guidance on consolidated regulations for local authority allowances (ODPM and Inland Revenue)	Peter Savage ext 2017	PAD, room 230 Hammersmith Town Hall

## Members' Allowances Scheme

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This scheme is made in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003 ("the Regulations") for the year 2004 – 2005 and subsequent years. The scheme has been prepared having regard to the content of the reports of the Independent Panel on the Remuneration of Councillors in London chaired by Professor Malcolm Grant (which reported in August 2001 and July 2003).

### 1 Basic Allowance

The following basic allowance shall be paid to each member of the authority:

- £7,995 per annum to be paid in 12 monthly instalments on the 15th of each month.

Where a Councillor's term of office begins or ends otherwise than at the beginning or the end of the municipal year the entitlement shall be to payment of such part of the basic allowance as bears to the whole the same proportion as the number of days during which the term of office as member subsists bears to the number of days in that municipal year.

### 2 Special Responsibility Allowances

The following special responsibility allowances shall be paid to Councillors holding the specified offices.

The Leader	£31,983
Deputy Leader	£26,652
Other cabinet members (Deputies (5))	£21,321
Chief Whip	£21,321
Deputy Chief Whip	£5,532
Chairs of scrutiny panels (5)	£5,532
Chair of Strategic Partnership Board	£5,532
Leader of the Opposition	£15,990
Deputy Leader of the Opposition	£5,532
Opposition Whip	£5,532
Chairs of quasi judicial/regulatory bodies (3)	£5,532
Mayor	£10,662
Deputy Mayor	£5,532

Where a Councillor does not hold throughout the municipal year any such office the entitlement shall be to payment of such part of the special responsibility allowance as bears to the whole the same proportion as the number of days during which the term of office subsists bears to the number of days in that municipal year.

### 3 Other Allowances

#### 3.1 Dependent carer allowance

Dependant carer allowance is payable in respect of expenses incurred for the care of a member's children or dependants in attending meetings of the authority, its executive, committees and sub-committees and in discharging the duties set out in paragraph 7 of the Regulations.

- £3.65 per half hour before 10 p.m.; £4.65 per half hour after 10 p.m. (not payable in respect of a member of the councillor's household)

#### 3.2 Subsistence and Travel

Allowances only payable (at same rates as employees) for duties undertaken away from the Town Halls when discharging duties under paragraph 8 of the Regulations.

- **public transport**  
actual costs reimbursed.
- **Car mileage**

Cc	first 8500 miles (pence per mile)	Above 8500 miles (pence per mile)
Below 1000	36.4	10.6
1000-1199	40.2	11.3
above 1200	49.9	12.8

- **Cycle allowance**  
£34.76 per month – where this is claimed no other travel claims are permissible.
- **Subsistence**  
Allowances payable at same rates and conditions as employees. Payment is only made for expenses incurred outside the borough, subject to a maximum of £5.00 per claim.

### 4 Annual Increase

The allowances in this scheme apply to the financial year 2004-2005 and shall be increased by the same percentage rate of increase as the national Local Government pay award in each subsequent year until 2007-08. Up-rating shall be applied to these allowances at the same time as the employees' pay award.

## **5 Election to forego allowances**

A Councillor may by notice in writing to the Director of Policy and Administration elect to forego any part of his or her entitlement to an allowance under this scheme.

## **6 Time limit for claims**

The majority of allowances are payable monthly, but where allowances are the subject of claims, these claims should be made in the agreed form with the appropriate declaration within six months of the duty to which they relate.

## **7 Withholding of allowances**

In the event of Councillors being suspended, the Standards Committee shall have the power to withhold the allowances payable to that Councillor either in whole or in part for the duration of that suspension.

## **8 Pensions**

All Councillors under the age of 70 years shall be entitled to join the London Borough of Hammersmith and Fulham Pension Scheme and have their basic allowance and special responsibility allowance treated as pensionable. Councillors can only join the scheme if they are under 70 and can only pay contributions, and accrue benefits, until their 70<sup>th</sup> birthday. If they carry on in office beyond age 70 they will not pay any contributions or accrue any further membership. Instead, the benefits that were accrued at age 70 will be paid at an actuarially increased rate when they either reach 75 or cease holding office, whichever comes first.

## **9 Membership of more than one authority**

A member may not receive allowances from more than one authority (within the meaning of the regulations) in respect of the same duties.

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## **ALLOWANCES FOR COOPTED MEMBERS AND INDEPENDENT MEMBERS OF STANDARDS COMMITTEE**

The rate of allowance for co-opted members shall be £1000 pa payable in equal monthly instalments. The rate of allowance for independent members of the Standards Committee shall be £400 pa payable in equal monthly instalments.

These allowances shall be up-rated at the same percentage rate of increase of the national Local Government pay award and at the same time as the employees' pay award is implemented.

Co-opted members shall be entitled to the same travel allowances as Councillors, but shall not be entitled to subsistence payments.

(Annual Council - May 2004)



**Councillors: summary of activity 2003-04**

**Managing Director's report**

	Adam	Aherne	Alford	Allen	Al-Uzaizi	Bethell	Bird	Birdsey	Botterill	Boyle	Burke	Cartwright	Church	Coughlan	Cowan	Davies	Dawson	Donald	Donovan	Evans	Gibbons	Graham	Greenhalgh	Hands	Harcourt	Jones	Karian	Karmel	Khaled	Lillis	Lloyd-Harris	Loveday	McLaughlin	Napier	Neubert	Pavelin	Powell	Slaughter	Smallman	Stainton	Stanley	Treloggan	Umeh	Vaughan	Wicks	Williams	
<b>Council</b>	5	4	5	5	5	5	5	3	5	4	5	5	1	4	5	5	5	4	5	5	4	4	4	5	5	4	4	5	4	4	5	4	3	4	4	5	4	5	5	5	4	4	5				
<b>Leader's Committee</b>												8			7							8	2								8					7	8	1						8			
<b>Scrutiny Panels</b>	5	1	7	9	6	0	5	8	10	7	13	7	17	8	8	24	6	1	24	0	0	7	7	0	0	10	0	12	9	8	13	8	14	16	6	9	5	8	16	0	0	0	13	7	13	8	
<b>Standards Committee</b>	4			3					2																																						
<b>PAC (incl TMAP)</b>	13					9	1					13						10						9	14				13	1							12		1	11		12					
<b>Pensions Panel</b>	4																	2				3																									
<b>Licensing Panel</b>			4	18	1			3	2				3				1		1	2					1		7	5		2															2		
<b>Appointments Panel</b>	1		1		1				1			1			1		1					7	1				1		1		2	2														4	
<b>Personnel Panel</b>		2	7				2	4					1			1	2			1						2		4																		1	
<b>Fostering Panel</b>																																															
<b>Adoption Panel</b>		20		8																		2																									
<b>CSJ etc</b>																		3	2	1				3						2	1																
<b>JHSW</b>																																															

## **SCRUTINY IN HAMMERSMITH & FULHAM 2003/2004 ANNUAL REPORT**

### **1. Introduction**

- 1.1 This is the fifth annual report on the scrutiny process in Hammersmith and Fulham. It is also the second year of the scrutiny arrangements established by the council in its new constitution of May 2002 under the Local Government Act 2000. This Act required councils to introduce new constitutions involving executive arrangements in one of three forms. The leader and cabinet constitution adopted by the council in May 2002 replaced the decision-making system operated during the 1998-2002 council, which was an innovative form of executive and scrutiny arrangements, developed within the framework of the 1972 Local Government Act.
- 1.2 The council was therefore in a strong position to build on past scrutiny experience and to develop it under the new constitution. This second year of the new arrangements has been one of consolidation as well as innovation. Scrutiny panels have continued to benefit from the publication of the Forward Plan of Key Decisions (those key decisions which the executive is planning to take in the future). This has enabled scrutiny panels to plan their work programmes, selecting for scrutiny those key executive decisions which they considered most significant and which they wished to influence and shape; and to monitor the outcome of their recommendations in Leader's Committee reports.
- 1.3 The panels have also taken a wider role in policy development, originating topics of public interest and feeding their views as relevant to external partners, service providers and the executive. This is an expanding role and in the case of health scrutiny, a legal responsibility. The Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 has given statutory power from 1 January 2003 to the Health and Social Services Scrutiny Panel to review and scrutinise health matters and to make reports and recommendations to NHS bodies.
- 1.4. The establishment of the Children's Trust and the development of the the arms-length management organisation for housing services have been two key areas in which the scrutiny panels have been closely involved.
- 1.5 Performance review and monitoring has continued to be a key role for all scrutiny panels. Budget scrutiny has been of particular importance and enhanced by the training undertaken by the Chairs of Scrutiny Panels and scrutiny councillors in early January 2004 entitled "Effective Scrutiny - Adding Value to the Financial Planning Process".

- 1.6 This report is motivated, as in previous years, by the belief that the scrutiny function needs to turn the spotlight on itself to review what has worked well and what could work better. This paper aims to fulfil that need by offering a factual record of scrutiny activity and an assessment of successes and improvement opportunities.
- 1.7 The report covers the work of each of the five scrutiny panels, concluding with a summary of strengths and areas for development.

## **2. The work of the Scrutiny Panels**

### **Education and Leisure Scrutiny Panel (Chair: Councillor Chris Allen)**

In 2003/04 the Panel held 9 meetings, considering both Ofsted and general reports. From March 2003, the panel decided to only take full Ofsted inspection reports plus an annual summary of schools' performance, and not to take follow-up reports. This has allowed a mix of Ofsted and general reports to be taken at each meeting.

10 Ofsted inspection and 13 general reports have been scrutinised. In addition to scrutiny of the education budget proposals, the panel has reviewed the following key areas :

- Adult Education
- Annual Library Plan
- Education Department Performance Plan 2003 - 04 and Review 2002 -03
- Former Janet Adegoke Centre - results of consultation and transitional support services
- The London Challenge
- The Ofsted Framework for the Inspection of Schools
- Ofsted Inspection of Schools and follow up progress
- Recruitment and Retention of Teachers
- Standards Fund and External Funding 2003 - 04

In December the panel held a joint meeting with the Health and Social Services Scrutiny Panel to consider three cross-cutting issues listed below:

- Best Value Review of Services for Disabled Children
- Educational Attainment of Children Looked After by LBHF
- Every Child Matters - LBHF response to DfES Green Paper

The joint scrutiny was useful to both panels and there will be an increased emphasis on joint panel working as the Government's proposals coming from the Children's Bill are developed and implemented, and with the establishment of the Children's Trust in Hammersmith and Fulham. It is proposed that there will be two joint meetings of the Health and Social Services Scrutiny Panel and ELSP in 2004/05.

The Education and Leisure Scrutiny Panel has greatly benefited from the expertise of its co-opted members (parent governor, teacher, headteacher and Hammersmith and West London College representatives) and welcomes the return of the London Diocesan Board for Schools representative to the panel.

Public interest in the issues raised by the panel has been maintained, particularly through individual school Ofsted reports.

### **Environment and Regeneration Scrutiny Panel (Chair: Councillor Huw Davies)**

Members of the Panel have spent an interesting and busy municipal year on a wide range of topics. Both public transport and pedestrian issues have featured over the year following on from the previous year's focus, particularly in regard to buses. The panel has continued its involvement in cycling and walking strategies in the context of national policies.

Characteristic of this Panel has been significant public interest in the issues considered. In September, the Panel received a deputation on the West London Tram. This highlighted local concerns about the impact of introducing a tram in Shepherds Bush. A large number of groups and individuals attended when consultation on the proposed extension of the London Congestion Charge was considered. There was vigorous questioning as the Panel focused on social and economic implications. Similarly, the Crossrail initiative, which proposes an east-west rail link across London, attracted considerable debate with the Panel raising a number of concerns.

The Panel has very much appreciated the commitment and expertise of its co-optees, representing a diverse range of local organisations (from the Brook Green Association, Friends of the Earth, Local Agenda 21, Hammersmith and Fulham Action on Disability (HAFAD), Hammersmith and Fulham Community Trust, Richford Street Residents' Association and Hammersmith and Fulham Chamber of Commerce) The attendance of external witnesses including Waste Watch, Transport for London, London Transport Users' Group, Living Streets, Cycling Campaign, and Crossrail, has greatly benefited the quality of the debate and the effectiveness of the outcomes.

In addition to performance monitoring and scrutiny of budget proposals, the panel has considered the following issues:-

- Biodiversity Action Plan 2004/06
- Bus Transport Update
- Crossrail (Consultation Response)
- Cycling Strategy
- Deputation West London Tram
- Development Control
- Direct Services Department Update
- Excellence In Planning

- Fulham Palace Restoration-Public Consultation
- Implementation of Recycling Plan 2003-06
- Joint Municipal Waste Strategy
- The Licensing Act 2003
- London Safety Camera Partnership
- The Parking Service - Summary Best Value Report of Service Review Team
- Pedestrian Issues
- Proposed Extension of Central London Congestion Charging
- Public Attitudes Towards Waste and Recycling – Rethink Rubbish – Western Riverside Study – Phase 2 Mori Survey
- Regeneration in Hammersmith & Fulham
- Walking Strategy
- White City Area Opportunity Area – A Framework for Development

### **Health and Social Services Scrutiny Panel (Chair: Councillor Colin Pavelin)**

While health issues have been scrutinised over the past few years, this panel was given the major new statutory power from 1 January 2003 to scrutinise and make reports and recommendations to local NHS bodies.

In addition to performance monitoring generally and children's homes in particular, and scrutiny of the budget proposals, the panel has considered the following key issues

- Area Child Protection Committee (ACPC) Chapter 8 Serious Case Review
- Carers' Strategy
- Interim Carers Strategy and Carers Grant 2003/04
- Direct Payments - Strategy for the Development of Direct Payments
- Fairer Charging for Homecare Services – Update
- Delayed Discharges - Update
- Hammersmith and Fulham Primary Care Trust Public Health Report 2003
- Hammersmith and Fulham Primary Care Trust's Local Health Delivery Plan 2003 – 2006 and NHS Star Performance Rating
- Hammersmith Hospitals Trust – NHS Star Performance Rating
- Health Advisory Service – Review of In-patient Adult Mental Health Services at Charing Cross Hospital
- Acute Adult Mental Health In-patient Services by West London Mental Health Trust on the Charing Cross Hospital Site - Re-provision of
- Mental Health Crisis Resolution and Assertive Outreach Team
- Mental Health Accommodation – Best Value Review
- Mental Health Grant 2003/2004
- (Developments in) Integrating Health and Social Services for Adults' services.
- Looked After Children – Best Value Review

- Progress of the Implementation of the Victoria Climbié Inquiry Recommendations in Hammersmith and Fulham
- Recruitment and Retention of Social Services and Health Staff
- Review of NHS Walk In Centres
- Social Services Annual Review of Performance 2002/03 and Star Rating
- Social Services Performance Plan for 2004/05
- Stamford House - SSI Inspection
- Stamford House and London Secure Services (The Future for)
- Stamford House – Update

A key feature of this panel's meetings has been the involvement of service users and carers in the scrutiny of relevant reports. Their views have very much informed the debate. They include the Chair, Vice-chair, and officers from the Hammersmith and Fulham Carers' Centre on the Carers' Strategy; mental health users and carers, including members of BLAKAFE and the mental health carers' project on the Mental Health Grant 2003/04; and HAFAD members in the scrutiny of home care charging. Children and young people living in the borough's children's homes also met separately with members of the panel to give their views

In addition to those above and to the Social Services Inspectorate and Health Advisory Service, a number of organisations such as MIND, and Parents Active have joined in debates on a variety of issues. Their expertise has complemented that of the co-opted members from Better Government for Older People (BGOP), HAFAD and the Community Health Council. Members of the newly established Patients' Forums for the Hammersmith Hospitals Trust and Hammersmith and Fulham Primary Care Trust have also been attending scrutiny panel meetings and may each accept the offer to have a representative co-opted to the panel.

The Hammersmith and Fulham Primary Care Trust has been very much involved in the majority of the meetings, with the Chair, Chief Executive and officers attending on a regular basis. The Chairs, Chief Executives and officers of the West London Mental Health Trust and Hammersmith Hospitals Trust have also participated in relevant items.

As set out above, the Health and Social Services Scrutiny Panel has joined with the Education and Leisure Scrutiny Panel to consider

- Best Value Review of Services for Disabled Children
- Educational Attainment of Children Looked After by LBHF
- Every Child Matters - LBHF response to DfES Green Paper

It is proposed that the panels will hold two joint meetings in the next year to consider Children's Trust issues.

## **Housing (Chair: Councillor Melanie Smallman)**

In addition to performance monitoring and scrutiny of the budget proposals, the Panel considered the following key issues last year :-

- Arms Length Management Organisations (ALMOs) - Introduction to
- ALMO Delivery Plan
- ALMO – Performance Management Framework & Management Agreement
- Bed & Breakfast Reduction Plan
- Best Value Review of Housing Repairs
- Caretaking – review of changes
- Choice Allocations - Introduction to
- Choice Based Lettings
- Future management of Council's Housing Stock
- Homelessness Strategy
- Housing Allocations Plan
- Housing Service Department Best Value Performance Plan
- Housing Management & Caretaking Best Value Implementation Plan
- Housing Services Equalities Advisor's report
- Housing Department Anti-Social Behaviour Unit and related initiatives - update
- Implementing the Electronic Housing Management Computer System - update
- The Private Sector as a provider of affordable housing
- Reducing rent arrears & collecting current rent
- Void Relet Performance

The Panel devoted much of the last year to scrutinising the progress in establishing the Council's Arms Length Management Organisation – Hammersmith & Fulham Housing Management Services.

The panel has also taken an ongoing regular interest in the development and implementation of the bed and breakfast reduction plan - an interest which is recognised as playing a significant role in assisting the borough meet its targets.

The Panel has welcomed the involvement of external organisations at Panel meetings including representatives from LOCATA to discuss the benefits of the Council joining their Choice Based Lettings Scheme and an Expert Witness from the Small Landlords Association provided comments on the Council's Private Sector Housing Strategy.

Public attendance has been variable however the borough's housing forums and organisations were well-represented by the co-opted members, HAFFTRA, HAFNEP (Non-estate properties), Sheltered Housing Forum, Borough Forum for Housing Association Tenants and Housing Association Forum.

## **Leadership Scrutiny Panel (Chair: Councillor Siobhan Coughlan)**

The Panel has considered a wide range of corporate issues over its meetings this year within its extensive terms of reference. In addition to considering regular corporate performance monitoring information, audit reports, revenue and capital budget monitoring, the Panel has also examined:

- Audit Commission Annual Letter
- Best Value Performance Plan
- Borough Partnership Performance
- Citizens' Panel Survey
- Community Legal Services Best Value Review
- Corporate Budget 2004-05
- Customer Care Best Value Review
- Equalities
- Information Technology Progress and E-Government
- Introduction of Controlled Drinking in Fulham
- Managing Absence
- Public Service Agreement
- Treasury Management
- Voluntary Sector Compact
- Voluntary Sector Premises Review

The key theme for the Panel has been Council performance, particularly with regard to budgets and financial management. Members have welcomed the improvements to financial monitoring information, which has allowed detailed consideration of key financial management issues and led to some constructive recommendations. In addition, the Panel has engaged local partners, particularly the voluntary and community sector with groups attending for consideration of the voluntary sector compact, premises review and community legal services best value review. This has been an effective way of facilitating the views and concerns of local groups into the decision-making process.

The Metropolitan Police have also attended to provide key input into the debates on the introduction of a controlled drinking area in Fulham and the Borough Partnership performance report. Local health partners, including the Chief Executive of the Hammersmith and Fulham Primary Care Trust, have participated as has the District Auditor from the Audit Commission. The Panel has also enjoyed useful contributions from expert witnesses, notably Mandy Wright from the Employers' Organisation on equalities and from Councillor David Hopkins – E-Government champion and Scrutiny Chair at Milton Keynes Council and Head of Local Government Development at Cable & Wireless on the IT/E-Government update.

At its July meeting, the panel welcomed councillors and officers from Newcastle City Council. They had selected Hammersmith and Fulham as one of two London boroughs they were keen to visit to learn how the scrutiny process was operating and observe it in action.



### **3. Summary evaluation**

#### **3. 1 Strengths**

Previous years' annual reports have highlighted a series of strengths that has characterised the Council's approach:

- Breadth of subject coverage;
- Ability to air issues that are 'important but not urgent';
- Range of scrutiny techniques;
- Willingness to innovate;
- Quality of questioning and challenge;
- Development of non-executive member knowledge across subject areas and cross-cutting themes;
- Ability to engage with the detail;
- Bipartisanship; and
- Involvement of stakeholders.

All of these contributed towards the key measure of scrutiny effectiveness: the ability to shape and influence executive policy and operations; and NHS bodies.

The strengths listed above have been built upon in the past year.

Over the last twelve months we believe we have made strong progress in a number of key areas:

- *the ability of panels to shape and influence policy;* both in the recommendations put forward to the executive in relation to key decisions, and in those topics originated by the panel. These include issues such as removing families from bed and breakfast, housing allocations, direct payments, controlled drinking areas; and in the health area, delayed discharges and a review of walk-in centres
- *the ability and willingness of the panels to experiment with a range of scrutiny techniques; and the development of knowledge across subject areas and cross-cutting themes:* for example, the joint meeting held by Education and Leisure Scrutiny Panel with Health and Social Services Scrutiny Panel on educational issues affecting looked after children.
- *The quality of questioning and challenge:* for example, budget scrutiny and regular financial monitoring has been enhanced by the training undertaken by the Institute for Public Finance for scrutiny councillors and chairs.
- *the ability of the scrutiny process to attract public interest and engagement:* public transport-related issues such as Crossrail, West London Tram and congestion charging have attracted considerable interest from individuals and groups within the borough at meetings of

Environment and Regeneration Scrutiny Panel. Leadership Scrutiny Panel continues to engage with the voluntary sector and other partnership bodies. Service users and carers regularly give their views at Health and Social Services Scrutiny Panel. The engagement of the 23 co-opted members of scrutiny panels, with a wide range of expertise and interest, considerably benefits the scrutiny process.

- *the capacity to plan for the future*: for example, in the preparatory work and development of scrutiny of health and in the new developments of the Children's Trust and the ALMO.

### **3.2 Areas for further development**

We have identified two main areas for further development

- *Deepening coverage* – panels have got better at restricting the number of subjects covered in each meeting and have been more selective in their approach to pre-decision scrutiny of key decisions from the Forward Plan. In the light of its experience over the years, the Education and Leisure Scrutiny Panel has taken the decision to consider OFSTED follow-up reports in a summary report annually rather than individually. This is one method of freeing up more time for in-depth consideration of topical issues.

All panels need to continue to balance their work programmes in such a way as to avoid agenda overload but to keep a close connection between what is being scrutinised and what members of the public are raising as concerns.

We feel that occasional single issue meetings are a good means of achieving in-depth scrutiny. We are also keen to undertake a select committee style inquiry. Although resource intensive, we believe that it is an extremely effective method of scrutiny. The previous inquiries (arts and social inclusion; and tackling anti-social behaviour) have been extremely successful in assisting policy development and effecting change. The majority of the inquiries' recommendations have been implemented and continue to be monitored by the relevant scrutiny panels.

- *Public involvement* - while we have been successful at attracting a wide range of co-opted members and many service users for specific topics, members of the public have mainly attended meetings where contentious issues were being discussed. This is a pattern in most authorities however we will continue to develop innovative ways of working including single issue meetings to encourage greater public participation. We will also continue to publicise our meetings as widely as possible, including targeted and improved information on our website pages .

#### **4. Conclusion**

- 4.1 This has been a challenging year, being the first full year of the statutory power, given in January 2003 to local authorities' overview and scrutiny committees (OSC) - in Hammersmith and Fulham, the Health and Social Services Scrutiny Panel - to review and scrutinise health matters and make reports and recommendations to NHS bodies. There has been increased liaison with NHS bodies and a shared appreciation of the structures, developments and issues within the NHS and the local authority. Much of the health scrutiny has involved the chairs and chief executives of the hospitals trust, mental health trust and primary care trust. In addition, scrutiny links have been created with patients' bodies, including the recently established Patients' Forums; and with overview and scrutiny committees in neighbouring authorities.
- 4.2 Scrutiny has also been very involved in two key developments - the establishment of the Children's Trust in Hammersmith and Fulham and the Arms Length Management Organisation (ALMO) - Hammersmith and Fulham Housing Management Services.
- 4.3 We feel that we have improved agenda management in general and will wish to continue to look at issues in greater depth, either at single issue meetings or over a period of time, or in a select committee style inquiry.
- 4.4. We believe the quality of our scrutiny work is high and that we can point to real results as a consequence of our efforts. At its best, scrutiny can be a highly effective way for non-executive councillors to exercise real influence and help advance the interests of the people who elected them. We hope that the scrutiny arrangements in Hammersmith & Fulham continue to provide these opportunities to members and these benefits to the local community.

***Councillor Chris Allen, Chair Education and Leisure Scrutiny Panel***  
***Councillor Siobhan Coughlan, Chair Leadership Scrutiny Panel***  
***Councillor Huw Davies, Chair Environment and Regeneration Scrutiny Panel***  
***Councillor Colin Pavelin, Chair Health and Social Services Scrutiny Panel***  
***Councillor Melanie Smallman, Chair Housing Scrutiny Panel***