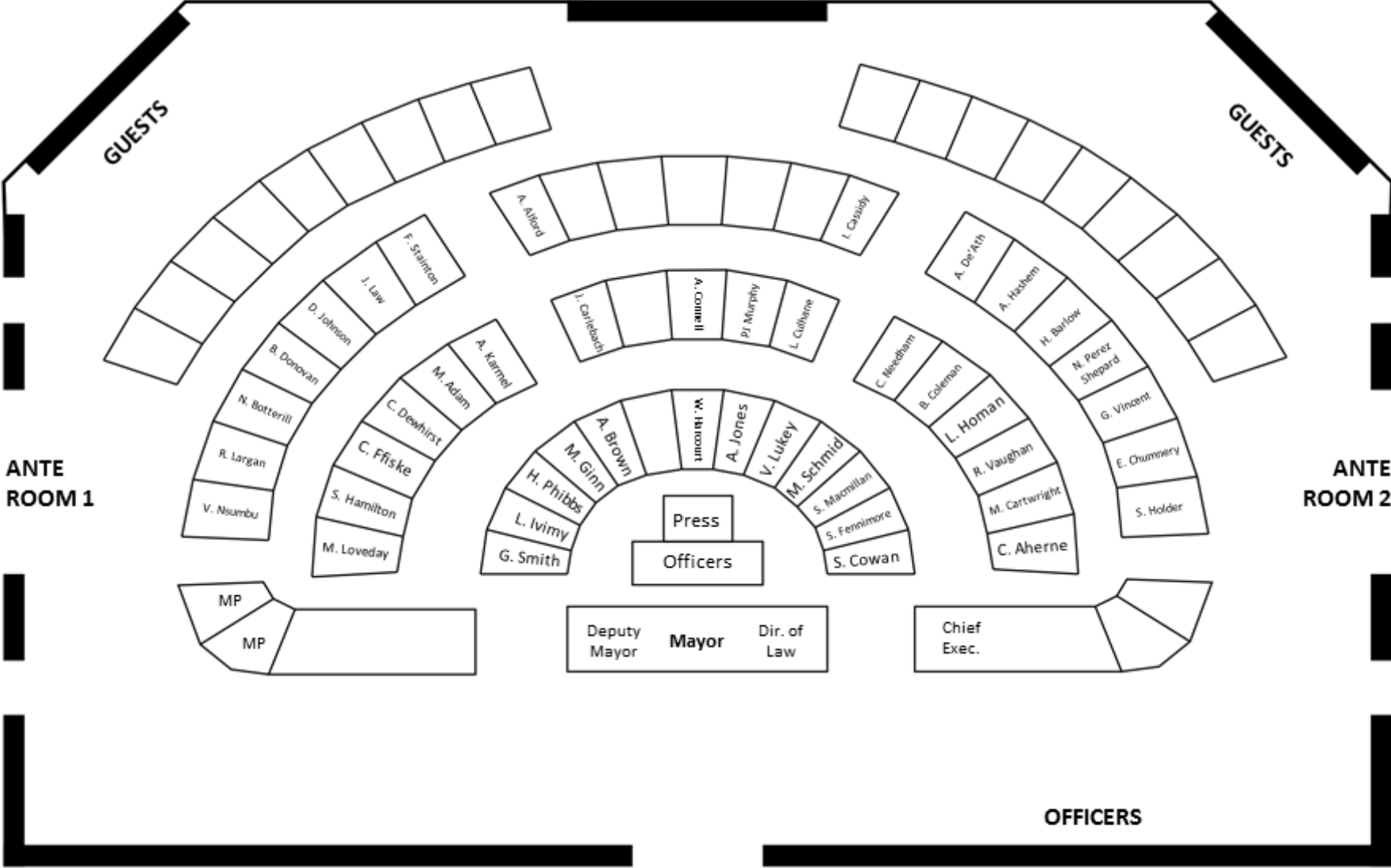


COUNCIL AGENDA

COUNCIL MEETING

Wednesday 27 January 2016

COUNCIL CHAMBER SEATING 2015/16



COUNCIL CHAMBER FOYER



The Mayor Councillor Mercy Umeh
Deputy Mayor Councillor Daryl Brown

ADDISON

Adam Connell (L)
Belinda Donovan (C)
Sue Fennimore (L)

HAMMERSMITH
BROADWAY

Michael Cartwright (L)
Stephen Cowan (L)
PJ Murphy (L)

RAVENS COURT PARK

Charlie Dewhurst (C)
Lucy Ivimy (C)
Harry Phibbs (C)

ASKEW

Lisa Homan (L)
Caroline Needham (L)
Rory Vaughan (L)

MUNSTER

Michael Adam (C)
Adronie Alford (C)
Alex Karmel (C)

SANDS END

Steve Hamilton (C)
Robert Largan (C)
Jane Law (C)

AVONMORE &
BROOK GREEN

Hannah Barlow (L)
Joe Carlebach (C)
Caroline Ffiske (C)

NORTH END

Daryl Brown (L)
Larry Culhane (L)
Ali Hashem (L)

SHEPHERDS BUSH
GREEN

Andrew Jones (L)
Natalia Perez Shepherd (L)
Mercy Umeh (L)

COLLEGE PARK &
OLD OAK

Elaine Chumnerly (L)
Wesley Harcourt (L)

PALACE RIVERSIDE

Marcus Ginn (C)
Donald Johnson (C)

TOWN

Andrew Brown (C)
Viya Nsumbu (C)
Greg Smith (C)

FULHAM BROADWAY

Ben Coleman (L)
Alan De'Ath (L)
Sharon Holder (L)

PARSONS GREEN AND
WALHAM

Nicholas Botterill (C)
Mark Loveday (C)
Frances Stainton (C)

WORMHOLT AND
WHITE CITY

Colin Aherne (L)
Sue Macmillan (L)
Max Schmid (L)

FULHAM REACH

Iain Cassidy (L)
Vivienne Lukey (L)
Guy Vincent (L)

SUMMONS

Councillors of the London Borough of
Hammersmith & Fulham
are requested to attend the
Meeting of the Council on
Wednesday 27 January 2016
at Hammersmith Town Hall, W6

The Council will meet at 7.00pm.

20 January 2016
Town Hall
Hammersmith W6

Nigel Pallace
Chief Executive

Full Council Agenda

27 January 2016

<u>Item</u>		<u>Pages</u>
1.	MINUTES OF THE PREVIOUS MEETING	1 - 14
	To approve and sign as an accurate record the Minutes of the Council Meeting held on 21 October 2015.	
2.	APOLOGIES FOR ABSENCE	
3.	MAYOR'S/CHIEF EXECUTIVE'S ANNOUNCEMENTS (IF ANY)	
4.	DECLARATIONS OF INTERESTS	
	If a Councillor has a disclosable pecuniary interest in a particular item, whether or not it is entered in the Authority's register of interests, or any other significant interest which they consider should be declared in the public interest, they should declare the existence and, unless it is a sensitive interest as defined in the Member Code of Conduct, the nature of the interest at the commencement of the consideration of that item or as soon as it becomes apparent.	
	At meetings where members of the public are allowed to be in attendance and speak, any Councillor with a disclosable pecuniary interest or other significant interest may also make representations, give evidence or answer questions about the matter. The Councillor must then withdraw immediately from the meeting before the matter is discussed and any vote taken.	
	Where Members of the public are not allowed to be in attendance and speak, then the Councillor with a disclosable pecuniary interest should withdraw from the meeting whilst the matter is under consideration. Councillors who have declared other significant interests should also withdraw from the meeting if they consider their continued participation in the matter would not be reasonable in the circumstances and may give rise to a perception of a conflict of interest.	
	Councillors are not obliged to withdraw from the meeting where a dispensation to that effect has been obtained from the Audit, Pensions and Standards Committee.	
5.	PUBLIC QUESTIONS (20 MINUTES)	
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COUNCIL MINUTES

COUNCIL MEETING

WEDNESDAY 21 OCTOBER 2015



PRESENT

The Mayor Councillor Mercy Umeh
Deputy Mayor Councillor Daryl Brown

Councillors:

Michael Adam
Adronie Alford
Colin Aherne
Hannah Barlow
Nicholas Botterill
Andrew Brown
Daryl Brown
Joe Carlebach
Iain Cassidy
Elaine Chumnerly
Ben Coleman
Adam Connell
Larry Culhane

Alan De'Ath
Charlie Dewhurst
Belinda Donovan
Sue Fennimore
Caroline Ffiske
Steve Hamilton
Wesley Harcourt
Ali Hashem
Sharon Holder
Lisa Homan
Lucy Ivimy
Andrew Jones
Alex Karmel
Robert Largan

Jane Law
Mark Loveday
Vivienne Lukey
Sue Macmillan
Caroline Needham
Viya Nsumbu
Natalia Perez
Max Schmid
Greg Smith
Frances Stainton
Rory Vaughan
Guy Vincent

1. MINUTES

7.03pm - RESOLVED

That the minutes of the Council Meeting held on 15 July 2015 were confirmed and signed as an accurate record.

2. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Stephen Cowan, Michael Cartwright, PJ Murphy, Harry Phibbs, Marcus Ginn, and Donald Johnson.

Apologies for lateness were received from Councillors Joe Carlebach and Ali Hashem.

3. MAYOR'S/CHIEF EXECUTIVE'S ANNOUNCEMENTS

The Mayor announced the passing of former Councillor Mary-Lou Clarke. She had been elected as a Councillor representing Broadway Ward in 1972 and Gibbs

Green Ward from 1974 to 1978. She was later appointed as the Council's representative on the Inner London Education Authority where she Chaired the Schools Sub-Committee. The Council observed a minute of silence in remembrance.

The Mayor, on behalf of all Councillors, wished swift recoveries to Councillors Michael Cartwright and Adronie Alford.

4. DECLARATIONS OF INTERESTS

In respect of Item 7.2 – Special Motion 2, Councillor Michael Adam declared a significant interest as a member of the MOPAC and Metropolitan Police Service Audit Panel. He considered that this did not give rise to a perception of a conflict of interest and, in the circumstances, it would be reasonable to participate in the discussion and vote thereon.

5. PUBLIC QUESTIONS

There were no public questions.

6. ITEMS FOR DISCUSSION/COMMITTEE REPORTS

6.1 Review of the Constitution

7.05pm – The report and recommendations were formally moved for adoption by Councillor Andrew Jones.

Speeches on the report were made by Councillor Rob Largan (for the Opposition) and Councillors Andrew Jones and Max Schmid (for the Administration).

The report and recommendations were put to the vote:

FOR	22
AGAINST	0
NOT VOTING	15

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

7.15pm – RESOLVED

1. That the appointment of Mr Nigel Palace as the Returning Officer and Electoral Registration Officer and the Scheme of Delegation at Appendix 1, be approved.
2. That the changes to the Officers Scheme of delegation, by the Monitoring Officer under delegated powers, to reflect new legislative changes in Appendix 2, be noted.

3. That the appointment of the Leader of the Council to the Board of the Old Oak and Park Royal Development Corporation from 1st April 2015 to May 2018, be noted.

6.2 Revised Statement of Gambling Policy

7.16pm – The report and recommendations were formally moved for adoption by Councillor Wesley Harcourt.

The report and recommendations were put to the vote:

FOR	Unanimous
AGAINST	0
NOT VOTING	0

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

7.17pm – RESOLVED

1. That the revised Statement of Gambling Policy, attached as Appendix 1 to the report, be approved for adoption by the Full Council.

7. SPECIAL MOTIONS

7.18pm – Under Standing Order 15(e) iii, Councillor Colin Aherne moved and Councillor Larry Culhane seconded a motion that Special Motions 2, 3, and 4 take precedence on the agenda. This was agreed.

7.2 **Special Motion 2 - Calling on Parliament to oppose George Osborne and Greg Hands' £800 million cut to the Metropolitan Police Service**

7.20pm – Councillor Sue Fennimore moved, seconded by Councillor Hannah Barlow, the special motion in their names:

“This Council recognises the vital role played by Hammersmith and Fulham’s police service and thanks our police officers for the work they do protecting our citizens.

The Council notes that significant threats remain of violent crime and terrorism and that police officers consistently play the essential role in keeping order and halting terrorist atrocities. This Council therefore calls on Parliament to vote against the devastating cuts in police funding ordered by George Osborne MP (Con), the Chancellor of the Exchequer and Greg Hands MP (Con), the Chief Secretary to the Treasury and Member of Parliament for Chelsea and Fulham.

The Council further notes that Mr Osborne and Mr Hands are proposing to implement a staggering £800 million cut to the Metropolitan Police Service which could result in London losing up to a further 7000 front line police officers. The Council recognises that this is likely to mean significant cuts to Hammersmith and

Fulham's police service and that such a cut in police capacity will seriously risk endangering local residents.

The Council recognises how the Conservative government and Conservative London Mayor's cuts to local policing starkly contrasts with the policy of H&F Council's new Labour administration which has put the largest number of Council funded police officers onto the streets of Hammersmith and Fulham in the Borough's history."

Speeches on the special motion were made by Councillors Sue Fennimore, Hannah Barlow, Sue Macmillan, and Guy Vincent (for the Administration).

Under Standing Order 15(e) (vi), Councillor Charlie Dewhirst moved, seconded by Councillor Greg Smith, an amendment to the motion as follows:

"Delete title of Special Motion and insert: "METROPOLITAN POLICE SERVICE"

Delete all after "protecting our citizens" and insert:

1. This Council notes that the Home Office will be asked to make savings as part of the Comprehensive Spending Review in order to ensure that the deficit is eliminated during this Parliament and the UK can begin to pay down its debts. The details of these savings are not yet known.
2. The Council further notes that the Mayor of London is fighting hard to ensure a good deal for London, and recognises that the capital is a growing city and the engine of the UK economy, which needs adequate resources for policing.
3. The Council commends the Government's pledge to spend to 2% of GDP on defence and welcomes this additional investment into fighting the threat of terrorism at home and abroad.
4. The Council recognises that the Mayor of London has prioritised neighbourhood policing, and will continue to do so. Despite already making savings of £600m, the Mayor has kept overall officer numbers at 32,000 and has put an extra 2,600 police officers into neighbourhoods, including 92 in Hammersmith and Fulham.
5. The Council notes that any decisions by the Council to employ additional police officers on the "buy one get one free" scheme are only made possible by the Mayor of London's commitment to the scheme and decision to continue it."

Speeches on the amendment to the special motion were made by Councillors Charlie Dewhirst and Greg Smith (for the Opposition) and Councillors Max Schmid and Andrew Jones (for the Administration), before it was put to the vote.

FOR	16
AGAINST	22
NOT VOTING	0

The amendment was declared **LOST**.

The substantive motion was then put to the vote and a roll-call was requested:

FOR	AGAINST	NOT VOTING
AHERNE	ADAM	UMEH
BARLOW	ALFORD	
BROWN (D)	BOTTERILL	
CASSIDY	BROWN (A)	
CHUMNERY	DEWHIRST	
COLEMAN	DONOVAN	
CONNELL	FFISKE	
CULHANE	HAMILTON	
DE'ATH	IVIMY	
FENNIMORE	KARMEL	
HARCOURT	LARGAN	
HASHEM	LAW	
HOLDER	LOVEDAY	
HOMAN	NSUMBU	
JONES	SMITH	
LUKEY	STANTON	
MACMILLAN		
NEEDHAM		
PEREZ		
SCHMID		
VAUGHAN		
VINCENT		
FOR	22	
AGAINST	16	
NOT VOTING	1	

The motion was declared **CARRIED**.

7:58pm – RESOLVED

This Council recognises the vital role played by Hammersmith and Fulham's police service and thanks our police officers for the work they do protecting our citizens.

The Council notes that significant threats remain of violent crime and terrorism and that police officers consistently play the essential role in keeping order and halting terrorist atrocities. This Council therefore calls on Parliament to vote against the devastating cuts in police funding ordered by George Osborne MP (Con), the Chancellor of the Exchequer and Greg Hands MP (Con), the Chief Secretary to the Treasury and Member of Parliament for Chelsea and Fulham.

The Council further notes that Mr Osborne and Mr Hands are proposing to implement a staggering £800 million cut to the Metropolitan Police Service which could result in London losing up to a further 7000 front line police officers. The

Council recognises that this is likely to mean significant cuts to Hammersmith and Fulham's police service and that such a cut in police capacity will seriously risk endangering local residents.

The Council recognises how the Conservative government and Conservative London Mayor's cuts to local policing starkly contrasts with the policy of H&F Council's new Labour administration which has put the largest number of Council funded police officers onto the streets of Hammersmith and Fulham in the Borough's history.

7.3 **Special Motion 3 - Calling for action on air quality**

7.59pm – Councillor Larry Culhane moved, seconded by Adam Connell, the special motion in their names:

“The Council notes that London's air is the filthiest in the UK with the 50 top worst black-spots in the country and that according to a study commissioned by the Greater London Authority and Transport for London air pollution in London resulted in nearly 9,500 deaths last year.

The Council is concerned that every day Londoners breathe in unhealthy levels of the toxic gas nitrogen dioxide (NO₂) and that such air pollution is linked to lung and heart conditions, breast cancer and diabetes which is estimated to cost the UK up to £20 billion a year to treat.

The Council welcomes the fact that the UK signed up to the European Union's limit of 40 micrograms of NO₂ per cubic metre on average per year but is deeply concerned that people living, working or simply passing by Hammersmith Flyover are breathing in air that has 114 micrograms of NO₂ in it and that other spots around the Westway were also well over EU safe limits.

The Council notes the Mayor of London Boris Johnson's view when he stated "The air quality in London, you can go outside and breathe in great gulfs of virtually alpine air".

This Council calls on the Mayor of London and Government to take a serious and determined approach to improving air quality in London.

The Council resolves to combat air pollution in the borough and supports the work of the independent H&F Air Quality Commission. The Council agrees to bring forward measures to improve air quality and to lobby others in regional and national government and the EU to take measures to improve air quality and reduce the silent killer of air pollution.”

Speeches on the special motion were made by Councillors Larry Culhane, Adam Connell, Caroline Needham, and Vivienne Lukey (for the Administration).

Under Standing Order 15(e) (vi), Councillor Steve Hamilton moved, seconded by Councillor Andrew Brown, an amendment to the motion as follows:

“Delete from “The Council notes...” and replace with:

This Council notes the work of the Mayor of London and the Government to improve air quality in London through schemes such as:

1. Introducing the ULEZ in Central London;
2. Requiring all new tenders for bus routes to be ULEZ-compliant;
3. The introduction of the world's first double decker electric bus, and;
4. Electrification of the Great Western Mainline.

This Council resolves to combat air pollution in the borough and supports the work of the independent H&F Air Quality Commission. The Council agrees to bring forward measures to improve air quality and to lobby others in regional and national government and the EU to take measures to improve air quality and reduce the silent killer of air pollution.

The Council regrets that it has not introduced any real measures to support and promote plug-in electric vehicle ownership in the borough and commits to introduce on-street charging points.”

Speeches on the amendment to the special motion were made by Councillors Steve Hamilton, Andrew Brown, and Mark Loveday (for the Opposition) and Councillors Wesley Harcourt and Andrew Jones (for the Administration), before it was put to the vote.

FOR	16
AGAINST	22
NOT VOTING	0

The amendment was declared **LOST**.

Speeches on the substantive motion were made by Councillors Max Schmid and Andrew Jones (for the Administration) and Councillors Steve Hamilton and Andrew Brown (for the Opposition). Councillor Larry Culhane made a speech winding up the debate. The substantive motion was then put to the vote:

FOR	Unanimous
AGAINST	0
NOT VOTING	0

The motion was declared **CARRIED**.

9:00pm – RESOLVED

The Council notes that London's air is the filthiest in the UK with the 50 top worst black-spots in the country and that according to a study commissioned by the Greater London Authority and Transport for London air pollution in London resulted in nearly 9,500 deaths last year.

The Council is concerned that every day Londoners breathe in unhealthy levels of the toxic gas nitrogen dioxide (NO₂) and that such air pollution is linked to lung and heart conditions, breast cancer and diabetes which is estimated to cost the UK up to £20 billion a year to treat.

The Council welcomes the fact that the UK signed up to the European Union's limit of 40 micrograms of NO₂ per cubic metre on average per year but is deeply concerned that people living, working or simply passing by Hammersmith Flyover are breathing in air that has 114 micrograms of NO₂ in it and that other spots around the Westway were also well over EU safe limits.

The Council notes the Mayor of London Boris Johnson's view when he stated "The air quality in London, you can go outside and breathe in great gulfs of virtually alpine air".

This Council calls on the Mayor of London and Government to take a serious and determined approach to improving air quality in London.

The Council resolves to combat air pollution in the borough and supports the work of the independent H&F Air Quality Commission. The Council agrees to bring forward measures to improve air quality and to lobby others in regional and national government and the EU to take measures to improve air quality and reduce the silent killer of air pollution.

7.4 **Special Motion 4 - Welcoming and supporting refugees**

9.00pm – Councillor Ali Hashem moved, seconded by Caroline Needham, the special motion in their names:

"This Council notes that conflicts in the Middle East have resulted in the largest refugee crisis in generations and that thousands of women, men and children have died while seeking sanctuary from atrocious violence – many trying to cross the Mediterranean sea.

This Council is proud that Great Britain has a long history of supporting refugees but notes that there have been many instances in history where countries turned refugees away and failed to act before it was too late.

This Council agrees to do its bit in offering help and support to refugees and agrees that getting a compassionate, reasonable tone to the debate about the scale of this crisis and the nature of Britain's response is the duty of all in public life."

Speeches on the special motion were made by Councillors Ali Hashem, Caroline Needham, and Natalia Perez (for the Administration).

Under Standing Order 15(e) (vi), Councillor Joe Carlebach moved, seconded by Councillor Rob Largan, an amendment to the motion as follows:

"After "too late" insert:

This Council recognises the anguish of all refugees from areas of conflict, in particular the plight of child refugees and specifically refugee orphans.

We call on all authorities, in the UK and in the wider international community, irrespective of political affiliations or international alliances to do everything they can to help save and protect these vulnerable and innocent victims of conflict.”

Speeches on the amendment to the special motion were made by Councillors Joe Carlebach and Rob Largan (for the Opposition), before it was put to the vote.

FOR	Unanimous
AGAINST	0
NOT VOTING	0

The amendment was declared **CARRIED**.

Speeches on the substantive motion were made by Councillors Ben Coleman and Sue Fennimore (for the Administration) and Councillor Rob Largan (for the Opposition). Councillor Ali Hashem made a speech winding up the debate. The substantive motion was then put to the vote:

FOR	Unanimous
AGAINST	0
NOT VOTING	0

The motion was declared **CARRIED**.

9:45pm – RESOLVED

This Council notes that conflicts in the Middle East have resulted in the largest refugee crisis in generations and that thousands of women, men and children have died while seeking sanctuary from atrocious violence – many trying to cross the Mediterranean sea.

This Council is proud that Great Britain has a long history of supporting refugees but notes that there have been many instances in history where countries turned refugees away and failed to act before it was too late.

This Council recognises the anguish of all refugees from areas of conflict, in particular the plight of child refugees and specifically refugee orphans.

We call on all authorities, in the UK and in the wider international community, irrespective of political affiliations or international alliances to do everything they can to help save and protect these vulnerable and innocent victims of conflict.

This Council agrees to do its bit in offering help and support to refugees and agrees that getting a compassionate, reasonable tone to the debate about the scale of this crisis and the nature of Britain’s response is the duty of all in public life.

7.1 Special Motion 1 - Housing

9.45pm – Councillor Greg Smith moved, seconded by Lucy Ivimy, the special motion in their names:

“This Council:

1. Welcomes the Government’s proposals to give Housing Association tenants the same levels of ‘Right to Buy’ discount as council tenants.
2. Recognises that even with the maximum discount in London of £103,900 many tenants will still be unable to afford to buy.
3. Resolves to revive and extend the ‘Right to buy part’ scheme proposed by the previous Conservative administration to allow council tenants a right to shared ownership.”

Speeches on the special motion were made by Councillors Greg Smith and Lucy Ivimy (for the Opposition).

Under Standing Order 15(e) (vi), Councillor Lisa Homan moved, seconded by Councillor Andrew Jones, an amendment to the motion as follows:

“Delete all after ‘welcomes’ and insert:

all opportunities to support the aspiration of home ownership for all residents in Hammersmith & Fulham and notes the failure of the last Conservative administration to deliver genuinely affordable homes that most residents could afford to buy. It further regrets the previous administration’s close relationship with property developers and its active support for the construction of properties for overseas investors.

2) Notes the success of this Labour administration in securing over £150 million for 550 new, genuinely affordable homes to date, including a substantial proportion of affordable homes to buy and various home ownership schemes.

3) Calls on David Cameron not to leave Hammersmith & Fulham tenants and residents out of pocket and to fund low cost homeownership in a fair and equitable way which does not exacerbate London’s housing crisis.”

Speeches on the amendment to the special motion were made by Councillors Lisa Homan, Andrew Jones, Sharon Holder, and Iain Cassidy (for the Administration), before it was put to the vote.

FOR	22
AGAINST	16
NOT VOTING	0

The amendment was declared **CARRIED**.

(NOTE: As the guillotine had passed all further items were voted on without speeches.)

The substantive motion was then put to the vote:

FOR	22
AGAINST	16
NOT VOTING	0

The motion was declared **CARRIED**.

22:05 – RESOLVED

This Council welcomes all opportunities to support the aspiration of home ownership for all residents in Hammersmith & Fulham and notes the failure of the last Conservative administration to deliver genuinely affordable homes that most residents could afford to buy. It further regrets the previous administration's close relationship with property developers and its active support for the construction of properties for overseas investors.

2) Notes the success of this Labour administration in securing over £150 million for 550 new, genuinely affordable homes to date, including a substantial proportion of affordable homes to buy and various home ownership schemes.

3) Calls on David Cameron not to leave Hammersmith & Fulham tenants and residents out of pocket and to fund low cost homeownership in a fair and equitable way which does not exacerbate London's housing crisis.

7.5 Special Motion 5 - Introducing cashless parking to modernise and improve services for motorists

10.05pm – Councillor Natalia Perez moved, seconded by Wesley Harcourt, the special motion in their names:

“This Council notes:

- The current administration inherited a situation where Hammersmith and Fulham is one of only four London boroughs that do not offer payment by phone for parking.
- Following the change in administration in 2014, Hammersmith and Fulham launched a pilot of payment by phone in Zone E. After six months, nearly 70% of payments were made by phone in the pilot area, and more than 80% of residents in the pilot area support the extension of phone payments across the whole borough.
- Plans are now in place to extend the option to pay by phone to the entire borough in 2016.

The Council regrets the Conservative administration's failure to offer modern payment options to motorists and supports the new Labour administration's determination to offer modern and accessible services to the borough's residents.”

Under Standing Order 15(e) (vi), Councillor Steve Hamilton moved, seconded by Councillor Nick Botterill, an amendment to the motion as follows:

“Delete first bullet point and replace with:

“• The current administration inherited a situation where the back office infrastructure had been upgraded to enable ticketless parking to be easily introduced.”

Delete from “This Council regrets...” and replace with:

“This Council supports the current administration’s work to provide accessible parking services, building on the work started by the previous administration.”

The amendment to the special motion was put to the vote:

FOR	16
AGAINST	22
NOT VOTING	0

The amendment was declared **LOST**.

The substantive motion was then put to the vote:

FOR	22
AGAINST	0
NOT VOTING	16

The motion was declared **CARRIED**.

10:06pm – RESOLVED

This Council notes:

- The current administration inherited a situation where Hammersmith and Fulham is one of only four London boroughs that do not offer payment by phone for parking.
- Following the change in administration in 2014, Hammersmith and Fulham launched a pilot of payment by phone in Zone E. After six months, nearly 70% of payments were made by phone in the pilot area, and more than 80% of residents in the pilot area support the extension of phone payments across the whole borough.
- Plans are now in place to extend the option to pay by phone to the entire borough in 2016.

The Council regrets the Conservative administration’s failure to offer modern payment options to motorists and supports the new Labour administration’s determination to offer modern and accessible services to the borough’s residents.

8. INFORMATION REPORTS - TO NOTE

8.1 Treasury Report 2014/15 Outturn

The report was noted.

8.2 Annual Report of the Chair of the Audit, Pensions and Standards Committee

The report was noted.

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

Meeting started: 7.00pm
Meeting ended: 10.08pm

Mayor

PUBLIC QUESTION TIME

LONDON BOROUGH OF HAMMERSMITH & FULHAM

COUNCIL MEETING – 27 JANUARY 2016


Question by: Andrew Johnson

To: The Leader

QUESTION

When LBHF entered into 50/50 joint venture with Stanhope in March 2014 to deliver hundreds of new homes across the borough, it was envisaged that planning applications to re-develop both Watermeadow Court and Edith Summerskill House would be submitted within 12 months. Yet nearly two years later, these sites stand empty and bricked-up, with no applications having been submitted. Since he formed his administration in May 2014, can he confirm when he, or any member of his cabinet, last attended a board meeting of the joint venture?

Agenda Item 6.1

London Borough of Hammersmith & Fulham COUNCIL 27 JANUARY 2016		 hammersmith & fulham
LONDON BOROUGH OF HAMMERSMITH AND FULHAM'S COUNCIL TAX SUPPORT SCHEME 2016/17		
Report of the Cabinet Member for Finance – Councillor Max Schmid		
Open Report		
Classification: For Decision Key Decision: Yes		
Wards Affected: All		
Accountable Director: Hitesh Jolapara, Strategic Director of Financial Corporate Services		
Report Author: Paul Rosenberg	Contact Details: Tel: 020 8753 1525 E-mail: paul.rosenberg@lbhf.gov.uk	

1. EXECUTIVE SUMMARY

- 1.1. In April 2013, Council tax benefit (CTB) ended and local authorities had to introduce their own scheme to help their residents who need help paying their Council tax.
- 1.2. Originally the funding from central government to Councils was based on what the Council paid in Council tax benefit less 10%. However, now, the funding forms part of the Revenue Support Grant allocation received at the Local Government Finance Settlement (LGFS).
- 1.3. To date, the Council has agreed a scheme that worked for claimants as though the old Council tax benefit regulations were still in place (previously known as “the default scheme”), meaning no one in the borough was worse off as a result of the Government cut.
- 1.4. This report recommends that the Council continues to replicate the previous benefit regulations so that no one in the borough is worse off.
- 1.5. The report also includes a recommendation on how to treat Universal Credit (UC) cases for claimants who receive Council Tax Support (CTS). The way UC is calculated is different to the benefits it replaces. For some claimants in work, UC may result in higher payments to claimants. The Council does not intend for claimants receiving any additional UC to be penalised by our scheme as a result.

This means that our recommended method of calculation could increase the cost of our scheme – depending on the level of UC expansion for 16/17.

- 1.6. It is the express intention of the Council that no one will be worse off under this scheme compared to any support they might have received had the previous benefit regulations still been in place.
- 1.7. Agreement for the new scheme will have to be made by full Council at the end of January 2016.

2. RECOMMENDATIONS

- 2.1. That the Council continues with a scheme that reflects the old Council tax benefit regulations as much as possible meaning no one in the borough is worse off.
- 2.2. That the Council continues to assess out of work Universal Credit on full CTS.
- 2.3. For in work UC cases, the UC applicable amounts will form part of our calculation and any unearned and earned income will be subject to the normal 20% excess income calculation.

3. REASONS FOR DECISION

- 3.1. The reasons for this recommendation are the same as last year. The Council does not want residents on low incomes to suffer from central government cuts in the Council tax support scheme so will take measures to ensure such residents will continue to get the same levels of support.
- 3.2. Throughout 2016/17 the number of UC recipients in the borough may increase, so the Council needed to agree how such claimants are treated.

4. INTRODUCTION AND BACKGROUND

- 4.1. The Local Government Finance Act 2012 gained Royal Assent on 31 October 2012. This Act abolished Council tax benefit and gave local authorities new powers to assist residents on low incomes with help paying their Council tax.
- 4.2. The funding for the scheme was originally based on what the authority used to spend in Council tax benefit less a 10% cut. The funding for Council tax support is now included in the Revenue Support Grant which has and will continue to be subject to further cuts, so the effective contribution to Council tax support from the Government continues to be cut each year. It is up to the authority to decide how to deal with these cuts.
- 4.3. The schemes have to last at least a year. It is proposed that this scheme runs for one year for the period April 2016 to April 2017. This will allow the authority choice for 2017/18 if it wishes to change its scheme then to raise additional revenue.

5. PROPOSAL AND ISSUES

- 5.1. Since Council Tax Support was introduced it has been the authority's intention to maintain a scheme that reflects the previous Council tax benefit scheme as much as possible so that no one in the authority is worse off.
- 5.2. However, since Council tax benefit ended, the government's welfare reform agenda has changed particularly with Universal Credit being live in the borough since October 2013. This means it is no longer possible to simply publish a scheme as though the previous benefit regulations were still in place.
- 5.3. The authority needs to make a decision regarding how to process Universal Credit claims for workers.
- 5.4. This change has been included as part of our consultation.

Cost of the scheme

- 5.5. For the first year, the Council received as a grant, what they would have spent in Council tax benefit less 10%. This was advantageous to the borough because the calculation was based on when both our caseload and our Council tax level were higher. This has meant that in the first two years, the Council's scheme actually ran as a surplus.
- 5.6. The funding is now incorporated into our grant income which is not paid separately to the Council but forms part of the Revenue Support Grant (RSG) calculation. It is therefore no longer possible to identify exactly how much money the Council gets from central government to pay for Council tax support awards.
- 5.7. For 2014/15 the discounts offered through the Local Council Tax support scheme resulted in lower income of £13.15m to the Council. The latest estimate for 2015/16 is £12,52m (of which the Hammersmith and Fulham share is £8.9m, The Greater London Authority share is £3.62m).
- 5.8. In general our caseload is dropping, meaning Council tax support is costing us less. However, the grant support from central government is also falling.

6. OPTIONS AND ANALYSIS OF OPTIONS

Proposed Changes – Universal Credit

- 6.1. The Council is committed to ensuring that no one is worse off under our Council tax support scheme. As much as possible, the scheme intends to reflect the previous Council tax benefit scheme. However, it does need to agree how to treat Universal Credit claims as there was no provision under the previous regulations for this (as Universal Credit did not exist then).
- 6.2. Universal Credit is a replacement for:
 - Jobseeker's Allowance
 - Housing Benefit

- Working Tax Credit
- Child Tax Credit
- Employment and Support Allowance
- Income Support

6.3. At present, the DWP are only accepting claims for Universal Credit from out of work customers. These cases are treated as though they are in receipt of a previous out of work benefit and maximum CTS is awarded.

6.4. However, the DWP do not take anyone off Universal Credit and allow them back on a legacy benefit. This means that UC recipients who are out of work and claiming full CTS can have a change of circumstance (i.e. get a job) and will want to continue a partial CTS claim.

6.5. The authority has to decide how these CTS claims are decided. The overall ethos of the decision is to continue to ensure that no one is worse off and whilst replicating the previous Council tax benefit regulations.

How the claim is calculated

6.6. For in work claims, UC is made up of:

- Child element
- Childcare costs element
- Limited capability for work element
- Carer element
- Housing costs element

6.7. The Council is proposing all are taken into account as part of the calculation and as part of the applicable amount. So for UC customers the current applicable amounts are not used.

6.8. In practice, this will not make much difference but the awards will be slightly more generous for in work claims. There is a danger that this will increase the CTS bill to the Council. Appendix 2 has a calculation that demonstrates this.

6.9. In all cases any earned or unearned income will be subject to the normal 20% taper calculation.

6.10. For other cases, the scheme will replicate as much as possible the benefit regulations. This means, if the family premium is removed for benefit claims, they will also be removed for CTS claims to ensure no one is worse off than under the old scheme.

7. CONSULTATION

7.1. As required by the Local Government Finance Act, officers consulted with the GLA as the precepting authority and with the public on the proposed scheme.

- 7.2. In previous years, the consultation has been minimal due to the fact that in essence nothing is being changed. The GLA have endorsed this.
- 7.3. Even though there is a slight change to the scheme it was decided not to change the consultation method for this year. An on-line consultation was carried out that ran for 2 months.
- 7.4. The responses this year were again limited. As there is not much change to the scheme, it seems few people wanted to comment. This reflects a wider trend of reduced take up of consultations in recent months.
- 7.5. This year, two responses were received (the same number as last year). Both agreed with our proposals with one stating "It stops the Council placing vulnerable groups into a more financially and mentally detrimental position". The other refers to the increased cost of collecting an additional debt had the Council decided to levy a charge against everyone, stating "The costs of collection of such debt might well end up costing the Council much more."
- 7.6. The responses can be found in **Appendix 1**.

8. EQUALITY IMPLICATIONS

- 8.1. The way Universal Credit claims will be processed is a change to the scheme and as such the Equalities impact has been assessed (please see **Appendix 2**).
- 8.2. This change affects only a small number of CTS recipients and the recommended decision will have the most positive outcome for those affected and still where possible reflect the old benefit regulations.
- 8.3. The effects will continue to be monitored as more residents become affected with the increased role out of Universal Credit. This will inform any changes we may make for the 2017/18 scheme.
- 8.4. Implications verified by: David Bennett, Head of Change Delivery (Acting) - 020 7361 1628.

9. LEGAL IMPLICATIONS

- 9.1. The report sets out the requirements of the Local Government Finance Act 2012 to include a reminder that consultation for this scheme is a requirement and has taken place with limited responses. A possible financial risk that the number of recipients of Council Tax Support would increase is also highlighted in paragraph 12 with a note that the scheme may need to change in the forthcoming budget year upon review.
- 9.2. Implications verified/completed by: (Joyce Golder. Principal Solicitor, 020 7361 2181)

10. FINANCIAL AND RESOURCES IMPLICATIONS

- 10.1. The Council tax support scheme operates by offering a discount to residents who need help paying their Council tax. The cost of the scheme is shared between Hammersmith and Fulham and the Greater London Authority based on their respective Council tax charges. The Hammersmith and Fulham share of the scheme cost was £9.3m in 2014/15 and is estimated to be £8.9m in 2015/16. The reduction reflects both a lower caseload and the impact of the 1% Council tax reduction.
- 10.2. The report flags up some new financial risks regarding the 2016/17 scheme. These arise from the roll-out Universal Credit and government welfare policy, At present it is not possible to model with any certainty what impact these potential changes may have (or if the changes will take place at all.). This position will continue to be reviewed and an appropriate risk noted in the Medium Term Financial Strategy.
- 10.3. Implications verified/completed by: (Andrew Lord, Corporate Finance, Ext 2531).

11. IMPLICATIONS FOR BUSINESS

- 11.1. None

12. RISK MANAGEMENT

- 12.1. In previous years reports it was reported that the main risk to the Council is if there is a sharp rise in CTS recipients. This obviously means that we will receive less than expected in Council tax income as we grant more support.
- 12.2. The way it is intended to assess UC cases can be more generous than the current system. This reflects the government's aspiration that everyone should be better off in work. Potentially, if there is a significant rise of in work UC claims, then this could increase the level of CTS awards.
- 12.3. The level of UC expansion for 16/17 is not known. The government has made it clear that they are intent on increasing Universal Credit take up as quickly as possible. However, this will depend on the DWP's capacity to manage a much greater caseload than they do now.
- 12.4. The impact to the Council of more CTS claims based on UC will be monitored. If after reviewing the level of CTS, there is a rise in the cost of our CTS awards, the scheme may need to be amended for 2017/18.
- 12.5. At present, the caseload in the borough is declining so any rises in the value of the awards may well be offset by a reduced number of live awards.

Emergency Budget 2015

- 12.6. The emergency budget announced the following changes to tax credits from April 2016:

- **Changes to taper rates in tax credits** – From April 2016 the taper rate in tax credits will be increased from 41% to 48% of gross income. Once claimants earn above the income threshold in tax credits, their award will be withdrawn at a rate of 48 pence for every extra pound earned.
- **Changes to tax credits income thresholds and Universal Credit work allowances** – From April 2016 the income threshold in tax credits will be reduced from £6,420 to £3,850 per year.

12.7. The Autumn Statement announced that the changes to tax credits will not take place. However, the changes to UC will go ahead. For those on UC and in work, the UC award will be less than it is now meaning there will be more entitlement to CTS. However, if take up to UC continues at its current pace, the overall cost to the Council should not be impacted too adversely.

12.8. As per paragraph 12.4, the caseload and value of awards will be monitored.

13. PROCUREMENT AND IT STRATEGY IMPLICATIONS

13.1 None

LOCAL GOVERNMENT ACT 2000 **LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
1.	None		

LIST OF APPENDICES:

Appendix 1 Responses to the consultation

Appendix 2 EIA

APPENDIX 1

Do you pay council tax to the Hammersmith & Fulham Council? - 1	Do you receive council tax benefit? - 2	What is your age group? - 3	Are you (please tick one): - 4	Are you (please tick one) - 5	Are you responding to the consultation in your capacity as a representative of any of the following: - 6	Do you agree the council should meet the shortfall to to keep support at previous levels? - 5	Do you agree with our approach to assessing universal credit cases? - 5	Please explain your view on the council's decision to absorb the cost - (complete below)
Yes	Yes	18 - 59	Disabled	White (Brit	Other	Yes	Yes	I think its important the council continues to asorb the cost here. It ensures that citizens are able to better support there families in a time of cuts to other income streams. It reduces the cost and debt burden on the council. It stops the council placing vulnerable groups into a more financially and mentally detrimental position.
Yes	Yes	18 - 59	Disabled	White (Brit	Other	Yes	Yes	Pushing people into debt. The costs of collection of such debt might well end up costing the council mush more.

APPENDIX 2 - Equality Impact Analysis (EIA) of Local Council Tax Support Scheme 2016/17

(A) Overview and Summary

Since 2013, the council has been obliged to set a local scheme to award council tax support (CTS) for residents on a low income. From then, the council has adopted a scheme that reflects the benefit regulations and nobody in the authority has been worse off. As this meant that there was no change for claimants, there was no requirement to complete an equalities impact assessment.

Universal Credit (UC) was introduced in October 2013 for a very specific cohort of out of work claimants. The take up since then has been slow with only about 800 claimants within the borough and only 138 in receipt of council tax support. For out of work claims, the CTS assessment is simple. Maximum support is awarded the same as a passported legacy benefit (such as Jobseekers Allowance).

Although there are no plans to currently accept claims from in work claimants, the Department of Works and Pensions (DWP) have always had a “lobster pot” policy where once on UC, always on UC. This means that a CTS recipient could be working and in receipt of UC due to them finding a job and moving their UC entitlement from an out of work to an in work claim.

The number of people that this affects is very low – less than 20 out of a CTS caseload of 16.5k. However, as the government is planning for these numbers to grow during 2016, the council has to specify how it will process these claims. It is not possible to rely on the previous benefit regulations as Universal Credit did not exist when they were rescinded.

It is for this element of our CTS scheme, i.e how we are assessing in work UC cases that this EIA is required.

It has always been the intention of the authority that we, as much as possible replicate the benefit regulations. With Universal Credit, the calculations are slightly different to the legacy benefits, with different applicable amounts and earned income disregards. This leaves the authority with a choice of which rates to use, the legacy benefit rates or those used in UC.

The council has decided that for in-work UC claimants, the CTS will be assessed using the UC applicable amounts rather than the applicable amounts taken from the housing benefit regulations (as we normally do). This will mean that these claimants will receive more CTS as the UC rates are higher.

A public authority must, in the exercise of its functions, comply with the requirements of the Equality Act 2010 and in particular section 149 (the Public Sector Equality Duty). This EIA is intended to assist the Council in fulfilling its public sector equality duty (“PSED”). It assesses, so far as is possible on the information currently available, the equality impact of our decision to assess in work UC claims based on the UC rates rather than the rates used for non UC cases.

(B) Methodology

As stated, this change will affect a very small cohort of CTS recipients and the change that they will experience is going to be minor. Although the applicable amounts are higher, allowing for a more generous CTS award, the actual UC award is also higher for those in work – which then reduces the award. The net affect is a slight difference in CTS.

The analysis will refer to the budget setting EIA which looks at the whole CTS caseload. This is because it is the government's intention to increase the UC caseload nationally and it has stated that 2016 will see an increase in UC take up.

(C) Analysis of the impact of the assessment of UC claims for CTS

Local Council Tax Support (LCTS) came into effect on 01 April 2013, and replaced Council Tax Benefit which was abolished as part of the Government's Welfare Reforms (which include the introduction of Universal Credit). H&F decided for the following years to absorb the cost of the changes, which means that people receive the same or very similar help to pay their council tax as they did under council tax benefit.

At present, there are approximately 138 CTS claims who are in receipt of UC. The majority of these are out of work and so are not currently affected by our proposals.

The cohort selected by the DWP as part of the take up of UC largely focuses on single claimants. The Hammersmith jobcentre (that takes claims for the whole borough) does accept claims from couples and families but because of the way that UC claims are selected, many couples and families become excluded from receiving UC and have to claim legacy benefits.

This means that the breakdown of UC claimants in receipt of CTS largely focuses on single claimants and this group are represented much more dominantly than compared to the caseload as a whole. Of the 138 customers, 61 are female or 44%, 73 or 53% or male and only 3% are couples. This is compared to the CTS working age caseload as a whole where 5,943 or 55% are female, 3,218 or 30% are male and 1,636 or 15% are couples.

As the cohort selected by the DWP for UC entitlement are Jobseekers there are no UC recipients who are receiving the limited capability of work element (for those incapable of work due to illness / disability).

Just as in the budget setting EIA, it is not possible to extract comprehensive ethnicity data from the caseload.

From the limited information that we hold, there is little impact on CTS recipients as a whole. However, we can see that there is a positive impact on those affected as the authority's scheme is more generous than if we used the legacy benefits applicable amounts. (see annex 1 for an example).

The authority does not select the claimants who receive UC as this is done by the DWP so the council is not responsible for any impacts relating specifically to an individual being migrated onto Universal Credit. Based on available information the cohort will remain relatively small for the foreseeable future. The DWP have not published any specific expansion plans as they are still developing the technology that will allow more people to claim UC.

Conclusion

For the small number of claimants affected by this, the change has a positive impact because it awards more council tax support than if we used legacy benefit rates. For any other claimant, the overall affect is neutral as they are not directly affected by the change.

Also, all protected groups are not disproportionately represented in this change. This is because the DWP who select the claimants to be considered for UC, have a strict criteria that largely excludes those with children and disabilities.

However, those who ultimately will receive UC are not selected disproportionately from any group over and above the fact that protected groups are over-represented in the economically disadvantaged section of the community and therefore within the benefit caseload.

In terms of replicating the previous regulations and ensuring that no one is worse off, there is nothing further that the authority can do. We have chosen the option that benefits those affected rather than puts them at a disadvantage so there is no further mitigating actions that the authority can take.

Because UC is a new benefit and an emerging part of the government's welfare reform agenda, the affects to the CTS caseload will need to be monitored and subject to review. Although the government do intend to increase the take up throughout 2016, whether or not and when this is likely to occur remains to be seen. This is because it relies on improvements in IT that have not yet been fully developed.

Based on current information, we feel that this is the fairest way forward but we will monitor any impacts as more people are affected to ensure that no particular group is impacted adversely. It will also be important to monitor how this affects the value of CTS awards to ensure that this more generous scheme is not too expensive for the council to implement.

The scheme will run for a year so there will be an opportunity to review for 2017/18. If change is required, then further work will be needed on assessing its impact on the protected groups.

Annex 1

Example of UC / Legacy calculations

In this example, we have compared the circumstances of a customer on a low income (earning a net amount of £115.38 per week). The claimant has a rent of £200 per week to pay. In the first example, the claimant can receive £427.95 per week UC but will be expected to pay £200 of this towards their rent, leaving a net amount of £227.95.

In doing the calculation for council tax support, in the way that we are proposing, we ignore the income from UC which in effect makes the UC award the applicable amount. We then use any other income as excess income in the same way that CTS is calculated normally. This leaves a CTS award of £6.25 per week.

In the second example, we have treated the UC amount as income (though we have disregarded the rent cost income) and we have used the applicable amounts we currently use for non-UC cases. Here, the CTS is the lower amount of £5.55 per week.

The legacy tax credit award would have been lower than the UC award. Based on the current example, we estimate a claimant would receive about £120 per week in tax credits rather than the £227.95 per week received in UC (net of rent costs). This means that those in receipt of working / child tax credits do receive higher CTS awards but this is because the amount of tax credit received is lower. The claimants net income is higher under UC.

UC Calculation

Description	Gross Income	Disregards	Eligible Amount
Net Earnings	£115.38	£27.10	£88.28
Child Benefit (disregarded)	£34.40	£34.40	£0.00
Universal Credit (UC)	£427.95	£0.00	£427.95
Total Income (earnings plus UC)	516.23		

Income used in calculation	£516.23
Less the UC applicable amount	£427.95
Excess Income	£88.28

Eligible Council Tax	£23.91
Less 20% of Excess Income	£17.66
Weekly Council Tax Support Award	£6.25

Legacy Benefit Calculation


Description	Gross Income	Disregards	Eligible Amount
Net Earnings	£115.38	£27.10	£88.28
Child Benefit (disregarded)	£34.40	£34.40	£0.00
Universal Credit (UC)	£427.95 (including £200 per week housing costs)	£200.00	£227.95
Total Income (earnings plus UC)	£316.23		

Income used in calculation	£316.23
Less the applicable amount	£224.25
Excess Income	£91.98

Eligible Council Tax	£23.91
Less 20% of Excess Income	£18.36
Weekly Council Tax Support Award	£5.55

Glossary

Net Earnings	In the calculation of the CTS award, we always use income after tax, national insurance and half of any pension is taken off
Disregards	Within CTS, we disregard a certain amount of earned income. How much we disregard depends on on the family make up of the claimant and the number of hours worked
Eligible Amount	This is the net income after all disregards are taken off. It is this income that the final award calculation is based on
Applicable Amount	This is the figure at which the claimant stops to receive maximum CTS. So, if the income is below the applicable amount, they receive maximum CTS. Once the income goes above the applicable amount, the CTS is reduced by 20%.

<p>London Borough of Hammersmith & Fulham</p> <p>COUNCIL</p> <p>27 January 2016</p>		
<p>COUNCIL TAX BASE AND COLLECTION RATE 2016/2017 AND DELEGATION OF THE BUSINESS RATES ESTIMATE</p>		
<p>Report of the Cabinet Member for Finance - Councillor Max Schmid</p>		
<p>Open Report</p>		
<p>Classification: For Decision Key Decision: Yes</p>		
<p>Wards Affected: All</p>		
<p>Accountable Executive Director: Hitesh Jolapara, Strategic Director of Financial Corporate Services</p>		
<p>Report Author: Steve Barrett, Head of Revenues and Benefits</p>	<p>Contact Details: Tel: 020 8753 1053 E-mail: steve.barrett@lbhf.gov.uk</p>	

1. EXECUTIVE SUMMARY

- 1.1 This report contains an estimate of the Council Tax Collection rate and calculates the Council Tax Base for 2016/17.
- 1.2 The Council Tax base will be used in the calculation of the Band D Council Tax undertaken in the Revenue Budget Report for 2016/17.
- 1.3 The proposed Council Tax Base for 2016/17 of 74,041 is an increase of 2,058 on the figure agreed for 2015/16 of 71,983.
- 1.4 Based on the 2015/16 Band D charge of £727.81 the increase in the tax base will result in an increased income of £1.5m
- 1.5 The recommendations contained in the Council Tax Support 2016/17 will need to be approved prior to those contained in this report. This is because they are included in the calculation of the Band D Council Tax in section 8.3 below.

- 1.6 To delegate authority to the Strategic Director of Financial Corporate Services, in consultation with the Lead Member for Finance, to determine the business rates tax base for 2016/17 as set out in section 11 of this report

2. RECOMMENDATIONS

- 2.1 That approval be given to the following recommendations for the financial year 2016/17:
- (i) That the estimated numbers of properties for each Valuation Band as set out in this report be approved.
 - (ii) That an estimated Collection rate of 97.5% be approved.
 - (iii) That the Council Tax Base of 74,041 Band “D” equivalent properties be approved
 - (iv) To delegate authority to the Strategic Director of Financial Corporate Services, in consultation with the Lead Member for Finance, to determine the business rates tax base for 2016/17 as set out in section 11 of this report

3. BACKGROUND

- 3.1 Under Section 33(1) of the Local Government Finance Act 1992 and The Local Authorities (Calculations of Council Tax Base) (England) Regulations 2012, the Council (as billing authority) is required to calculate its Council Tax Base. This comprises both the estimated numbers of properties within each Valuation band plus the Council's estimate of its collection rate for the coming financial year.
- 3.2 For 2015/16 the Council approved a Council tax Base of 73,828 Band D equivalent dwellings, and an estimated Collection Rate of 97.5%, which resulted in a tax base of 71,983.
- 3.3 Under Section 11A of the Local Government Finance Act 1992, Council Tax (Exempt Dwellings) (England) (Amendment) Order 2012 and Council Tax (Prescribed Classes of Dwellings) (England) (Amendment) Regulations 2012 the Council reduced discounts for both Second Homes and Unoccupied and Unfurnished dwellings to 0% with effect from 2013/14 and subsequent years until revoked.
- 3.4 Under Section 11B of the Local Government Finance Act 2012 the Council introduced the Council Tax Empty Homes Premium with effect from 1 April 2014 and subsequent years until revoked. This increases the charge on dwellings that have been unoccupied and substantially unfurnished for more than two years to

150% of the council tax that would be payable if the dwelling were occupied by two adults and no discounts were applicable.

- 3.5 Cabinet will also be required to approve the recommendations in the Council Tax Support Scheme 2016/17 report, prior to the recommendations in this report, as they are reflected as Band "D" equivalents in the Council's Tax base calculations in section 8.3 below.

4. DISCOUNTS

4.1 Second Homes

4.1.1 There are some 2,110 second homes in the borough. The Council does not offer a discount on second homes which adds 2,485 Band "D" equivalents to the tax base for 2016/17. These discounts are included in Section 7.3 below.

4.1.2 Based upon 2015/16 Council Tax levels this generates income to the Council of £1.8m. This income is allowed for within the Council's Medium Term Financial Strategy. Our preceptor, the GLA, also benefits from the reduction in the discount.

4.2 Empty Properties

4.2.1 There are some 519 empty (unoccupied and unfurnished) properties in the borough. The Council does not offer a discount for empty properties which adds an additional 648 Band "D" equivalents to the tax base for 2016/17.

4.2.2 Based upon 2015/16 Council Tax levels this generates income to the Council of £0.5m. This income also directly benefits the GLA.

5. EMPTY HOMES PREMIUM

5.1 There are some 85 properties in the borough that have been empty for more than two years. The effect of increasing the charge on these properties to 150% of the normal charge adds an additional 54 Band "D" equivalents to the taxbase for 2016/17. These premiums are included in Section 7.3 below

5.2 This equates to additional income for the Council (net of preceptors) of approximately £39k (based on the 2015/16 Band D Council Tax).

6. COUNCIL TAX SUPPORT

- 6.1 Under Council Tax Support, Hammersmith & Fulham and the GLA absorb the full cost of the scheme, which mirrors the previous council tax benefit arrangements.
- 6.2 For 2015/16 the Council has provided for a total of £12.5m in Council Tax Support discounts. This equates to 12,241 band "D" equivalents based on 2015/16 Council Tax levels.
- 6.3 The tax base regulations require the cost of the scheme to be treated as a discount and deducted from the Council's tax base calculation in section 8.3.

7. VALUATION BAND PROPERTIES

- 7.1 The latest information on the number of properties within each valuation band is contained within a return (CTB1), which the Council provided to the DCLG on 16 October 2015.
- 7.2 This return reflected the actual number of properties shown in the Valuation List as at 14 September 2015 and the Council's records as at 16 October 2015.
- 7.3 A detailed analysis of the properties in each valuation band can be summarised as follows. There are a total of 85,410 dwellings on the list with some 29,702 properties estimated to receive a sole occupier discount. The total Band "D" equivalent is approximately 88,186.6 properties.

Band	Band Size	Total Dwellings	Total after Discounts, Exemptions and Disabled Relief	Ratio	Band "D" Equivalents
A	Values not exceeding £40,000	3,790	2,874.8	6/9	1,916.5
B	Values exceeding £40,000 but not exceeding £52,000	5,744	4798.5	7/9	3,732.2
C	Values exceeding £52,000 but not exceeding £68,000	14,166	11,947.3	8/9	10,619.8
D	Values exceeding £68,000 but not exceeding £88,000	24,384	21,540.8	9/9	21,540.8

Band	Band Size	Total Dwellings	Total after Discounts, Exemptions and Disabled Relief	Ratio	Band "D" Equivalents
E	Values exceeding £88,000 but not exceeding £120,000	15,177	13,821.5	11/9	16,892.9
F	Values exceeding £120,000 but not exceeding £160,000	9,096	8,405.3	13/9	12,141.0
G	Values exceeding £160,000 but not exceeding £320,000	10,828	10,223.8	15/9	17,039.7
H	Values exceeding £320,000	2,225	2,151.8	18/9	4,303.7
		85,410	75,763.8		88,186.6

8. ADJUSTMENTS TO THE VALUATION LIST

8.1 The above table shows the valuation band position at 14 September 2015 but the Council is also required to take into account the Council Tax Support Scheme and any other likely changes during the financial year 2016/17. Therefore the following adjustments need to be considered:

(i) New Properties

There are likely to be a number of new properties, conversions etc. added to the valuation list at some point during the year. There are approximately 468 units currently under construction on various sites in the Borough that will be added to the tax base sometime during 2016/17. It is estimated after allowing for different completion dates that this will equate to an additional 544 Band 'D' equivalents.

(ii) Banding Appeals

There have been over 10,000 appeals lodged with the valuation office in respect of initial Council Tax bandings. There are now only a small number unsettled so it is not proposed to make any adjustments for these.

(iii) Single Person Discounts

The council is undertaking a review of single person discounts being

awarded to taxpayers. This review has not yet been completed and it is estimated that a further 1,126 discounts will be removed which will add an additional 281 Band “D” equivalents to the tax base for 2016/17.

(iv) Student Exemptions

Dwellings wholly occupied by students are exempt from Council Tax. The projected Council Tax base needs to be adjusted to allow for students that have yet to prove their exemption for the new academic year. It is estimated that an adjustment of 831 Band “D” equivalents is required.

(v) Council Tax Support

The cost of the scheme equates to 12,241 band “D” equivalents, based on 2015/16 Council Tax levels, which now have to be deducted from the tax base for 2016/17. This is less than the deduction of 12,903 Band D equivalents made in 2015/16. This is due to a reduction in the number of claimants applying for a discount and the impact of the 1% reduction in 2015/16 Council Tax.

8.2 The Council is required to set its Tax Base on the total of the relevant amounts for the year for each of the valuation bands shown or is likely to be shown for any day in the year in the authority’s valuation list.

8.3 Taking into account the latest information from the CTB1 return to the DCLG and the proposed adjustments, Council is requested to approve the estimated numbers of properties for each valuation band as set out in the following table:

Band	Band “D” Equivalent Actual September 2015	Adjustments for New Properties	Adjustments for Student Exemptions	Adjustments for Single Person Discounts	Adjustments for Council Tax Support	Revised Band “D” Equivalents 2016/17 Forecast
A	1,916.5	0	0	19	-582	1,353.5
B	3,732.2	47	-11	30	-1,264	2,534.3
C	10,619.8	24	-120	65	-2,848	7,740.8
D	21,540.8	95	-265	90	-3,723	17,737.8
E	16,892.9	124	-197	40	-2,254	14,606.1
F	12,141.0	111	-153	18	-1,021	11,095.8
G	17,039.7	127	-77	17	-533	16,573.4
H	4,303.7	16	-8	2	-16	4,297.7
	88,186.6	544	-831	281	-12,241	75,939.4

9. COLLECTION RATE

- 9.1 The Council is also required to estimate its Collection Rate for 2016/17 at the same time as arriving at the estimated number of properties within the Tax Base. In arriving at a percentage Collection Rate for 2016/17, the Council should take into account the likely sum to be collected, previous collection experience and any other relevant factors.
- 9.2 The actual sum to be collected from local Council Tax payers cannot be finally determined until the preceptors requirements are known and the Council has approved its budget. The Council therefore has to make an estimate of the sums to be collected locally making estimated allowance for sums from Council Tax Support and write-offs/non-collection.
- 9.3 The actual collection rate for 2015/16 achieved to the end of October 2015 is 63.8%, comprising cash collection of £49.3m and Council Tax Support of £12.5m. The current level of collection has been achieved despite the inadequacies of the new Agresso computer system and is due to the extra work undertaken by officers in h&f direct. It is estimated that a further £25.1m (32.5%) will need to be collected by 31 March 2016 and £0.9m (1.2%) thereafter.
- 9.4 Collection performance has been calculated in order to comply with DCLG performance indicator calculations. Latest calculations for 2014/15 and 2015/16 show that the current collection rate can be continued for 2016/17. It is therefore suggested that the collection rate for 2016/17 is maintained at 97.5%.

10. THE TAX BASE

- 10.1 Under Section 33(1) of the Local Government Finance Act 1992 and the Regulations, the Council's tax base is calculated by multiplying the estimated number of Band "D" equivalents by the estimated collection rate.
- 10.2 Based on the number of Band "D" equivalents in the table in paragraph 8.3 above and the estimated collection rate in paragraph 9.4 above, the calculation is as follows:-

(Band D equivalents) x (Collection Rate) = (Tax Base)			
75,939	x	97.5%	= 74,041

11. BUSINESS RATES TAXBASE

- 11.1 The Local Government Finance Act 2012 made it obligatory for authorities to formally calculate the estimated level of business rates (the business rates tax base) it anticipates collecting for the forthcoming financial year and passing this

information to precepting authorities by 31 January. The Government will continue to set the tax rate (known as the non-domestic multiplier).

- 11.2 Under the Rates Retention Scheme, established from 2013/14, billing authorities have to estimate their business rates tax base so that the resources available to them (30% for Hammersmith and Fulham), can be determined. 20% of the resources are paid to the Greater London Authority and 50% to the Government
- 11.3 The tax base is based on data from the Valuation Office with local allowance for the appropriate level of business rates appeals, any discretionary reliefs and any forecast growth. This information is pulled together into a government return (NNDR1). The detailed guidance on completing the NNDR1 is not likely to be issued until just before Christmas. This guidance will include allowance for any changes to the business rates system that might be announced by the Chancellor in the Autumn Statement. Given that the return has to be submitted by 31 January it is recommended that the responsibility for setting these figures be delegated to the Strategic Director of Financial Corporate Services in consultation with the Lead Member for Finance
- 11.4 The current 2016/17 budget strategy assumes that the Hammersmith and Fulham share of business rates income, including government compensation for measures announced in the Autumn Statement, will be £60.7m. Any variation will be reported to Budget Council.

12 RISK MANAGEMENT

- 12.1 This is a statutory process and any risks are monitored through the Council's MTFS process.

13. EQUALITY IMPLICATIONS

- 13.1 There are no equality implications in this report.

14. FINANCIAL AND RESOURCES IMPLICATIONS

- 14.1 The Tax Base is set by 31 January each year, as outlined in the Local Government Finance Act 1992. It is used within the overall Council Tax and budget setting process, due to be reported to Budget Council on 24 February 2016.
- 14.2 The proposed Council Tax Base for 2016/17 of 74,041 is 2,058 Band D equivalents higher than the 71,983 agreed for 2015/16. The main reasons for this change are set out below:

	Band D Change
Increase in the tax base due to new properties	1304
Increase in new properties being built	145
Reduction in Council Tax Support scheme discounts	662
Gross Total Change	2111
Adjusted for Collection rate of 97.5%	53
Total change	2058

14.3 Based on 2015/16 Council Tax levels the increase in the taxbase will generate additional income of £1.499m for Hammersmith and Fulham and £0.607m for the Greater London Authority

14.4 The cost of the local council tax support scheme is based on current Regulations. No allowance is made for potential government welfare reforms due to uncertainty on what changes might be made. This will be treated as a risk within the Medium Term Financial Strategy Process

Implications verified/completed by: Andrew Lord, Head of Finance (Budget Planning and Monitoring) Tel: 020 8753 2531

15. LEGAL IMPLICATIONS

15.1 The Council is under a statutory duty to set the Council Tax for the forthcoming financial year and to make a budget. This report forms part of that process. The Council is obliged, when making its budget, to act reasonably and in accordance with its statutory duties, the rules of public law and its general duty to Council Tax payers.

15.2 The basic amount of Council Tax must be calculated in accordance with Section 31B of the Local Government Finance Act 1992 and the Local Authorities (Calculation of Council Tax Base) Regulations 2012.


15.3 The Council Tax base has been calculated in accordance with the Act and the Regulations. The estimated collection rate to 97.5% is a reasonable and realistic estimate.

Implications verified by: Rhian Davies, Chief Solicitor, Shared Legal Services, Tel: 020 7641 3630.

LOCAL GOVERNMENT ACT 2000 **LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

None.

Agenda Item 6.3

London Borough of Hammersmith & Fulham COUNCIL 27 JANUARY 2016	 hammersmith & fulham
CHANGES TO CONTRACT STANDING ORDERS	
Report of the Cabinet Member for Finance, Cllr Max Schmid, and the Cabinet Member for Commercial Revenue and Resident Satisfaction, Councillor Ben Coleman	
Open Report	
Classification - For Decision Key Decision: Yes	
Wards Affected: All	
Accountable Executive Director: Nigel Pallace, Chief Executive	
Report Author: Alan Parry and John Francis, Interim Heads of Procurement (Job-share)	Contact Details: Tel: 020 8753 2581/2582 alan.parry@lbhf.gov.uk john.francis@lbhf.gov.uk

1. **EXECUTIVE SUMMARY**

- 1.1. Under section 135 of the Local Government Act 1972, Councils are required to have in place arrangements for managing their procurement processes. This is to promote good purchasing practice, aid transparency, accountability and probity in how public funds are spent, and help evidence value for money. In H&F, these arrangements are Contract Standing Orders (CSOs), which form part of the Council's Constitution. The Council last reviewed its CSOs at its Annual Meeting in May 2015 to ensure compliance with the new Public Contracts Regulations 2015.
- 1.2. Cabinet Members have since reviewed the CSOs and feel that further changes are required in order to improve procurement forward planning and Cabinet visibility, ensure forthcoming procurements reflect Council priorities, and strengthen the efficiency of decision-making on contract awards. This report, therefore, seeks approval to amend the CSOs in two significant ways:
 - i) A new requirement for full Cabinet approval of a commissioning and procurement strategy with supporting business case for procurements in excess of £100,000 before the formal competition can commence.

- ii) Following this Cabinet approval, automatic delegation of the subsequent contract award decision to the relevant Cabinet Member(s) up to the value of £5,000,000, unless the Cabinet expressly state a wish to make the contract award decision.

1.3. This is a report to full Council as it concerns a constitutional matter.

2. RECOMMENDATIONS

2.1. That Council adopt the revised Contract Standing Orders as set out in Appendix 1 to this report as part of the Council's Constitution.

2.2. That Council specifically approve the following changes in sections 8 and 17 of the revised CSOs:

- a) That for all procurements in excess of £100,000, Chief Officers, acting on advice from Service Review Teams, must develop and present to full Cabinet for approval a commissioning and procurement strategy and supporting business case with options appraisal for the proposed procurement. (Appended CSOs 8.11.1)
- b) That all commissioning strategies for procurements at or above £100,000 (except those relating to pensions) must be approved by full Cabinet prior to the commencement of any tendering process and agreed as a Key Decision. (Appended CSOs 8.12.1)
- c) That the above commissioning and procurement strategy report to Cabinet must include the details contained in clause 8.11.1 (a) – (n) in the appended CSOs.
- d) That the commissioning and procurement strategy report to Cabinet must detail the frequency of any interim reports to relevant lead Cabinet Members on the procurement as it proceeds. (Appended CSOs 8.12.2)
- e) That the specific approval of the Commercial Director must be contained in the commissioning and procurement strategy report where it is the intention to create a framework agreement that other public bodies may call-off from. (Appended CSO 8.12.3)
- f) That in normal circumstances for contracts valued at between £100,000 to below £5,000,000, and where:
 - i) the actual contract value is less than £5,000,000; and
 - ii) the returned tender falls within a +10% tolerance of the estimated financial value set out in the commissioning and procurement strategy report approved by Cabinet – the award decision will be delegated to the appropriate Cabinet Member(s).
- g) That where the conditions described in Recommendation 2.2(f) above do not apply or are not met, the contract award decision is reserved for full Cabinet.

h) That “normal circumstances” under 2.2(f) above means an automatic delegation unless the Cabinet decide they wish to reserve the contract award decision to the Cabinet. (Appended CSOs 17.3.1- 17.3.3)

2.3. That in recognition of the need for a transition period from approval of the changes recommended in 2.2 above, and in order to enable adequate pre-Cabinet governance requirements to be met on imminent procurements, the CSO changes come into effect on 1st July 2016, with the Council implementing the new arrangement ahead of this date wherever practical during the transition period.

2.4. That Council approve delegated authority to the Cabinet Member for Finance and the Cabinet Member for Commercial Revenue and Resident Satisfaction to issue “Purchasing Guides” to help implement Council policy and set out good procurement practice. These guides will supplement the provisions contained in CSOs.

3. REASONS FOR DECISION

3.1. To:

- Comply with statutory requirements.
- Improve the planning and implementation of Council procurement.
- Ensure procurements reflect and give effect to Council policies.
- Improve transparency. And,
- Improve the efficiency of how Key Decisions are made.

4. INTRODUCTION AND BACKGROUND

4.1. The Council’s CSOs were originally based on a model published by CIPFA as part of its procurement excellence documentation. For the last decade the Council has reviewed on a regular basis its internal arrangements for managing its procurement activity.

4.2. Since 2006 there have been no major changes to the internal financial thresholds. (In May 2015 the Council increased from £20,000 to £25,000 the threshold for a Cabinet Member Decision being required to align with a new statutory threshold). It is not proposed to increase the current thresholds at which a political decision needs to be made (£25,000 for a Cabinet Member Decision and £100,000 for a Cabinet Decision).

4.3. The majority of changes to the CSOs since 2006 have been made to reflect either legislative changes and/or operational requirements.

5. PROPOSAL AND ISSUES

Current position

5.1. In H&F, Cabinet Member visibility and approval of procurements within their portfolio is high when compared to other Councils. Under current CSOs, contracts valued at between £25,000 and £100,000 must be formally approved by the relevant Cabinet Member. In most other London authorities, Cabinet

Member approval for contract award is not required until the value is significantly higher and in one, WCC, it is not required until the value reaches £1,500,000.

- 5.2. Collective Cabinet visibility and approval of H&F contract award decisions is also high, with a relatively low financial threshold of £100,000 when compared to other Councils. However, prior to being asked to agree a contract award recommendation, full Cabinet currently rarely has any visibility of current or forthcoming procurement exercises.

Issues

- 5.3. The current requirements present issues both for Cabinet and officers.
- 5.4. For full Cabinet, there is currently a lack of transparency about – and a lack of opportunity to shape – commissioning and procurements before the Council goes out to the market. Presenting the Cabinet with a recommendation on contract award at the end of a tendering process which has not entailed sufficient prior visibility, discussions with stakeholders or pre-market testing risks either contracts not being awarded or contracts being awarded which do not adequately reflect Council policies and priorities and do not achieve the optimal outcome for residents.
- 5.5. For officers, the requirement for full Cabinet approval of contracts worth £100,000 or more can mean six to eight weeks elapsing between officers' recommendation and Cabinet approval.

Proposal

- 5.6. In order to address these issues, this report proposes that full Cabinet should:
- Have earlier sight of forthcoming procurements.
 - Assure itself that the commissioning and procurement strategy for a forthcoming procurement gives effect to Council policies and priorities.
 - Have opportunity and time to reshape inadequate commissioning and procurement strategies.
 - For procurements at or above £100,000, approve the commissioning and procurement strategy and supporting business case before tendering commences.
 - Once it has approved the strategy and business case and unless it expressly wishes to decide the contract award itself, automatically delegate contract award decisions of up to £5,000,000 to the relevant Lead Cabinet Member.
- 5.7. The Council's current CSOs require a business case to be prepared for each procurement at or above £100,000, signed off by the relevant Executive Director.
- 5.8. The main proposal looks to build on this by making it a requirement for the Cabinet to sign off the business case, along with a commissioning and procurement strategy, before the start of any procurement at or above £100,000. The strategy and supporting business case should include, but not be limited to:
- (i) An options appraisal.
 - (ii) The estimated value of the contract.

- (iii) Whether and how the commission and its procurement will contribute to the Council's MTFS savings, avoid financial cost in other areas, contribute to enhanced revenue and improve service quality.
- (iv) The headline requirements contained in the specification, including key outcomes to be delivered.
- (v) The contract award evaluation criteria, including all important relative weightings.
- (vi) The packaging of the contract, including evidence that sufficient consideration has been given to dividing it into smaller "lots" to enable bids from small businesses and third sector organisations.
- (vii) Consideration of the local social value, economic and community benefits that can be derived from the contract on top of the headline requirements.
- (viii) Whether and how other policy objectives are being met through the procurement, such as diversity and equality related matters, environmental considerations including whole life costings, avoidance of zero hours contracts, and any other statutory considerations and/or requirements.
- (ix) Evidence of how stakeholders have been consulted and consideration of how they will be further involved if the procurement goes ahead.
- (x) Evidence of pre-procurement market soundings and feedback from these.
- (xi) An indicative timetable for the procurement, and the procedure to be used (e.g. restricted, open, competitive dialogue, etc.)
- (xii) The arrangements for monitoring and managing the contract once it has been awarded.

5.9. Where the procurement is covered by the statutory Public Contracts Regulations 2015, much of the information listed above must be publicly available in relevant documents at the same time the contract advertisement is published, and should also inform the "live" report required under Regulation 84 meant to capture how and why strategic policy decisions on the procurement were made. Much of it is also information that departmental Commissioning and Contracts Boards in shared service departments currently receive in reports when deciding whether to approve commissioning projects and their procurement.

5.10. Requiring this information to be gathered before Cabinet approves a procurement strategy will streamline the decision-making process and reduce the time taken between officers' contract recommendation, the Cabinet Member Decision and commencement of the contract.

5.11. The CSOs will be supplemented with Purchasing Guides. These Purchasing Guides may be modelled on policy decisions taken by the Cabinet. Where a policy decision has an impact upon the procurement process, a Purchasing Guide will be developed and approved jointly by the Cabinet Member for Finance and the Cabinet Member for Commercial Revenue and Resident Satisfaction.

6. CONSULTATION

- 6.1. Consultation on the proposed changes has taken place with senior officers in service departments responsible for commissioning and procurement, and with Business Board. Departments and Business Board overwhelmingly welcome and support the proposed changes, and their feedback has been reflected in this report's recommendations. Given that the change will be significant, all departments are working closely with the corporate Procurement team to identify any potential exceptions, and ensure the transition to and implementation of the new requirements are properly managed and communicated.

7. FINANCE

- 7.1. The proposals should be cost-neutral by enhancing earlier Cabinet visibility of the effectiveness, and value for money of proposed procurement strategies, and supporting more efficient decision-making on contract awards.

8. EQUALITY IMPLICATIONS

- 8.1. There are no direct negative equality impacts on protected individuals and groups that would result from the recommendations of this paper being accepted. The paper recommends at 5.7 and 5.8 that officers adopt an approach towards commissioning and procurement strategies and their associated business cases which takes account of:

- The packaging of the contract, including consideration of whether it should be divided into smaller "lots" to enable bids from small businesses and third sector organisations.
- Consideration of the local social value, economic and community benefits that can be derived from the contract on top of the headline requirements.
- Whether and how other policy objectives are being met through the procurement, such as diversity and equality related matters, environmental considerations including whole life costings, avoidance of zero hours contracts, and any other statutory considerations and/or requirements.

- 8.2. The above will provide additional assurance that equality impact assessments continue to be given due consideration in the council's governance and decision-making processes.

- 8.3. Implications verified by: David Bennett, Head of Change Delivery (Acting) – 020 7361 1628.

9. FINANCIAL AND RESOURCES IMPLICATIONS

- 9.1. The proposals should be cost-neutral by enhancing earlier Cabinet visibility of the effectiveness, and value for money of proposed procurement strategies, and supporting more efficient decision-making on contract awards.

- 9.2. Implications verified by: Andrew Lord, Head of Strategic Planning and Monitoring, Corporate Finance 020 8753 2531.

10. LEGAL IMPLICATIONS

- 10.1. Legal services notes and supports the proposal to require Cabinet approval of a business case and commissioning and procurement strategy for the procurement of contracts with an estimated value of £100,000 or more, with delegation of the award decision to the relevant Cabinet Member.
- 10.2. Implications verified by: Cath Tempest, Senior Solicitor (Contracts) 020 8753 2774.

11. RISK MANAGEMENT

- 11.1. The Contract Standing Orders are the focal point of the Council's control environment for procurement. These Orders, together with supporting operational guidance, provide a framework of control for procurement practices in the Council. In this report the corporate Procurement service seeks to make recommendations which will promote a more consistent and analytical approach to commissioning and procurement at the Council.
- 11.2. Commissioning of public services is about public sector agencies working with purchasers, providers and communities to identify and understand end users' needs so that services can be designed to meet them.
- 11.3. This is done by working within a structured and planned process called a commissioning cycle which ensures services are improved and developed against past experience and current community need.
- 11.4. Procurement can be defined in the as "the process of acquiring the goods and services the Council needs, at the best possible quality for the right price, with due regard for full, fair and open competition between suppliers."
- 11.5. This is achieved through compliance at all times with the Council's minimum requirements for purchasing works, supplies and services (including the appointment of consultants) as described in the Contract Standing Orders.
- 11.6. Poor project planning and lack of monitoring of performance in contract management are common challenges in commissioning and procurement. Improved commissioning and procurement can achieve value for money savings through (for example):
 - Getting outcomes delivered more cost effectively / at a higher quality / or increased volumes for same cost by re-tendering existing services;
 - Redesigning services to reduce waste or activity that is not in line with Council priority outcomes; and
 - Reducing process costs within existing services e.g. reducing profit margins, efficiency incentives, working with existing and potential suppliers to reduce waste by electronic invoicing / consolidated payments etc.
- 11.7. Cabinet should be notified in advance of commercial activity including the pipeline of upcoming procurement projects and contract management information on high risk and/or high spend contracts, including the contractors' performance

in responding to complaints. The corporate Procurement service and procurement officers within other Services should ensure that they effectively communicate their work to Councillors. This should include placing non-commercially sensitive information about their work on the intranet, such as agendas and a forward plan of projects, and include notification of significant variations to contract terms, extensions or direct awards. Procurement should be regarded as a key driver for implementing council policy.

- 11.8. Periodic reports should keep the Cabinet informed of how a project is progressing and highlight any potential problems that could have an impact on the delivery of the project objectives, together with details of the steps that are being taken to address them. These reports will also provide assurance to Cabinet that the project can be delivered on time, measured on the current expected completion date compared to the planned completion date, together with any explanations for any delays. Additionally, reports should consider the estimated final cost compared to the available budget, risk registers, change control and the extent to which the project is on track for delivering its objectives.
- 11.9. Supporting guidance should be in the form of a complete purchasing framework that is available for all officers responsible for procurement to access on the LBHF Intranet and TriBnet. The framework should include standard documents to ensure an effective approach to procurement between the Council and boroughs with which it shares services. The guidance should stipulate commissioning, procurement and contract management processes that are subjected to 'gateway reviews' at critical stages of each medium and high risk/value project. Such gateway reviews involve reviewing project objectives, costs and programme risks at key stages of the procurement process and should help to ensure that any errors are corrected at an early stage.
- 11.10. The Contract Standing Orders should always be followed by officers responsible for procurement across the Council as not doing so significantly increases the Council's exposure to the risk of challenge and reputational damage owing to officer failure to adhere to EU/UK procurement law and other legislation affecting procurement and the avoidance of controls concerning transparency, probity and accountability. As a result any lapse in adhering to the Orders should be taken seriously.
- 11.11. To assist in securing sound corporate governance arrangements, the Contract Standing Orders require Members to have some involvement in the procurement process for contracts. For reasons of probity and good practice, Members are not expected to take an active part in everyday procurement decisions but they do participate at a strategic level in the design and execution of significant contract letting processes and monitoring outcomes. Additional involvement comes in the form of the approval of the project brief, commissioning and procurement strategy, business case, increases in budget and receiving reports concerning post-completion reviews.
- 11.12. It is vital that a suitable reporting system to the relevant Policy and Accountability Committee is established for significant commissioning, procurement and contract management. Reports should keep the committee informed of how a project is progressing and highlight any potential problems that could impact on

the delivery of the project objectives, together with details of the steps that are being taken to address them. These reports will also provide assurance to Cabinet that the project can be delivered on time, measured on the current expected completion date compared to the planned completion date together with any explanations for any delays. Additionally reports should also consider the estimated final cost compared to the available budget, risk registers, change control and the extent to which the project is on track for delivering its objectives.

- 11.13. Policy and Accountability Committees should receive regular reporting on significant commissioning, procurement and contract management: for example, where contracts are in excess of £5,000,000 total contract spend (whole of life). Reports should be consistent and include time, cost, quality, risk and change as standard sections.
- 11.14. Policy and Accountability Committees should be informed quarterly where a waiver of the Council's Contract regulations has been requested. This will enable the committee to challenge requests for their appropriateness.
- 11.15. Comments provided by Michael Sloniowski, Shared Services Risk Manager 020-8753-2587.

12. PROCUREMENT IMPLICATIONS

- 12.1. The CSOs and the proposed changes to them were drafted by the Corporate Procurement Team along with this report to the Council. There are no further Procurement comments.
- 12.2. Implications completed by Alan Parry, Interim Head of Procurement (Job-share) Tel: 020 8753 2581.

LOCAL GOVERNMENT ACT 2000 LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT

None.

LIST OF APPENDICES:

Appendix 1 – Contract Standing Orders 2016

Contract Standing Orders 2016

**LONDON BOROUGH OF HAMMERSMITH & FULHAM
 CONTRACT STANDING ORDERS – 2015
 MADE PURSUANT TO SECTION 135 OF THE LOCAL GOVERNMENT ACT 1972**

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SECTION 1

Scope of Contract Standing Orders

1 BASIC PRINCIPLES

- 1.1 These Contract Standing Orders (hereafter referred to as “CSOs”) are made pursuant to section 135 of the Local Government Act 1972 and shall take effect on 1 July 2016.
- 1.2 The aim of these CSOs are to promote good purchasing practice and public accountability, and deter corruption. Following the rules is the best defence against allegations that a decision has been made incorrectly or fraudulently. Failure to follow them may result in disciplinary or even criminal proceedings.
- 1.3 Officers and Members responsible for purchasing or disposal must comply with these CSOs, which lay down minimum requirements. They may be supplemented by a series of Purchasing Guides (as published on the intranet and internet).
- 1.4 These CSOs have been written to reflect current legislative requirements and to ensure that there is compliance by the Council. However, where there are any inconsistencies between these CSOs and the requirements of the Public Contracts Regulations 2015 (or any other statutory requirements that may replace or supplement these Regulations), the latter will take precedence.
- 1.5 All references to “Regulation” within these CSOs mean the appropriate regulation to be found within the Public Contracts Regulations 2015 (the “Regulations”).
- 1.6 Where financial thresholds are mentioned they should be cross-referenced with the Council’s *Financial Regulations* and in the event of any inconsistency between the two documents *Financial Regulations* shall take precedence.
- 1.7 Throughout these CSOs where reference is made to “estimated values” that means the total estimated spend (Total Value) and not the annualised estimated value of the proposed contract.
- 1.8 For the avoidance of doubt, and subject to specific exemptions contained within these CSOs, a Cabinet Member Decision (CMD) is required for the approval of all contracts that have a total value of £25,000 and greater, but less than £100,000 and a Cabinet Key Decision (KD) for all contracts that have a total value of £100,000 or greater. Contract award decisions are defined in Section 17 below.
- 1.9 Procurement is the process which governs the acquisition of goods, works and services - from identification of need (commissioning), through to the end of a service contract or the end of the useful life of an asset. Purchasing and disposal procedures must:
- Comply with all legal requirements
 - Achieve best value for public money spent
 - Be consistent with the highest standards of integrity
 - Ensure fairness in allocating public contracts
 - Ensure that *Non-commercial Considerations* do not influence any *Contracting Decision*

- Support the Council's corporate and departmental aims and policies
 - Comply with the Council's procurement strategy and *Purchasing Guides*.
- 1.10 In accordance with Regulation 24 every person involved in any procurement process has a responsibility to manage conflicts of interest arising during its conduct. Members and officers must declare any links or personal interests that they may have with potential purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council.
- 1.11 To ensure the integrity of the tendering process, nobody involved in the procurement process may -
- act contrary to Regulation 21 by disclosing confidential information received from tenderers during or after a procurement exercise;
 - act in any way that may be viewed or construed as a conflict of interest, or
 - disclose any information (otherwise known as "insider information") they may have obtained about any external or internal tenderer involved in a contract tendering process to any person who is not expressly entitled to it, or
 - divulge the content of any tender, tender list, detailed estimates, or other tender information to any person who is not expressly entitled to such information.
- 1.12 Where there is an inconsistency or ambiguity in these CSOs, the *Commercial Director* following consultation with the *Director of Law* will advise.
- 1.13 Shared-services Procurement –**
- 1.13.1 Consideration should always be given to whether sharing procurement exercises with other councils and/or public bodies would be of mutual benefit to all parties concerned.
- 1.13.2 Where undertaking joint procurement exercises with other public bodies consideration needs to be given to Regulation 38 relating to joint liabilities.

2 OFFICER RESPONSIBILITIES

- 2.1. These CSOs must be strictly complied with; they are the Council's minimum requirements. A more thorough procedure may be appropriate for a particular contract. For example, rather than seeking a quotation a more formal tendering process may be applicable (as set out in 11.2 below and table 11.2). Equally, it may not always be appropriate to make use of an exemption under the following section (CSO 3), even if one might apply or be granted.
- 2.2. General responsibilities of Chief Officers (Executive Directors): The *Chief Officer* has responsibility for all contracts tendered and let by their Department. He/she is accountable to the Cabinet for the performance of his/her duties in relation to contract letting and management, which are:
- (a) to ensure compliance with English and EU legislation and Council Policy;
 - (b) to ensure value for money in all procurement matters;
 - (c) to ensure compliance with these CSOs *Financial Regulations* and the *Purchasing Guides*
 - (d) to maintain a departmental scheme of delegation;

- (e) to ensure that all relevant staff are familiar with the provisions of these CSOs, *Financial Regulations* and the *Purchasing Guides* and that they receive adequate training on their operation;
- (f) to ensure compliance with any guidelines issued in respect of these CSOs;
- (g) to take immediate action in the event of a breach of these CSOs or the *Purchasing Guides* within his or her area;
- (h) to keep proper records of all contracts, tenders etc. including electronic data files (where electronic tendering systems are used), minutes of tender evaluation panels and other meetings;
- (i) to keep records of waivers and exemptions of any provision of these Contract Standing Orders (as set out in Section 3 below);
- (j) to keep appropriate departmental records of all contract awarded (using the *Council's approved Database*¹) where these have a total value of £5,000 and over (in keeping with the statutory requirements on transparency); and
- (k) the safekeeping of all original contracts which have been completed by signature and where the value is below £100,000. For contracts which exceed this figure the contractual paperwork is passed to the Director of Law for sealing as a Deed (and thereafter safekeeping).

2.3. *Chief Officers* are empowered within the terms of these CSOs to delegate to any officer within their Department authority to act on their behalf. However, such delegation will not affect their accountability for actions taken in their name.

2.4. Officers: The *Officer* responsible for purchasing or disposal must comply with these CSOs, *Financial Regulations*, *Code of Conduct* and with all UK and European Union binding legal requirements. The *Officer* must:

- (a) keep the records required by Regulation 84 and CSO 18
- (b) ensure that *Tender* procedures are conducted in accordance with procedures set out in the *Invitation to Tender*.
- (c) also ensure that agents, consultants, and contractual partners acting on their behalf also comply.
- (d) take all necessary legal, financial and professional advice.

2.5. No councillor or officer may accept any form of hospitality from any *Candidate* during a tendering (or similar exercise). Hospitality from suppliers, service providers or contractors who may or may not have current contracts with the Council may only be accepted in accordance with the "*Guidance on Gifts and Hospitality*" which forms part of the Council's Constitution (for Members) and "*Policy and Procedure for: Acceptance of Gifts and Hospitality by Employees* *Guidance on the receipt of gifts, benefits and hospitality*" that is part of the Council's Personnel Procedures (for officers). For both Members and officers the appropriate Register of Gifts and Hospitality should be completed in accordance with this guidance.

3. WAIVERS AND EXEMPTIONS

3.1 A prior written waiver to these CSOs² may be agreed by the *Appropriate Persons* (as defined in table 3.1 below) if they are satisfied that a waiver is justified because:

- the nature of the market for the works to be carried out, or the goods to be purchased, or the services to be provided has been investigated and is demonstrated to be such that a departure from these CSOs is justifiable; or

¹ Capital-E-Sourcing

² Insofar as they relate to the Council's own competition rules governing quotes & tenders. There can be no waiver of legal requirements contained in the Regulations and where such is proposed a justification for the recommendation and risks need to be detailed in the Cabinet Member Report.

- the contract is for works, goods or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or
- the circumstances of the proposed contract are covered by legislative exemptions; or
- it is in the Council's overall interest; or
- there are other circumstances which are genuinely exceptional.

A departmental record of the decision approving a waiver and the reasons for it must be kept in accordance with CSO 18.2 or CSO 18.3.

table 3.1.

<u>Appropriate Person</u>	<u>Estimated Contract Value</u>
Client Executive Director	Less than £25,000
The appropriate Cabinet Member(s) acting on advice from the Client Director.	£25,000 or more but less than £100,000
The appropriate Cabinet Member(s) and the Leader of the Council	£100,000 or more.

- 3.2 All waivers and exemptions for contracts with an estimated value of £25,000 and more, and the reasons for them, must be detailed in the award report either to the appropriate Cabinet Member(s) or the Cabinet. The report must contain the comments of appropriate Chief Officer, the Executive Director of Finance & Corporate Governance, the *Commercial Director*, and the Director of Law.
- 3.3 Where a prior approval has not been obtained in accordance with CSO 3.1 the reason for non-compliance must be contained in the tender acceptance report.
- 3.4 Each Chief Officer shall take immediate action in the event of breach of these CSOs by reporting this breach to the *Commercial Director*. It will be the responsibility of the *Commercial Director* to determine the nature of the breach and if it is deemed to be serious (e.g. involving a Key Decision) to refer the matter to the *Director of Audit* for investigation with view to identifying the steps to be taken to avoid a reoccurrence.

4 RELEVANT CONTRACTS

- 4.1 All *Relevant Contracts* must comply with these CSOs and any statutory provisions.
- 4.2 A *Relevant Contract* is any arrangement made by, or on behalf of, the Council for the carrying out of work or for the supply of goods, materials or services. These include arrangements for:
- the supply or disposal of goods;
 - hire, rental or lease of goods or equipment;
 - execution of works;
 - the delivery of services, including those related to:
 - the recruitment of staff
 - land and property transactions
 - financial and consultancy services; and
 - concessions (services and/or works)
- 4.3 *Relevant Contracts* do not include contracts relating to:
- the employment of staff

- the engagement of Counsel, or
- the engagement of arbitrators, adjudicators or mediators in connection with construction related disputes.
- the acquisition, disposal, or transfer of land (for which Financial Regulations shall apply)
- the making of grants.

5 PREVENTION OF CORRUPTION

- 5.1 The *Officer* must comply with the *Code of Conduct* and the Council's anti-fraud and corruption strategy and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the *Officer* to prove that anything received was not received corruptly.
- 5.2 High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under the statutes referred to in 5.3.
- 5.3 The *Director of Law* shall ensure that all contract conditions contain robust terms that will allow the Council to terminate a contract where there has been acts relating to fraud, bribery, or corruption as defined under the Bribery Act 2010, and/or section 117(2) of the Local Government Act 1972; and/or have committed an act which is an offence under the Enterprise Act 2002

6 DECLARATION OF INTERESTS

- 6.1 If it comes to the knowledge of a member or an employee of the Council that a contract in which he or she has a pecuniary interest has been or is proposed to be entered into by the Council, he or she shall immediately give written notice to the Chief Executive. The Chief Executive shall report such declarations to the Cabinet or other appropriate committee.
- 6.2 Such written notice is required, irrespective of whether the pecuniary interest is direct or indirect. An indirect pecuniary interest is distinct from a direct pecuniary interest in as much as it is not a contract to which the member or employee is directly a party.
- 6.3 A shareholding in a body not exceeding a total nominal value of £1,000 or 1% of the nominal value of the issued share capital (whichever is the less) is not a pecuniary interest for the purposes of this CSO.
- 6.4 The Chief Executive shall maintain a record of all declarations of interests notified by members and Officers.
- 6.5 The Chief Executive shall ensure that the attention of all members is drawn to the National Code of Local Government Conduct.

Section 2

Preparing for tendering

7 PROCUREMENT PRINCIPLES

- 7.1 Unless otherwise agreed by the *Commercial Director*, all procurement exercises that have a competitive element will be undertaken using the Council's e-tender software.
- 7.2 Procurement are defined according to their pre-tender estimates as low value, medium value and high value as set out in *tables 10.2a-d* below
- 7.3 All procurement must be carried out in an open and transparent manner in accordance with *tables 10.2a-d* below. Where a procurement exercise is defined as being of either medium or high value the process shall be undertaken by a *Tender Appraisal Panel* to ensure that the Council receives value for money. Where the Regulations apply (high value tenders) all tendering exercises are to be considered on the most economically advantageous tender received based on pre-published quality and/or price ratio.
- 7.4 Any agreed Council or shared services Gateway review process must be applied to all relevant high value contracts.

8 STEPS PRIOR TO PURCHASE - DEVELOPING THE BUSINESS CASE: PRE-TENDER MARKET RESEARCH AND CONSULTATION

- 8.1 Where an existing contractual arrangement has been approved, no orders shall be placed with any other organisation or new contractual arrangements sought unless:
- (a) there is prior approval from the *Commercial Director* and there are reasonable grounds for doing so; or
 - (b) the contract itself needs to be renewed or
 - (c) an existing contractor or provider has defaulted on a contract. Where a contractor, provider or supplier defaults on a contract, any retention monies held under that contract could be used to raise an order with an alternative provider in the event of such failure.
- 8.2 Where paragraph 8.1 applies the Chief Officer must consider whether they intend to seek
- (a) a new contractual arrangement with an external provider or
 - (b) to provide, deliver and manage the service as an internal function.
- 8.3 Where it is necessary to carry out a tendering exercise, this may be either through -
- (a) calling off from a suitable framework agreement; or
 - (b) tendering for a contract or
 - (c) tendering for a framework agreement that the Council will call off from and is capable of being called off from by other public bodies.
- 8.4 Where 8.3(a) applies, and with the exception of framework agreements let by the Crown Commercial Service, the *Commercial Director* must be formally consulted where the recommendation is to award a contract through a framework agreement awarded by a *Central Purchasing Body*, or another public sector

organisation (e.g. local authority, government department, statutory undertaker or public service purchasing consortium). Before entering into a contract based upon an existing framework agreement or joining a consortium the *Officer* shall:

- (a) provide evidence to the *Commercial Director* that a full, open and proper competitive process has been (or will be) undertaken and that such process complies with all statutory requirements
- (b) consult with the Director of Law on the terms and conditions of the proposed contract to ensure that they do not compromise the Council's interests; and
- (c) comply with the terms of the framework agreement, including the carrying out of any further competition requirements contained in it (e.g. "mini-competition").

8.5 Before commissioning the procurement of a new contract or calling off from a pre-existing framework arrangement, an Officer must be satisfied that

- (a) consideration has been given to the requirements of the Public Services (Social Value) Act 2012 in order: (i) to secure wider social, economic and environmental benefits; and (ii) such an approach represents the most economically advantageous solution and can be entered into (without breaching the Regulations); and
- (b) take into consideration any relevant *Purchasing Guides* issued by the Council.

8.6 Establishing a Service Review Team & developing a Business Case

8.6.1 The precursor to any new procurement exercise (which requires a Key Decision) shall be carried out by a Service Review Team (SRT) established by the Client-side Director. The SRT will include the Contract Manager, client-side officers, relevant stakeholders, and engage relevant professional officers (including legal, finance, procurement, IT and HR). It will also commission additional expertise where this is warranted.

8.6.2 The SRT shall take responsibility for managing the requirements of this section dealing with pre-tender market research and consultation, and come to a decision as set out in 8.2.

8.6.3 In accordance with Regulation 84 the SRT must maintain records of all internal and external meetings that determine how the contract is to be packaged.

8.6.4 The SRT will take responsibility for all pre-procurement related activity including development of the Procurement Strategy & Business Case for procurement related exercises that require a Key Decision. (as set out below). The SRT will consider the procurement options detailed in 8.2 above.

8.6.5 The SRT in developing the procurement strategy contained in the Procurement Strategy & Business Case must consider the possibility of working with other boroughs or public bodies on either a regional³ or sub-regional basis⁴. Only where collaborative procurement is not an option will the SRT recommend procuring exclusively for the Council.

8.6.6 The SRT in developing its Business Case must take into consideration and make reference to the Council's policy requirements for ensuring compliance with the Public Services (Social Value) Act 2012 (as set out in 8.7 below).

³ Regionally means within Greater London (or wider – South Eastern England), and in this context any identifiable public bodies may be party to it.

⁴ Sub-regionally means public bodies predominately in central and western London

8.7 Public Services (Social Value) Act 2012

8.7.1 The Council has responsibilities under the 2012 Act to ensure compliance with its provisions. Those commissioning services must comply with the Council's Social Value Policy outcomes that seek to deliver :

- More opportunities for local micro-businesses, local small and medium sized enterprises and local third sector organisations; and/or
- More employment and training opportunities for local residents

8.7.2 For works, supply and concession related contracts the principles set out in the 2012 Act must be considered.

8.7.3 Before any procurement process is started, commissioners should think about whether the services they are going to buy, or the way they are going to buy them, could secure these benefits for their area or stakeholders

8.8 Preliminary market consultations and soft-market testing

8.8.1 Regulations 40 and 41 allow the Council to seek the views of the market in order to prepare technical specifications and contractual terms and conditions. Consequently the officers responsible for the purchase:

- may consult potential suppliers prior to the issue of the Invitation to Tender in general terms about the nature, level, broad estimated value and standard of the supply, contract packaging and other relevant matters provided this does not prejudice any potential *Candidate*, and
- may, where an existing contract exists, obtain from the current service provider information on service delivery aspects.

8.8.2 Where technical advice on the preparation of contract documentation is sought from any organisation or person(s) who may have a commercial interest in bidding, arrangements must be put in place so not as to prejudice the outcome by distorting competition and/or compromising the equal treatment of all potential Candidates. Where there is the likelihood that the process may be distorted or compromised then advice from the Commercial Director and the Director of Law must be sought. All advice received whether on a verbal or written basis must be recorded in accordance with section 18 below.

8.8.3 Only where consultation referred to above is initiated through the publication of a Prior Information Notice in OJEU, the Council's e-sourcing tool "capitalEsourcing" must be used.

8.9 Contract packaging – consideration of letting lots.

8.9.1 In accordance with Regulation 46 the Council may decide to divide the procurement exercise into separate lots. However, where the decision of the Council is not to subdivide into lots that decision must be recorded in

- (a) the Regulation 84 Report if the estimated threshold equals or exceeds the financial thresholds defined in the Regulations; and/or
- (b) the Procurement Strategy & Business Case.

8.9.2 However, the consideration must not be to enter into separate contracts, nor select a method of calculating the Total Value, in order to avoid the requirements of the Regulations or to minimise the application of these CSOs (otherwise known as disaggregation).

8.10 Standards & award criteria

8.10.1 The SRT must ascertain what are the relevant European or international standards (may be referenced to a corresponding British standard) which apply to the subject matter of the contract. Such standards must comply with Regulation 42. The SRT must conclude those standards that are necessary

properly to describe the required quality. For all high value tenders, the *Commercial Director* must be formally consulted if the SRT decides to use any standard that does not include a European standard.

- 8.10.2 The SRT in developing the Procurement Strategy & Business Case is responsible for ensuring the optimum combination of whole life cost and quality.
- 8.10.3 In accordance with the Regulations all award criteria and sub-criteria relating to the award must be clearly published. The award must only be made using the published criteria and sub-criteria. All levels of criteria may refer only to relevant considerations. These may include: price; quality of service; quality of goods; whole-life running costs; whole life cycle costs; technical merit; delivery date; cost effectiveness; quality; relevant environmental considerations; aesthetic and functional characteristics (including security and control features); safety; after-sales services; technical assistance; partnering arrangements; long-term relationships, and any other relevant matter.
- 8.10.4 Award Criteria & sub-criteria must be designed to secure an outcome giving best value for money for the Council. The Award Criteria must not include:
- (a) *Non-commercial* considerations
 - (b) matters which discriminate against suppliers from the European Economic Area or signatories to the Government Procurement Agreement
 - (c) matters which, as defined by statute, are defined as being anti-competitive.
- 8.10.5 The SRT in developing the Procurement Strategy & Business Case needs to consider special conditions relating to the performance of a contract in accordance with Regulation 70. These may include economic, innovation-related, environmental, social or employment-related considerations.

8.11 Procurement strategy and business case

- 8.11.1 For all contracts with an estimated value of £100,000 or greater Chief Officers, acting on advice from the SRT, are required to develop a Business Case for the forthcoming procurement. The Procurement Strategy & Business Case must address the following matters –
- (a) The service delivery options as set out in 8.2, having considered what procurement method is most likely to achieve the purchasing objectives, including:
 - (i) internal provision (“make decision”); or
 - (ii) external sourcing (“buy decision”); and/or
 - (iii) collaboration (including shared services) with other purchasers, partnering and long-term relationships; and/or
 - (iv) the use of a framework agreement already let by the Council or a framework agreement let by another Central Purchasing Body and which has been awarded on the basis that it can be used by others in particular the Council;
 - (b) appraise the need for the expenditure and its priority
 - (c) the estimated value is a true reflection of the proposed contract value (it must not be over or under inflated as a means of avoiding the requirements of either or both the Regulations or these CSOs);
 - (d) consultation undertaken with service users (as may be appropriate) about the proposed procurement method, contract standards, and also performance and user satisfaction monitoring
 - (e) consider whether it is a “regulated procurement” (as defined by the Regulations) and the proposed/appropriate procurement process, namely:
 - (i) Open; or
 - (ii) Restricted; or

- (iii) Light touch arrangement (applicable only to “Social & other specified services); or
 - (iv) Competitive Dialogue; or
 - (v) Competitive Procedure with Negotiation; or
 - (vi) Innovation Partnership; or
 - (vii) Use of the negotiated procedure without prior publication (direct award); and
- whether this is likely to include an electronic (reverse) auction (but only where (i), (ii) or (v) above have been chosen);
- (f) the outcome of preliminary market consultations (soft market testing) aimed at ensuring the draft specification and the terms & conditions are achievable at realistic costs to the Council.
 - (g) details of the main provisions contained in the draft specification;
 - (h) identify any significant variations to the Council’s standard terms and conditions;
 - (i) the evaluation criteria to be used and the reasoning for the recommendation;
 - (j) take into account any procurement guidance issued by the Procurement Strategy Board, and/or the Commercial Director, and/or the Chief Executive (or any other officer he/she nominates);
 - (k) how the proposed tender documents meet the statutory requirements contained in the Public Services (Social Value) Act 2012 for service contracts and how the same principles may be applied to other contract types (works, supplies and concessions). The Act requires the Council to consider how it can also secure wider social, economic and environmental benefits for the community; and
 - (l) define the objectives of the purchase and, where appropriate, ensure that they meet the requirements of the approved Business;
 - (m) consider, where it is appropriate, the Council’s responsibilities under the Civil Contingency Act in terms of potential emergencies and the continuity of high priority services
 - (n) other statutory legislation relating to the contract.

8.12 Procurement Strategy & Business case approval

- 8.12.1 Except as set out in 8.12.4 below, all Procurement Strategies and Business Cases where the estimated value is £100,000 or greater must be approved by the Cabinet prior to the commencement of any tendering exercise and agreed as a Key Decision.
- 8.12.2 Cabinet reports relating to a Procurement Strategy & Business Case will also set out
- the frequency of interim reports to relevant Cabinet Member(s) on the procurement process (if any); and
 - whether the contract award is reserved for the Cabinet or delegated to the relevant Cabinet Member(s)
- 8.12.3 The *Commercial Director’s* specific agreement must be contained in the Procurement Strategy & Business Case where it is the intention to
- (a) create a framework agreement that other public sector organisations may call off from; and/or
 - (b) use any arrangement other than the open, restricted or light touch procedure (as set out in 8.11.1(e) above).
- 8.12.4 The exception referred to in 8.12.1 above relates to the award of contracts for expenditure in connection with the Council’s obligations under the Local

Government Pension Scheme which are reserved for the Audit Pensions and Standards Committee who will be responsible for approving all Procurement Strategies and Business Cases.

SECTION 3

Starting the procurement phase

9 PROCUREMENT PROCESS

9.1 Establishing a Tender Appraisal Panel

- 9.1.1 Where a competitive tendering exercise is to be undertaken and the estimated value exceeds the Key Decision threshold a *Tender Appraisal Panel (TAP)* shall be established to take responsibility for managing all aspects of the procurement process.
- 9.1.2 The TAP may be similar in its composition to that of the SRT. It will ensure that the procurement exercise is managed in accordance with existing legislative requirements and the Procurement Strategy & Business Case that has been approved by the Cabinet. Its roles include signing off all final documentation required to undertake a procurement exercise, including evaluations at qualification and/or award stages.
- 9.1.3 The TAP will be chaired by a senior service manager in the client department (or where there are several departments involved, in the department with the highest spend), with a senior sponsor, and include relevant stakeholders (e.g. contract manager). It will consult and engage relevant professional officers in legal, finance, procurement, IT and HR. It will also commission additional expertise where this is warranted. It will be responsible for
- (a) ensuring a contract is put in place in accordance with legal requirements,
 - (b) that it meets required deadlines and service requirements,
 - (c) represents value for money, and
 - (d) it meets the agreed objectives set out in the Procurement Strategy & Business Case.
- 9.1.4 In most instances the TAP will identify and appoint a Project Officer who will be responsible for the day to day running of the procurement exercise. The Project Officer will be a member of the TAP.
- 9.1.5 Before beginning the tendering process, the Project Officer responsible for it must, in a manner commensurate with the complexity and value of the project:
- (a) act on the agreed recommendations set out in the agreed Procurement Strategy & Business Case
 - (b) ensure that there is an estimating process which sets out the initial project estimate, revised estimates and tender estimate being a necessary part of the tender comparison and competitiveness evaluation. Such estimates must reflect current or expected market values and must not be over or under inflated as a means of avoiding the requirements of either or both the Regulations or these CSOs.
 - (c) take into account any procurement guidance issued by the Procurement Strategy Board and/or the Chief Executive (or any other officer he/she nominates).
 - (d) assess the risks associated with the purchase and how to manage them
 - (e) have due regard to the Council's responsibilities under the Public Services (Social Value) Act 2012 and Public Sector Equality Duty arising from the Equality Act 2010 and other relevant legislation;

and confirm that:

- (f) there is Cabinet, Cabinet Member or delegated approval for the expenditure in accordance with *Financial Regulations*; and
- (g) for non-procurement related issues the appropriate approvals, for example, those found in *Financial Regulations* have been complied with.

9.1.6 The TAP shall appoint from its ranks the appropriate professional officers (and in most instances this will include the Project Officer) to evaluate expressions of interest or tenders received. These professional officers will individually score the submissions received and award marks (where appropriate) against the pre-published criteria set out in the Procurement Strategy & Business Case. Only those officers that are qualified to evaluate expressions of interest or tender submissions may be invited to do so. The TAP⁵ will then consider these individual scores and shall arrive at and agree a consensus score for all criteria. The TAP shall not adopt, as a methodology, an average scoring arrangement.

9.1.7 The TAP will keep accurate records of all meetings, retain appropriate documentation and maintain proper records for transparency and audit purposes as set out in Regulation 84 (where applicable) and CSO 18.

9.1.8 The TAP will undertake post project reviews where required. It will implement any corporate or shared service requirements including supporting arrangements around any agreed approval processes and participating in any audits.

10 PROCESS, ADVERTISING AND APPROVED LISTS

10.1 The Regulations require that at the point of advertising the opportunity full disclosure of all contract documents are provided (e.g. specification, terms & conditions, form of tender, & etc).

10.2 Officers will use the methods for selecting potential bidders for either quotations or tenders as set out below in the relevant tables. The following thresholds are based upon the Regulations, and all process (including call-offs from frameworks) must be run through the Council’s e-tendering system–

table 10.2a

Requirements for “Supply and Service” Contracts (excluding “Social and Other Specific Services)		
Low value Below £25,000	Medium value £25,000 – to below £164,176	High value £164,176 and greater
Minimal competition requirements. Under £5,000 a single quotation otherwise three quotations. Preference to scouring from local providers.	Framework agreements to be considered, otherwise seek public quotations using the e-tendering system and the Government’s “Contracts Finder” portal (No pre-qualification questions permitted)	Use of an existing framework agreement; or Contract Notice to appear in the <i>Official Journal of the European Union</i> , an opportunity listing on the e-tendering system webpage and publication of a Contract Notice in “Contracts Finder”.

⁵ Not the Project Officer acting in an individual capacity

table 10.2b

Requirements for “Social and Other Specific Services”		
Low value Below £25,000	Medium value £25,000 – to below £589,148	High value £589,148 and greater
<p>Minimal competition requirements.</p> <p>Under £5,000 a single quotation otherwise three quotations. Preference to scouring from local providers.</p> <p>Other approved systems may also be used (such as Framework-i).</p>	<p>In the first instance, call-offs from existing framework agreements to be considered.</p> <p>Otherwise seek public quotations using the e-tendering system and the Government’s “Contracts Finder” portal</p>	<p>Use of an existing framework agreement; or</p> <p>Contract Notice to appear in the <i>Official Journal of the European Union</i>, an opportunity listing on the e-tendering system webpage and publication of a Contract Notice in “Contracts Finder”.</p>

table 10.2c

Requirements for Works & Construction related matters - Civic & educational establishments		
Low value Below £250,000	Medium value £250,000 – to below £4,104,394	High value £4,104,394 and greater
<p>For works to civic buildings orders to be placed through the TFM contract (up to £250,000)</p> <p>For works to educational buildings orders to be placed through either the contract with 3BM Ltd or the contract with Amey Community Ltd (TFM contract - up to £250,000)</p> <p><i>or (if not appropriate)</i></p> <p>the use of a suitable framework agreement;</p> <p><i>or (if not appropriate)</i></p> <p>Opportunity listing on the e-tendering system webpage and publication of a Contract Notice in “Contracts Finder”</p>	<p>In the first instance, call-offs from existing framework agreements to be considered.</p> <p>Otherwise an opportunity listing on the e-tendering system webpage and publication of a Contract Notice in “Contracts Finder”</p>	<p>Use of an existing framework agreement; or</p> <p>Contract Notice to appear in the <i>Official Journal of the European Union</i>, an opportunity listing on the e-tendering system webpage and publication of a Contract Notice in “Contracts Finder”.</p>

table 10.2d

Requirements for Works & Construction related matters - Housing estates & properties		
Low value Below £250,000	Medium value £250,000 – to below £4,104,394	High value £4,104,394 and greater
<p>For HRA properties orders to be placed through Housing Repairs & Maintenance Contract.</p> <p><i>or (if not appropriate)</i></p> <p>the use of a suitable framework agreement;</p> <p><i>or (if not appropriate)</i></p> <p>Opportunity listing on the e-tendering system webpage and publication of a Contract Notice in “Contracts Finder”</p>	<p>For HRA properties orders to be placed through Housing Repairs & Maintenance Contract</p> <p>Otherwise an opportunity listing on the e-tendering system webpage and publication of a Contract Notice in “Contracts Finder”</p>	<p>Use of an existing framework agreement; or</p> <p>Contract Notice to appear in the <i>Official Journal of the European Union</i>, an opportunity listing on the e-tendering system webpage and publication of a Contract Notice in “Contracts Finder”.</p>

- 10.3 Chapter 3 of the Regulations relating to “Social and Other Specific Services” is subject to a “light touch” regime. The headline services are set out in the Appendix (definitions).
- 10.4 All procurements must be managed using the e-tendering portal. In the absence of a call-off from an appropriate framework agreement an opportunity listing or a contract notice is to be published on the UK Government’s Contracts Finder Portal, the shared services “capitalEsourcing” Portal (or any other Portal that the Council may from time to time use). Publication may also be required in the OJEU and depending upon its complexity the TAP may also recommend placing a notice in a trade journal.
- 10.5 Where there is a statutory requirement for a Contract Notice to be published in OJEU the Regulations set out strict requirements when other publications within England & Wales (as set out in Regulation 52) may appear, one of which is a listing on the Contracts Finder website.
- 10.6 For all other projects having a value of £25,000 or greater but below the appropriate threshold there is a second statutory requirement to ensure that an opportunity listing is sent for publication in Contracts Finder within 24 hours of it appearing in other media (as set out in Regulation 110).
- 10.7 The TAP and appropriate Chief Officer shall be responsible for ensuring that all persons or bodies invited to tender for the supply of goods, services or works to the Council have been suitably assessed and meet the Government’s standards as defined by the Regulations.

- 10.8 An open process (no pre-qualification) must be used for projects where the estimated value is £25,000 or greater but less than £164,176.
- 10.9 For recurring low & medium value procurements Chief Officers may consider establishing an Approved List or Dynamic Purchasing System subject to approval from the Commercial Director.
- 10.10 Except for out of hours purchases or minor expenses, no telephone orders are to be placed for goods, works or services, unless otherwise agreed by the *Commercial Director*. For most low value expenditure, and in order to reduce maverick spend, officers are required to raise a purchase order to be placed through the Council's e-Procurement system (or other approved specialist order system).
- 11 COMPETITION REQUIREMENTS FOR PURCHASE, DISPOSAL AND PARTNERSHIP ARRANGEMENTS**
- 11.1 The *Officer* must calculate the estimated *Total Value*. The following procedures apply where there are no other procedures that take precedence. Other procedures may include agency/framework agreements with other public sector organisations (e.g. *Crown Commercial Services*). If in doubt, *Officers* must seek, in writing, the formal advice of the *Commercial Director*.
- 11.2 With the exception outlined in CSO 11.3, the purchasing/competition requirements are set out in table 11.2 (except where a *Framework Agreement, shared service or collaborative procurement is being considered*): where the *Total Value* for a purchase falls within the values in the first column below, the *Award Procedure* in the second column must be followed. Shortlisting shall be approved by the persons specified in the third column.

table 11.2

Maximum Total estimated Value	Competition requirement (in the absence of using a framework agreement or other pre-selection arrangement).	Shortlisting
Under £5,000	One Quotation (confirmed in writing using a designated electronic system), although the duty to obtain value for money still remains.	Not applicable
£5,000 to below £25,000	Invitation to Quote (a minimum of 3 written quotations should be sought ⁶ using a designated electronic system),	Not applicable
£25,000 to below £100,000	Invitation to Quote. A minimum of 3 written quotations (or tenders) should be sought (using a designated electronic system). Where advertised using Contracts Finder no pre-qualification permitted, open invitation through the Council's e-tendering system.	Not applicable
£100,000. or more but less than £164,176	No pre-qualification, open invitation through Contracts Finder portal using the Council's e-tendering system.	TAP

⁶ If less than 3 quotations are to be obtained prior approval to the suspension of the requirement must be obtained in accordance with section 3 on waivers and exemptions.

Maximum Total estimated Value	Competition requirement (in the absence of using a framework agreement or other pre-selection arrangement).	Shortlisting
£164,176 or greater	Invitation to Tender as set out in CSO 13. A minimum of 5 tenders should be sought, if the <i>Restricted Procedure</i> is used	TAP

- 11.3 The exception referred to in CSO 11.2 relates to the award of contracts relating to expenditure in connection with the Council's obligations under the Local Government Pension Scheme which are reserved for the Audit Pensions and Standards Committee.
- 11.4 Where no pre-existing disposal arrangements are in place (or have been agreed, disposals of assets must be carried out in accordance with Financial Regulations. Usually this will involve the relevant items being sent to public auction (and in most instances contain a reserve value placed on them), except where better value for money is likely to be obtained by inviting Quotations and Tenders. In the latter event, the method of disposal of surplus or obsolete stocks/stores or assets other than land must be formally agreed with the Executive Director of Finance & Corporate Governance.
- 11.5 Providing services to external public sector purchasers must be in compliance with the Local Authorities (Goods and Services) Act 1970 and/or the Local Government Act 2003. Cabinet Member approval must be sought for the provision of services to other public bodies where the value is in excess of £100,000, and a recommendation from Cabinet to the Council is needed for approval to develop a business case for trading with the private sector.
- 11.6 *Best Value* and partnership arrangements are subject to all UK and EU procurement legislation and must follow these CSOs. If in doubt, *Officers* must seek the formal advice of the *Commercial Director* in writing.

12 SHORTLISTING

- 12.1 Shortlisting of candidates applies where (a) expressions of interest have been sought using either the Restricted, or Light Touch, or Competitive Procedure with Negotiation or Competitive Dialogue procedure; or (b) a call-off from a framework agreement is being considered where there are multiple providers.
- 12.2 Pre-qualification arrangements for projects with an estimated value above £164,176 using the Restricted Procedure should be based upon statutory guidance from the Cabinet Office. It normally forms the first part of a two stage procurement process (the information to be sought is always "backward looking"). Information sought at pre-qualification cannot be re-sought (or re-used) at tendering stage. Officers must provide to all applicants a clear & transparent methodology on the selection criteria to be used.
- 12.3 The *Officers* responsible for *Shortlisting* are specified in the table 11.2.
- 12.4 *Shortlisting of Candidates* to be invited to tender must comply with (a) any instructions issued with the pre-qualification questionnaire or (b) the terms of any framework agreement which the Council intends to call off from.
- 12.5 Where pre-qualification is used as a means of selecting the tender list, the shortlisting requirements must comply with the Regulations for all Works, Supply

and Service contracts where the estimated value is above £164,176. For all projects where the estimated value is below the £164,176 threshold no pre-qualification process is permitted.

- 12.6 In accordance with 9.1.6 above the TAP shall arrive at a consensus decision on which candidates to invite to tender.

13 INVITATIONS TO TENDER/QUOTATIONS

13.1 Where a contract is to be awarded on the basis of the *most economically advantageous tender*, tenderers will be informed of the evaluation model and award criteria in the “Invitation to Tenderers” and the subsequent evaluations must be carried out in accordance with them.

13.2 The *Invitation to Tender* shall state that no *Tender* will be considered unless it is received by the date and time stipulated in the *Invitation to Tender*. No *Tender* delivered in contravention of this clause shall be considered.

13.3 All Invitations to Tender shall include the following:

- a) A specification that describes the Council’s requirements in sufficient detail to enable the submission of competitive offers, along with the contractual terms and conditions.
- b) A requirement for tenderers to declare that the tender content, price or any other figure or particulars concerning the *Tender* have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for the purpose of complying with tendering requirements)
- c) A requirement for tenderers to complete fully and sign all tender documents including a form of tender and certificates relating to canvassing and non-collusion. The *Commercial Director* shall agree the appropriate protocols to be used where a tendering exercise is being undertaken using an e-tendering arrangement.
- d) Notification that tenders are submitted to the Council on the basis that they are compiled at the Candidate’s expense.
- e) A description of the *Award Procedure* and, unless defined in a the Contract Notice or other prior advertisement, a definition of the *Award Criteria* in objective terms (including the appropriate weightings)

13.4 The Invitation to Tender or Quotation must state that the Council is not bound to accept any Quotation or Tender.

13.5 All Candidates invited to Tender or quote must: (a) be issued with the same information, (b) at the same time and (c) subject to the same conditions. Any supplementary information must be given on the same basis.

14 SUBMISSION, RECEIPT AND OPENING OF TENDERS

14.1 **Period for Candidates’ response:** *Candidates* invited to respond must be given an adequate period in which to prepare and submit a proper *Quotation or Tender*, consistent with the complexity and/or urgency of the contract requirement. When using the *Restricted Procedure*, Regulation 28 (7) & (8) sets out a statutory period of 30 days for receipt of tenders, although this may be reduced subject to agreement with the tenderers to not less than 10 days.

14.2 Unless otherwise agreed by the *Commercial Director*, all *quotations and tenders* must be received through the Council’s *e-tendering* system (the rules for the

return of paper based quotations and tenders will be determined on an individual basis by the *Commercial Director*).

- 14.3 The *Commercial Director* will be responsible for the opening of all tenders and quotations that have been submitted electronically through the e-tendering system. Only those exceptional tenders that are submitted on paper and have an estimated value in excess of the *EU Threshold* for Supply & Services contracts will be directed to the Mayor's Office to be opened by the Mayor, Deputy Mayor or Chief Whip.
- 14.4 Any quotation or tender received after the date and time for its return cannot and must not be accepted. Late tenderers will be advised that their tender has been rejected because it was received after the date and time scheduled for its return.
- 14.5 The *Officer* must not disclose the names of *Candidates* to any staff not involved in the receipt, custody or opening of *Tenders*.
- 14.6 The electronic opening of tenders shall be carried out by the person appointed by the *Commercial Director* in the presence of an independent client-side witness.

15 CLARIFICATION PROCEDURES AND POST-TENDER NEGOTIATION

- 15.1 Providing clarification of an *Invitation to Tender* to potential or actual *Candidates*, or seeking clarification of a *Tender*, whether in writing or by way of a meeting, is permitted.
- 15.2 In particular post-tender negotiation must not be conducted in an *EU Procedure* where this might distort competition, especially with regard to price. Such negotiation is not permitted under the Regulations. However, Officers (under instructions from a TAP) may seek clarifications from tenderers.
- 15.3 Post-tender clarification must only be conducted in accordance with the guidance issued by the *Commercial Director* and the Director of Law, both of whom who must also be consulted wherever it is proposed to enter into such post-tender clarifications.
- 15.4 Where tenders are received above the approved budget, *the Officer* may consider adjusting the specification and *the Candidates* may be asked to re-cost based on an amended specification in order, to bring the cost within budget. However, where it is identified that there needs to be a fundamental change to the specification (or contract terms), the contract must not be awarded but retendered in accordance with the Regulations.

16 EVALUATION AND AWARD OF CONTRACTS

- 16.1 In accordance with 9.1.6 above the TAP will take responsibility for the evaluation of all tenders received and the arrival of the final consensus scores.
- 16.2 In accordance with statutory requirements contained in the Regulations, the confidentiality of *Quotations*, *Tenders* and the identity of *Candidates* must be preserved at all times, and information about one *Candidate's* response must not be given to another *Candidate*. Where questions are received prior to the return of tenders, then the Project Officer shall anonymise both the question(s) and response(s) and forward to all tenderers for information, unless the questions are tenderer-specific.
- 16.3 In accordance with 13.1 above. where a contract is to be awarded on the basis of the *most economically advantageous tender* received, the evaluations must be

carried out in accordance with the pre-published evaluation model and award criteria.

- 16.4 Regulation 56(4) provides the Council with discretion to accept tenders that appear to be incomplete or erroneous or where specific documents are missing. These omissions and or errors **must** be resolved in order to evaluate all tenders on an equal and transparent basis
- 16.5 The arithmetic in compliant *Tenders* must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested explain the discrepancy. Such a discrepancy may, in certain circumstances, be acceptable under Regulation 56, otherwise the tender must be required to confirm or withdraw their tender . Alternatively, if the rates in the *Tender*, rather than the overall price, were stated within the *Invitation to Tender* as being dominant, an amended *Tender* price may be requested to accord with the rates given by the tenderer.
- 16.6 The Council has a statutory duty under Regulation 69 to investigate any tender that appears to be abnormally low. Where the tender recommended for acceptance is more than 15% below the budget a report to the Cabinet Member shall be required explaining the reasons for the difference and confirm that the contractor has provided written confirmation that they are able to fulfil the contract for their tendered sum.
- 16.7 *Chief Officers* shall ensure that submitted tender prices or rates are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily. Details of correspondence needs to be kept on the project file, and this information needs to be recorded in decision award reports (to Chief Officers, Cabinet Member Decisions or Cabinet Reports).
- 16.8 As soon as possible after the contract has been awarded the Council must send a contract award notice to the *Official Journal of the European Union*. In accordance with the Regulations this must be done within 30 days. The only exception is any contract that is below the EU threshold.

17 CONTRACT AWARD

17.1 Below £25,000

- 17.1.1 Where the value of the contract is below £25,000 the award decision shall be taken by the Chief Officer.

17.2 £25,000 to below £100,000

- 17.2.1 Where the value of the contract is £25,000 but below £100,000 the award decision shall be taken by the appropriate Cabinet Member.

17.3 £100,000 to below £5,000,000

- 17.3.1 In normal circumstances and where (a) the actual contract value is less than £5,000,000; and (b) falls within or is within a 10% tolerance of the estimated value set out in the Procurement Strategy & Business Case, the award decision will be delegated to the appropriate Cabinet Member(s).
- 17.3.2 Where 17.3.1 (b) does not apply the award decision is reserved for the Cabinet.
- 17.3.3 In 17.3.1 the term “normal circumstances” means an automatic delegation unless the Cabinet decide that they wish to reserve the award decision to the Cabinet.

17.4 £5,000,000 or greater

- 17.4.1 Where the value of the contract is £5,000,000 or greater the award decision shall be taken by the Cabinet.

18 RECORDS AND DEBRIEFING CANDIDATES

18.1 Regulated procurements

- 18.1.1 The Regulations 83 & 84 provides a statutory framework for the retention of contract documentation and a requirement to develop a contemporaneous report detailing the decisions taken during all procurement processes above the thresholds.

18.2 Unregulated procurements

- 18.2.1 Where the *total value* is less than £25,000, it is a requirement that the following documents must be kept:

- invitations to quote and Quotations received
- a written record of:
 - any exemptions which apply and reasons for them
 - the reason, if the lowest price is not accepted
 - all communications with the successful *Candidate*.

- 18.2.2 Where the *total value* is £25,000 or greater but below the statutory thresholds in Part 2 of the Regulation, the *Officer* is encouraged to record, where applicable, the following information -

- pre-tender market research (if any)
- the subject-matter and value of the contract, framework agreement or dynamic purchasing system;
- where applicable, the results of the qualitative selection and reduction of numbers
 - the names of the selected candidates or tenderers and the reasons for their selection;
 - the names of the rejected candidates or tenderers and the reasons for their rejection;
- the name of the successful tenderer and the reasons why its tender was selected and, where known—
 - the share (if any) of the contract or framework agreement which the successful tenderer intends to subcontract to third parties, and
 - the names of the main contractor's subcontractors (if any);
- where applicable, the reasons why the contracting authority has decided not to award a contract or framework agreement or to establish a dynamic purchasing system;
- where applicable, the reasons why means of communication other than electronic means have been used for the submission of tenders;
- where applicable, conflicts of interests detected and subsequent measures taken.
- clarification (and where appropriate post-tender negotiation) (to include minutes of meetings)
- the contract documents
- post-contract evaluation and monitoring
- written records of communications with *Candidates* and with the successful *Candidate(s)*.

18.3 Record retention – both Regulated and Unregulated procurements

18.3.1 Written records required by this CSO must be kept for six years (12 years if the contract is under seal) after the final settlement of the contract.

18.3.2 Documents which relate to unsuccessful *Candidates* should be kept for a minimum period of 12 months, provided there is no dispute about the award (these may be microfilmed or electronically scanned or stored by some other suitable method).

18.4 Debriefing of candidates – Regulated procurements

18.4.1 Where a tendering exercise is regulated by the provisions of the Regulations *Candidates* must be simultaneously notified (in writing) and as soon as possible after any decision has been made in connection with their exclusion from the process or the outcome of the award decision is known. The process is set out in Regulation 55 and must be strictly adhered to.

18.4.2 Where the Council has applied a quality-price award criteria it has a statutory duty to inform the unsuccessful candidates of the relative advantages of the successful tenderer. This is usually carried out as part of the statutory cooling-off period after the award decision has been made. For tenders that are subject to the Regulations there are strict rules that the Council must comply with and advice on their application must be sought from the *Commercial Director* and/or the *Director of Law*.

18.4.3 The process shall be communicated in writing only and at no time will any officer of the Council be engaged in a verbal debrief with the unsuccessful candidates.

18.5 Debriefing of candidates – Unregulated procurements

18.5.1 Where a tendering exercise is not regulated by the Regulations and where a *Candidate* requests in writing the reasons for a *Contracting Decision*, the Officer must give the reasons in writing within 15 working days of the request

18.6 Contracts Register

18.6.1 All contracts that have a value of £5,000 or greater must be published in the Council's Contracts Register in accordance with the Transparency Regulations 2015 and the Local Government Transparency Code 2015 published by the Department for Communities & Local Government.

SECTION 4

Documentation & other formalities

19 CONTRACT DOCUMENTS

19.1 All *Relevant Contracts* shall be in writing, and in a format approved by the *Director of Law*.

19.2 All *Relevant Contracts*, irrespective of value, shall clearly specify:

- the works, goods, materials or services to be carried out, furnished or provided (description and quality)
- the price or rates to be paid, together with a statement of any discounts or other deductions (amount and timing) which apply, and
- the time, or times, within which the contract is to be performed
- all other contractual terms, which will be based upon:
 - the Council's standard terms & conditions (for quotations); or

- standard terms and conditions issued by a relevant professional body (e.g. JCT or NEC in relation to construction related works); or
- bespoke terms & conditions drafted by the Director of Law.

19.3 In addition, every Relevant Contract of purchase over £50,000 must also as a minimum state clearly:

- that the contractor may not assign or sub-contract without prior written consent of a Chief Officer (and where it is a “sub-contract”, written consent of a contract administrator)
- any insurance requirements
- health and safety requirements
- ombudsman requirements
- Freedom of Information Act obligations
- Civil Contingencies Act 2004 requirements
- data protection requirements, if relevant
- that charter standards are to be met, if relevant
- equalities and other diversity related requirements
- (where agents are used to let contracts) that agents must comply with the Council’s CSOs relating to contracts
- a right of access to relevant documentation and records of the contractor for monitoring and audit purposes, if relevant.

19.4 Where it is proposed to use a supplier’s own terms, the agreement of the Director of Law must be sought in relation to any terms and conditions which differ from the Council’s standard terms.

19.5 Contract formalities

19.5.1 Contracts and agreements shall be entered into in accordance with the following table - table 19.5.1 - (subject to delegated financial limits)

table 19.5.1

Contract value or notional value attached to the agreement	Procedure
Below £50,000	Contract or agreement to be signed by the <i>Officer’s</i> Line Manager, providing there is delegated authority from their Chief Officer, otherwise to follow the procedure below.
£50,000 and above but below £100,000	Contract or agreement to be signed by the Chief Officer (or their nominated deputy in accordance with CSO 2.3), otherwise to follow the procedure below.
£100,000 and above	Contract or agreement to be executed by the Director of Law as a Deed and stored by Legal.

19.5.2 Where:

- (a) for operational reasons a Chief Officer considers it appropriate for a contract or agreement to be entered into on the basis of a Deed; or
- (b) the price paid or received under the contract is a nominal price and does not reflect the value of the goods or services; or
- (c) where there is any doubt about the authority of the person signing for the other contracting party

the Director of Law will arrange for the document to be sealed on behalf of the Council.

19.5.3 The person responsible for executing a contract or agreement must ensure that the person(s) signing it on behalf of the contractor, supplier or service provider is empowered to do so.

- 19.5.4 The execution of a contract as a Deed shall be carried out by the Director of Law on behalf of the Council and by the Contractor in accordance with the relevant legal provisions. The Council's seal must not be affixed without the authority of the Cabinet (or Cabinet Member or Chief Officer acting under delegated powers).
- 19.5.5 For all contracts where the actual contract value is £100,000 or more, the relevant contract documentation must be concluded (including the formal exchange of contracts) before its commencement. In exceptional circumstances, and then only with the written consent of the *Director of Law*, may a contract commence on the basis of an exchange of correspondence.

20 MODIFICATION TO CONTRACTS

- 20.1 Any reports that seek variations to either a Regulated or Unregulated contract that equates to a proposed change in value of +/-10% or more if it relates to a service or supply function or +/-15% in respect of works must be referred to the Director of Law and the Commercial Director.
- 20.2 Where a modification or variation to a contract is to be made that will not have service delivery impacts to users or residents then this may be agreed by a Chief Officer providing that there are no increased costs to the contractual value.
- 20.3 Where there will be an increase in the contract value then the decision is reserved to the
- (a) relevant Chief Officer where the total value of variation or variations is below £25,000 (subject to appropriate budgetary provision);
 - (b) relevant Cabinet Member where the total value of the variation or variations is £25,000 or greater but does not exceed £100,000 (subject to appropriate budgetary provision); or
 - (c) the Cabinet where the total value of the variation or variations is £100,000 or greater.
- 20.3.1 Regulated contracts**
- 20.3.2 For contracts to which Part 2 of the Regulations apply (those above the statutory thresholds) any modifications may only be made in accordance with Regulation 72.
- 20.3.3 Unregulated contracts**
- 20.3.4 Modification to contracts to which Part 4 of the Regulations apply (those below the statutory threshold) may be considered in exceptional circumstances, but only where the modification or successive modifications do not increase the total contract value so that it exceeds the statutory thresholds. Regulation 72 may be used as a guide in determining whether or not to modify these contracts.
- 20.3.5 Where minor variations are required to construction or highways related works that are covered by contingency sums within a contract sum they may be authorised by a Chief Officer subject to compliance with Financial Regulations.
- 20.4 Contract termination provisions**
- 20.4.1 Where there is a requirement to prematurely terminate a contract (or part of a contract) the decision shall be made by
- (a) The Executive Director where the contract value is less than £25,000
 - (b) The appropriate Cabinet Member where the contract value is £25,000 or greater but less than £100,000
 - (c) The Cabinet where the value is £100,000 or greater.

21 PARENT COMPANY GUARANTEES AND BONDS.

- 21.1 Where a *Candidate* is a subsidiary of a parent company, and:
- there is some concern about the stability of the Candidate; and/or
 - the Total Value exceeds £250,000, and/or
 - award is based on evaluation of the parent company,
- the *Officer* must consult the Executive Director of Finance & Corporate Governance about the use a *Parent Company Guarantee*.
- 21.2 There is no requirement for the *officer* to obtain a *Bond* from a *Candidate*. The Council will self-insure all contracts where significant risks are identified to 10% of the *Total Value*.

SECTION 5

Special procedures

22 ENERGY PROCUREMENT

- 22.1 Due to the volatility of the energy market, prices of electricity, gas, oil & petroleum fluctuate on a daily basis and the sums quoted require immediate acceptance. In order to achieve the best value for the Council all decisions relating to energy procurement including the award and/or the variation of contracts may be approved by the Executive Director of Finance & Corporate Governance and the Director for Building & Property Management. All decisions relating to the award of or variation of energy related contracts will be reported to the Cabinet for information purposes only.

23 APPOINTMENT OF CONSULTANTS & COUNSEL

- 23.1 The engagement of consultant architects, engineers and surveyors or other professional consultants including Counsel shall be subject to completion of a formal letter, contract of appointment or brief. Consultants shall be required to provide evidence of and maintain professional indemnity policies to the satisfaction of the relevant *Chief Officer* for the periods specified in the respective agreement. Consultants shall be selected and commissions awarded in accordance with the procedures detailed within these CSOs and as outlined below in table 23.1, but quotations and tenders are not required for arbitrators, adjudicators or mediators in connection with construction related disputes, or for counsel (see 4.3 above).

table 23.1

Total Estimated Fee	Method of Selection
Less than £5,000	One <i>Quotation</i> (confirmed in writing).
£5,000 but less than £100,000	Three written <i>Quotations</i>
£100,000 but less than the EU thresholds	Three tenders
Above the EU threshold	The provisions of the Regulations will apply.

24 ARRANGEMENTS FOR SOCIAL AND OTHER SPECIFIC SERVICES

24.1 Contracts that relate to *Social and Other Specific Services* are regulated under the provisions contained in Chapter 3, Section 7 of the Regulations and can be let under a “light touch regime”..

24.2 Under Regulation 76 the Council must determine the procedures that are to be applied, but these must be sufficient to ensure compliance with the general principles of transparency and equal treatment of those expressing an interest in a contract and those invited to tender. The procedure to be used shall be outlined in the Business Care (refer to CSO 8.5 above) and spelt out in the published tender documents.

24.3 Social Care, Spot Purchasing of Domiciliary Care and Residential and Nursing Care

24.3.1 The Council has certain statutory duties to provide, or arrange to provide, practical help or care services to individuals within the community or in a residential setting. Such arrangements may be made through existing framework agreements that the Council can call-off from.

24.3.2 Domiciliary care services and residential and nursing care may be spot purchased or called off through the use of existing framework agreements for people whose needs cannot be met through the commissioned services or service directly provided by the Council itself.

24.3.3 The Council will maintain information on Domiciliary Care Providers and Providers of Residential and Nursing Care placements that can be used for the spot purchase of care services through framework agreements. Such providers will have met the minimum national standards laid down by the Care Quality Commission.

SECTION 6

Contract management

25 MANAGING CONTRACTS,

25.1 Chief Officers and/or Heads of Service in sponsoring departments are to name contract managers for all new contracts. All contracts must have a named Council contract manager for the entirety of the contract.

25.2 Contract managers must follow the *Purchasing Guides* (and any other procedures determined from time to time by the *Procurement Strategy Board*).

26 RISK ASSESSMENT AND CONTINGENCY PLANNING

26.1 A business case must be prepared for all procurements which involve a Key Decision. Provision for resources for the management of the contract, for its entirety, must be identified in the business case.

26.2 For all contracts with a value of over £100,000, contract managers must:

- undertake appropriate risk assessments that have considered service continuity, health and safety, fraud and Information management risks;
- maintain a risk register during the contract period;
- ensure appropriate contingency measures are in place for identified risks;
- escalate high risks to the senior leadership or management team

27 PAYMENT

- 27.1 In accordance with Regulation 113, the Council will pay undisputed invoices to contractors within 30 days. It shall also require prime contractors to pass on no less favourable payment terms to their sub-contractors than they receive from the Council.
- 27.2 Tenderers will be required to demonstrate how they will allow the Council to monitor how they pay their sub-contractors.

28 POST-CONTRACT MONITORING, EVALUATION AND REVIEW

- 28.1 All contracts which have a value higher than the EU Threshold limits, or which are *High Risk*, are to be subject to monthly formal review with the contractor. The review may be conducted quarterly if permitted by the *Commercial Director*.
- 28.2 In relation to all contracts that are considered to be with a value higher than the EU Threshold limits and/or which are considered to be of High Risk, the *Procurement Strategy Board* may review them with a view to an audit to be undertaken in relation into their management.
- 28.3 During the life of the contract, the Officer must regularly monitor and report on -:
- a contractor's performance;
 - the regularity of meetings held with the Contractor;
 - risk management and any issues arisen (for example, reported fraud, information loss or breach of security, service continuity (credit worthiness), significant health and safety incidents) that have identified and how these are being addressed;
 - compliance with specification and contract costs and identifying as early as possible any potential over-spends;
 - any Best Value requirements;
 - user satisfaction and risk management; and
 - the data quality and supplier information ensuring that it is fit for purpose.
- 28.4 Where the Total Value of the contract exceeds £100,000, the Officer must make a written report evaluating the extent to which the purchasing need and the contract objectives were met by the contract. This should be done normally when the contract is completed. Where the contract is to be re-let, a provisional report should also be available early enough to inform the approach to re-letting of the subsequent contract.

APPENDIX - Glossary of Defined Terms

<u>Defined term</u>	<u>Definition/description</u>
Appropriate Persons	<p>A person who has the delegated powers to waive the provisions of these CSOs. For a contract that has an estimated value of:</p> <ul style="list-style-type: none"> • <u>less than £25,000: the appropriate person will be the Chief Executive or Executive Director or Director</u> • <u>£25,000 or more but less than £100,000: the appropriate Cabinet Member(s)</u> • <u>more than £100,000: the appropriate Cabinet Member(s) and the Leader of the Council.</u>
Approved List	<p>A list of approved service providers (maintained by an <i>Appropriate Person</i> at a departmental level) who have expressed an interest in carrying out small scale professional services (usually below <i>EU Threshold</i> (for services). An Approved List is usually set up for a specific period of time and purpose following a public advertisement placed in a local newspaper and on the Council's internet. Admission to the Approved List shall be on the basis that the Council's minimum requirements in terms of finance, references, Health & Safety, diversity and environmental considerations are met. The Approved List shall not contain details of schedules of rates and admission shall be free (in accordance with section 21 of the Local Government Act 1988).</p>
Award Criteria	<p>The criteria by which the successful quotation or tender is to be selected.</p>
Award Procedure	<p>The procedure for awarding a contract as specified in CSO 17</p>
Best Value	<p>The duty on local authorities to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness, as implemented by the Council.</p>
Business Case	<p>A document used to obtain management commitment and approval for investment in business change, which alters the way that suppliers are selected and goods and services are purchased. It provides a framework for planning and management of this change and ongoing identification of risks. The viability of the resulting project will be judged on the contents of the business case.</p>
Bond	<p>A form of "insurance policy". If the contractor does not do what it has promised to under a contract with the Council, the Council can claim from the insurer which provided the bond the sum of money specified in the bond (often 10% of the contract value). A bond is intended to protect the Council against a level of cost arising from the contractor's failure.</p>
Cabinet	<p>The executive committee of the Council</p>
Cabinet Member	<p>One of 9 executive councillors reporting to the Cabinet, having the following</p>

<u>Defined term</u>	<u>Definition/description</u>
	responsibilities & portfolios: the <ul style="list-style-type: none"> • Leader of the Council, • Deputy Leader of the Council • Cabinet Member for Children and Education, • Cabinet Member for Commercial Revenue and Resident Satisfaction • Cabinet Member for Economic Development and Regeneration • Cabinet Member for Finance • Cabinet Member for Health and Adult Social Care • Cabinet Member for Housing, • Cabinet Member for Social Inclusion • Cabinet Member for Environment, Transport & Residents Services
Cabinet Office	The Cabinet Office has responsibility for all public sector procurement within the UK. It works with key government departments (H M Treasury and the Department for Communities and Local Government (DCLG)) along with other interested public sector organisations to provide procurement advice.
Candidate	“candidate” means any person or organisation and defined as an economic operator that has sought an invitation to tender (or submit a quotation) or has been invited to take part in a restricted procedure, in a competitive procedure with negotiation or in a negotiated procedure without prior publication, in a competitive dialogue or in an innovation partnership;
Central Purchasing Body	As defined in the Public Contracts Regulations 2015, being another contracting authority which - <ul style="list-style-type: none"> (a) acquires goods or services intended for one or more contracting authorities; or (b) awards public contracts intended for one or more contracting authorities; or (c) concludes framework agreements for work, works, goods or services intended for one or more contracting authorities.
Chief Officer	The “Chief Executive”, in respect of the Chief Executive’s office. Otherwise the definition relates to the most senior officer in a department of the Council
Code of Conduct	The code regulating conduct of officers issued by the Director of Human Resources.
Commercial Director	The Director of the Council having overall responsibility for the Council’s procurement functions.
Competitive Dialogue Procedure	To be used in specific situations set out in Regulation 30
Competitive Procedure with Negotiation	To be used in specific situations set out in Regulation 29

<u>Defined term</u>	<u>Definition/description</u>
Constructionline	A list of preferred providers who have expressed an interest in carrying out mostly construction and engineering related works and have registered their details on a national database maintained by the Department for Business, Enterprise and Regulatory Reform.
Consultant	Someone employed for a specific length of time to work to a defined project brief, with clear outcomes to be delivered, who brings specialist skills or knowledge to the role. To be used only where the Council has no ready access to employees with the necessary skills, experience or capacity to undertake the work.
Contract	A binding agreement made between two or more parties, which is intended to be enforceable at law.
Contract Notice	An “advertisement” published in accordance with these CSOs seeking expressions of interest from candidates to tender for works, supplies or services. The Contract Notice must be published on the Council’s website and may appear in a local paper, and/or a trade or professional journal. A Contract Notice must be published in the <i>Official Journal of the European Union</i> (OJEU) where the EU thresholds are exceeded.
Contracting Decision	Any of the following decisions: <ul style="list-style-type: none"> • withdrawal of invitation to tender • whom to invite to submit a quotation or tender • shortlisting • award of contract • any decision to terminate a contract.
CSO[#] and CSOs	CSO[#] refers to a specific Contract Standing Order [where the “hash” symbol (#) will be substituted for a specific paragraph number] and CSOs means these Contract Standing Orders.
Deed	This is a legal term relating to a type of contractual arrangement. The execution of a contract as a “Deed” extends the statute of limitations from 6 years to 12 years.
Director of Law	The Director of the Council having overall responsibility for the provision of legal advice in relation to all procurement matters.
Discrete Operational Unit	A unit: <ul style="list-style-type: none"> • to whom the decision to purchase (and budget) has been devolved • for the sole use of whom a purchase is intended, and • which takes a purchasing decision independently of any other part of the Council.
Dynamic Purchasing System	Defined in the <i>Public Contracts Regulations 2015</i> as a type of Approved List where framework prices have been provided. A dynamic Purchasing System must remain open to new applicants and is designed to enable “mini-competition” exercises to be carried out.

<u>Defined term</u>	<u>Definition/description</u>
e-procurement.	A term for electronic procurement or purchasing. It refers not just to the purchasing process but encompasses a range of technologies that allows procurement processes such as the issue and receipt of tender documents, the issue of purchase orders and the receipt of invoices to occur electronically.
e-procurement system	The Civica AFP or Agresso system approved for use by the 151 Officer for the issuing of orders and the receipt of invoices by the Council.
e-tendering	A computer based system run through the “CapitalESourcing” portal designed to: <ul style="list-style-type: none"> • undertake the tasks of advertising the requirement for goods or services, registering suppliers, and issuing and receiving tender documents via the internet • assist in the evaluation of responses to an invitation to tender.
EU	the European Union
EU Directive	Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts.
EU Procedure	The procedure required by the <i>EU Directive</i> (and the Public Contracts Regulations 2015) where the Total Value exceeds the <i>EU threshold</i>
EU Threshold	The threshold at which the <i>EU Directive</i> must be applied. If the Total Value is expected to exceed this amount, the <i>EU</i> procedure must be followed. (Until 31 December 2015 the thresholds are £164,176 (€200,000) for the supply of goods or services, for special and specific services £589,148 (€750,000) and £4,320,220 (€5,000,000) for building and engineering works contracts.)
Financial Regulations	The financial regulations approved by the Council and issued by the Section 151 Officer.
Framework Agreement	A contractual arrangement (let in accordance with Regulation 33 of the Public Contracts Regulations 2015) that can be up to 4 years in duration and provides for the Council to place individual orders for goods, or services.
High Profile	A high-profile purchase is one that could have an impact on functions integral to Council service delivery, should it fail or go wrong.
High Risk	A high-risk purchase is one which presents the potential for substantial exposure on the Council's part, should it fail or go wrong.
High Value	A high-value purchase is where the value exceeds the EU Threshold values.
Invitation to Negotiate	Invitation to negotiate documents in the form required by these CSOs.

<u>Defined term</u>	<u>Definition/description</u>
Invitation to Tender	Invitation to tender documents in the form required by these CSOs
Innovation Partnership	To be used in specific situations set out in Regulation 31
Leader, the	The Leader of the Council and Chair of the Cabinet.
Line Manager	The officer's immediate superior or the officer designated by the appropriate chief officer to exercise the role reserved to the line manager by these CSOs.
London Councils	London Councils is a cross-party organisation, funded and run by all the councils in Greater London to work on their behalf regardless of political persuasion.
Market, the	The term "the market" is used as a means of describing organisations outside the Council that provide works, services or supplies that the Council may wish to buy.
Negotiated Procedure without prior publication	Used in exceptional circumstances. Refer to Regulation 32
Nominated Suppliers and Nominated Subcontractor	Those persons or organisations specified in a main contract for the discharge of any part of that contract.
Non-commercial Considerations	Matters designated as such under section 17 of the Local Government Act 1988, i.e.: (a) Whether the terms on which contractors' contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only. (b) Any involvement of the business activities or interests of contractors with irrelevant fields of government policy. (c) The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons. (d) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors. (e) Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees. (f) Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support. (g) Use or non-use by contractors of technical or professional services provided by the authority under the Building Act 1984
Official Journal	The official publication maintained by the European Commission for the


<u>Defined term</u>	<u>Definition/description</u>
of the <i>European Union</i>	purposes of publishing Contract Notice and Contract Award Notices (also known as <i>OJEU</i>)
OJEU	See – <i>Official Journal of the European Union</i>
Open Procedure	An <i>EU Procedure</i> under which all candidates are invited to bid in response to a Contract Notice.
Parent Company Guarantee	A contract which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a contract with the Council, under the terms of the guarantee, can require the parent company to do so instead.
Procurement Strategy Board.	An Officer Board that is made up of professional officers involved in the procurement function as well as departmental representatives. Its role is to provide strategic direction on procurement related issues, monitoring contractual renewals, procurement training of staff, and advice to secure <i>value for money</i> in the Council's procurement activities.
Project Officer	The officer designated by the <i>Chief Officer</i> (and appointed by the SRT and/or TAP) to deal with the Contract in question.
Protected Characteristic	See <i>Public Sector Equality Duty</i> in this list
Purchasing Guides	The suite of guidance documents, together with a number of standard documents, forms and templates, which supports the implementation of these Contract Standing Orders. The guidance is published on the Council's intranet and internet
Public Sector Equality Duty	<p>The Public Sector Equality Duty (effective from 5 April 2011) covers the following groups (Protected Characteristics):</p> <ul style="list-style-type: none"> • Age • Disability • Gender reassignment • Pregnancy and maternity • Race • Religion or belief • Sex (gender) • Sexual orientation • Marriage and civil partnership (not always relevant to the duty) <p>Those subject to the public sector equality duty must, in the exercise of their functions, have due regard to the need to:</p> <ul style="list-style-type: none"> • Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act. • Advance equality of opportunity between people who share a protected characteristic and those who do not. • Foster good relations between people who share a protected

<u>Defined term</u>	<u>Definition/description</u>
Public Sector Equality Duty - continued	<p>characteristic and those who do not.</p> <p>The Act states that meeting different needs involves taking steps to take account of disabled people's disabilities. It describes fostering good relations as tackling prejudice and promoting understanding between people from different groups. It states that compliance with the duty may involve treating some people more favourably than others.</p>
PQQ or Pre Qualification Questionnaire.	An application form use for admission to an <i>Approved List</i> or in response to a <i>Contract Notice</i> for a <i>Select List</i> .
Prior Indicative/ Information Notice.	A notice that is published in <i>OJEU</i> advising <i>the market</i> of the intention to start tendering within the next 12 months. It may be used to seek the views from interested parties on proposed packaging arrangements.
Public Contracts Regulations 2015.	Statutory Instrument SI 2015/112 Public Contracts Regulations effective date 26 February 2015 (which implements the <i>EU Directive 2014/24/EU</i> into UK law).
Quotation	A quotation of price and any other relevant matter (without the formal issue of an invitation to tender). (The contract will be subject to the Council's standard terms and conditions.)
Relevant Contract	Contracts to which these <i>CSOs</i> apply.
Restricted procedure	Two stage process defined in the Regulations that involves a pre-qualification assessment of all candidates responding to a <i>Contract Notice</i> prior to deciding who will be invited to tender.
Select list	<p>A tender list compiled following expressions of interest received from external organisations who have responded to an:</p> <ul style="list-style-type: none"> • Advertisement appearing in a local news-paper and/or trade journal (if considered appropriate); and/or • Publication on the Council's website; and/or • <i>OJEU Contract Notice</i> (except for non-priority [Part B] services – a Voluntary <i>OJEU Contract Notice</i> may be considered), if the estimated value is above <i>EU threshold</i>
Shared services	Means a joint working arrangement between the Council and other local authorities (for example, the Royal Borough of Kensington & Chelsea and Westminster City Council).
Shared Services Procurement Protocol for Joint Contracts.	The Protocol requires officers responsible for procurement to explore the opportunity for collaboration as a matter of course and seek direction from the relevant Service Director where this is considered not to be in the best interest of the Council.
Shared Services	This is a set of mandatory rules agreed by the councils that share services

<u>Defined term</u>	<u>Definition/description</u>
Procurement Code.	and which shall be followed by all service directorates in conducting all procurement and contracting activity above agreed financial thresholds.
Shortlisting	Where <i>Candidates</i> are selected: <ul style="list-style-type: none"> • to quote or bid, or • to proceed to final evaluation.
Social and Other Specified Services	High level definition contained Schedule 3 of the Regulations <ul style="list-style-type: none"> • Health, social and related services • Administrative social, educational, healthcare and cultural services • Compulsory social security services • Benefit Services • Other community, social and personal services including services furnished by trade unions, political organisations, youth associations and other membership organisation services • Religious services • Hotel and restaurant services • Legal services, to the extent not excluded by regulation 10(1)(d) • Other administrative services and government services • Provision of services to the community • Investigation and security services • International services • Postal services • International services; and • “Miscellaneous” Services
Supervising Officer	The <i>Line Manager’s</i> immediate superior.
TAP	-see <i>Tender Appraisal Panel</i> .
Tender documents	Documents issued by the Council specifying what it wishes to purchase, the contractual terms and conditions for the tender and instructions for responding with bids.
Tender	A <i>tenderer’s</i> proposal submitted in response to an invitation to tender.
Tender Appraisal Panel (TAP)	A panel constituted to manage all tendering processes (as defined in CSO 7.6).
Tender Record Book	The log kept by the Mayor’s Secretary to record details of tenders. (made up of the tender opening forms)
Tenderer	‘tenderer’ means an economic operator that has submitted a tender
Total Value	The whole of the value or estimated value (in money or equivalent value) for

<u>Defined term</u>	<u>Definition/description</u>
	<p>a single purchase or disposal excluding VAT.</p> <ul style="list-style-type: none"> • Whether or not it comprises several lots or stages. • To be paid or received by the Council or a <i>discrete operational unit</i> within the Council. <p>The Total Value shall be calculated as follows:</p> <p>(a) Where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period.</p> <p>(b) Where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months.</p> <p>(c) Where the contract is for an uncertain duration, by multiplying the monthly payment by 48.</p> <p>(d) For feasibility studies, the value of the scheme or contracts which may be awarded as a result.</p> <p>(e) For nominated suppliers and sub-contractors, the total value shall be the value of that part of the main contract to be fulfilled by the <i>nominated supplier or sub-contractor</i>.</p> <p>(f) Where an in-house service provider is involved, by taking into account redundancy and similar/associated costs.</p>
Trade advertisement	Suppliers or services providers who have placed advertisements in reputable trade journals, magazines and publications (including local Yellow Pages, Thompson Directory, & etc).
UK	United Kingdom
Value for money	Value for money is not the lowest possible price; it combines goods or services that fully meet the Council's needs, with the level of quality required, delivery at the time you need it, and at an appropriate price.

Agenda Item 6.4

London Borough of Hammersmith & Fulham COUNCIL 27 January 2016	 hammersmith & fulham
REVIEW OF THE CONSTITUTION	
Report of the Leader of the Council - Councillor Stephen Cowan	
Open Report	
Classification: For Decision	
Key Decision: No	
Wards Affected: All	
Accountable Director: Tasnim Shawkat, Monitoring Officer	
Report Author: Kayode Adewumi, Head of Governance and Scrutiny	Contact Details: Tel: 020 8753 2499 E-mail: kayode.adewumi@lbhf.gov.uk

1. EXECUTIVE SUMMARY

- 1.1. The Council at its meeting on 20 May 2015 agreed revisions to the Constitution and re-adopted the document for the 2015/16 Municipal Year.
- 1.2. This report recommends some further amendments to the Officers Scheme of Delegation to reflect new legislative changes.

2. RECOMMENDATIONS

- 2.1 That the changes to the Officers Scheme of delegation, to reflect new legislative changes in Appendix 1, be approved.

3. REASONS FOR DECISION

- 3.1 The Council's Monitoring Officer is required to keep the Council's Constitution up to date to ensure that its aims and principles are given full effect in accordance with Article 15 of the Constitution.

4. INTRODUCTION AND BACKGROUND

- 4.1 The Constitution sets out how the Council operates, how decisions are made and the procedures that are followed to ensure business is conducted in an efficient, transparent, and accountable manner. Some of the content of the

Constitution is required by law; the remainder is for the Council itself to determine.

- 4.2 The Monitoring Officer has a duty to keep the Constitution under review and has delegated authority to amend the Constitution where there has been a change in law, job title, structure, rearrangement of job responsibilities or for general administrative convenience. All extensive changes to the Constitution, however, must be approved by Full Council.

5. PROPOSALS AND ISSUES

SCHEME OF DELEGATION

- 5.1 Since the last update, the following legislation has been enacted. This report is seeking approval of changes the Officers Scheme of delegation to reflect the introduction of the legislation as highlighted in Appendix 1.

Town & Country Planning Act 1990: S70 (and 2C)

- 5.2 The Scheme of Delegation to officers in the Planning Division had been recently updated to reflect the structure of the division and to relevant legislation. A modification is made to the powers delegated to officers to determine planning applications, item 215, whereby an exclusion relating to compliant small scale domestic applications is applied to Members' requests for decisions to be made by Committee.

Smoke and Carbon Monoxide Alarm (England) Regulations 2015 for scheme of delegation

- 5.3 These Regulations impose duties on certain landlords of residential premises in respect of smoke and carbon monoxide alarms. The duties do not apply to a landlord who is a registered provider of social housing.

Road Traffic Regulation Act 1984

- 5.4 This piece of legislation authorises the Director for Transport and Highways to issue Playstreets Orders.

6. EQUALITY IMPLICATIONS

- 6.1 The equalities implications of this decision has been considered to be neutral.

7. LEGAL IMPLICATIONS

- 7.1 It is important to note that the Local Government Act 2000 requires the Council to have and maintain a Constitution. The Monitoring Officer is satisfied that the Council's Constitution continues to fulfil its stated purposes, as set out in Article 1 of the Constitution.

7.2 The Authorities have the power to share officers under s.113 of the Local Government Act 1972. They also have the power to establish joint committees for the joint discharge of non-executive functions, such as appointments, under s.102 of the 1972 Act.

7.3 Implications verified by: Tasnim Shawkat, Director of Law (020 8753 2700)

8 FINANCIAL AND RESOURCES IMPLICATIONS

8.1 There are no direct financial implications.

8.2 Implications verified/completed by: Kayode Adewumi, Head of Governance and Scrutiny (020 8753 2499)

9 RISK MANAGEMENT

9.1 There are no significant risk management implications for this report.

9.2 Implications verified/completed by: Kayode Adewumi, Head of Governance and Scrutiny (020 8753 2499)

10 PROCUREMENT AND IT STRATEGY IMPLICATIONS

10.1 There are no procurement of IT strategy implications.

10.2 Implications verified/completed by: Kayode Adewumi, Head of Governance and Scrutiny (020 8753 2499)

LOCAL GOVERNMENT ACT 2000 BACKGROUND PAPERS USED IN PREPARING THIS REPORT

None.

**THE ENVIRONMENTAL SERVICES “SERVICE GROUP” DIRECTORS
(FORMER TRANSPORT AND TECHNICAL SERVICES DEPARTMENT)**

SCHEME OF DELEGATION

The Chief Executive shall exercise the following functions and delegate them to the Proper Officers as shown. He/she may also amend the title of the Proper Officer to reflect changes introduced by departmental reorganisation.

No.	FUNCTION	PROPER OFFICER
215.	<p>Town & Country Planning Act 1990: S70 (and 2C)</p> <p>Determination of applications: Authority is delegated to Officers to refuse all applications where at least one of the reasons for refusal is directly drawn from the Council’s Planning Policies in the Local Plan including the Local Development Framework, or from the London Plan, other than:</p> <p>(i) Applications which the applicant has specifically requested in writing should be the subject of a Committee decision</p> <p>Authority is delegated to Officers to approve all applications, other than:</p> <p>(i) Development to be carried out by the Council (pursuant to Regulation 3 of the Town & Country Planning General Regulations 1992) other than alterations or extensions to existing buildings or other minor works not involving a change of use and in compliance with the Council’s adopted planning policies in the Local Plan;, and with the London Plan;</p> <p>(ii) Applications for listed building consent and / or planning permission involving demolition of the whole of a listed building or the whole of a listed building behind its façade.</p> <p>(iii) Applications for Planning Permission to demolish the whole of a building where</p>	<p>Director for Planning and Growth, Head of Development Management, Head of Planning Regeneration Any Team Leader or Deputy Team Leader responsible to the Head of Development Management, or Head of Planning Regeneration</p> <p>Any Principal Planning Officer responsible to the Head of Development Management, or Head of Planning Regeneration</p> <p>Head of Urban Design and Conservation, any Principal Officer responsible to the Head of Urban Design and Conservation</p>

	<p>no planning permission has been granted for a replacement building;</p> <p>(iv) Applications involving the demolition of the whole of a building included within the local Register of Buildings of Merit;</p> <p>(v) Applications to develop more than 5 new dwelling houses (not including conversions) or the erection of non-residential buildings having a floorspace of more than 500 sq. m.;</p> <p>Provided that: -</p> <p>(a) An application may only be approved if it is judged acceptable in accordance with Council planning policies set out in the Local Plan including the Local Development Framework, and if no Councillor has requested that the application be reported to Committee for decision (giving appropriate reasons) within two weeks of receiving notification of its receipt; such requests for Committee decision shall not apply to policy compliant applications for domestic residential extensions or alterations.</p> <p>(b) In respect of applications for development or demolition in Conservation Areas or affecting Listed Buildings, any approval is not in conflict with representations or directions received from English Heritage or the Secretary of State.</p> <p>Authority is delegated to Officers to approve reserved matters which the Mayor of London has directed should be decided by the local planning authority.</p>	
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FUNCTION	PROPER OFFICER
<p>The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 These Regulations impose duties on certain landlords of residential premises in respect of smoke and carbon monoxide alarms. The duties do not apply to a landlord who is a registered provider of social housing.</p> <p>Part 3 Remedial action s5 Serve a remedial notice s7 Arrange remedial action, with consent of occupier</p> <p>Part 4 Penalty charges s8 Serve a penalty charge notice, following remedial notice s10 make a decision and serve a notice of confirmation, variation or withdrawal of penalty charge notice following notice by landlord requesting review s12 recovery of penalty charge s13 prepare and publish a statement of principles in determining amount of penalty charge s14 Amendment, suspension or revocation of any notice</p> <p>Part 6 Licences under Parts 2 and 3 of the Housing Act 2004 s15 Insert conditions into licences granted after October 1st 2015 relating to smoke alarms and carbon monoxide alarms</p>	<p>Director for Environmental Health, Head of Environmental Health (Residential), Environmental Protection Manager, Pest Control Manager, Trading Standards Manager, Licensing Manager, Commercial Services Manager and Head of Environmental Health (Commercial), Private Housing and Health Manager, Head of Environmental Health (Licensing and Trading Standards)</p> <p>Any post incorporating the words:- “Environmental Health Officer, Licensing Officer, Public Protection & Safety Officer, Empty Property Officer, Corporate Health & Safety Officer, Trading Standards Officer or Senior Trading Standards Officer</p>
<p>201. Road Traffic Regulation Act 1984</p> <p>The Director for Transport and Highways shall be the Proper Officer in relation to Playstreets Orders which are introduced under Section 29 of the RTRA 1984.</p>	<p>Director for Transport and Highways, Head of Transport Policy and Network Management, Head of Highways Maintenance and Projects, Head of Parking Services, Parking Services managers, team leaders and Officers, Civil Enforcement Officers</p>

Agenda Item 7.1

SPECIAL MOTION NO. 1 – CROSSRAIL 2 STATION AT IMPERIAL WHARF

Standing in the names of:

- (i) Councillor Greg Smith
- (ii) Councillor Steve Hamilton

This Council:

- (1) Supports the proposal for a Crossrail 2 station at Imperial Wharf.
- (2) Pledges to work with Transport for London to bring this about.
- (3) Directs the Chief Executive to write to Transport for London indicating the above position.

SPECIAL MOTION NO.2 – LONDON UNDERGROUND NIGHT SERVICE

Standing in the names of:

- (i) Councillor Charlie Dewhurst
- (ii) Councillor Viya Nsumbu

This Council:

- (1) Supports the introduction of a night service on London Underground and recognises the benefits it will bring to local residents in Hammersmith & Fulham.
- (2) Condemns the proposed strike action aimed at preventing these reforms and does not support a strike ballot system which allows trade unions to hold London commuters to ransom.
- (3) Welcomes the government's proposals to ensure that strike action by trade unions is only allowed following a 50% turnout in a secret ballot in addition to the requirement for a majority vote in favour.
- (4) Welcomes the requirement that strikes in certain key public services may only take place with the support of at least 40% of those entitled to vote in the ballot.

Agenda Item 7.3

SPECIAL MOTION NO. 3 – CALLING ON THE CONSERVATIVE GOVERNMENT TO ABANDON ITS PLANS TO CUT UP TO 10% OF FUNDING FROM HAMMERSMITH AND FULHAM’S SCHOOLS

Standing in the names of:

- (i) Councillor Sue Macmillan
- (ii) Councillor Alan De’Ath

This Council welcomes the excellent work done by Hammersmith and Fulham’s schools in providing a first class education for our children and young people.

The Council notes with concern that recent announcements by both the Chancellor, George Osborne, and the Secretary of State for Education, Nicky Morgan, have confirmed the Government’s intention to shift funding away from ‘overfunded’ authorities in London to ‘underfunded’ authorities elsewhere.

The Council further notes that if the proposed approach were adopted, it could mean a reduction of £10.9m (10.6%) in funding for Hammersmith and Fulham’s Schools and that Hammersmith and Fulham could be one of the worst affected local authorities in the Country.

This Council therefore calls on the Conservative Government to reverse these plans and ensure that Hammersmith and Fulham’s Schools are fully funded so that they can continue to provide an excellent education for the Borough’s children and young people.

SPECIAL MOTION NO. 4 – REJECTING GEORGE OSBORNE’S STEALTH TAX

Standing in the names of:

- (i) Councillor Max Schmid
- (ii) Councillor Colin Aherne

This Council notes that:

- The Labour administration was elected on a manifesto of reducing the cost of the council to residents.
- By cutting key fees and charges and being the only council in London to cut council tax last year, the administration is delivering on the promise of reducing the cost of the council to residents.
- The 2015 Conservative Party national manifesto had no provision to increase council tax and rather claimed that a Conservative Government would “help local authorities keep council tax low for hardworking taxpayers”.
- Regrettably, George Osborne proposed in the November 2015 Comprehensive Spending Review that instead of properly funding adult social care through national taxation they would recommend that local councils increase council tax through a ‘social care precept’.
- The Department for Communities and Local Government include the assumption in spending power projections for LBHF that and other councils that authorities apply the precept and increase their council tax every year by 2% during the current parliament.
- The Provisional Local Government Finance Settlement for 2016/17 sees a grant reduction of £8.2m for LBHF. In addition, the Government has imposed £2.885m of new responsibilities on LBHF without providing any corresponding funding .

The Council resolves to:

- Reject the Government’s recommendation that council tax increases by 2% per year every year.
- Call on the Government to honour its commitment to “help local authorities keep council tax low” rather than transferring more of the funding burden for social care to local taxpayers.

Agenda Item 7.5

SPECIAL MOTION NO. 5 – ARTS STRATEGY CONSULTATION

Standing in the names of:

- (i) Councillor Andrew Jones
- (ii) Councillor Ben Coleman

This Council welcomes the launch of a further consultation on the development of its new Arts Strategy whose goal is to foster, support and further develop all forms of artistic endeavour in the Borough. In particular it endorses the main aims being consulted on:

- the significance of artistic creativity in creating economic prosperity and employment;
- the role of arts in enhancing the quality of life of residents;
- ensuring all of the Borough's residents have access to a wide range of arts activities

It notes that the Borough has not previously had such a strategy and regrets the previous levels of support for the Arts. It resolves to prioritise support for the Arts in the future and welcomes the extensive consultation programme to be undertaken over the coming months.

SPECIAL MOTION NO. 6 – CYCLING STRATEGY

Standing in the names of:

- (i) Councillor Ian Cassidy
- (ii) Councillor Larry Culhane

This Council:

- Notes that 89 percent of residents who responded to the Council's consultation on its draft Cycling Strategy said they supported the Council's aims to make cycling less intimidating, protect pedestrians and improve road safety for all users.
- Notes that planned improvements include more cycle superhighways, new quiet ways for less confident cyclists and better junctions such as the Hammersmith Gyrotory that will make cycling safer and reduce conflict with other road users.
- Resolves to ensure our own vehicle fleet meets tough new standards set out in the Safer Urban Driver training programme.
- Regrets that the TFL Cycle Hire Scheme does not cover the whole borough and in particular excludes areas where health outcomes are poor, and resolves to address this.
- Thanks every resident, group and business that contributed to the work that went into the cycling strategy.

Agenda Item 7.7

SPECIAL MOTION NO. 7 – NEIGHBOURHOOD HEALTH FORUMS

Standing in the names of:

- (i) Councillor Sharon Holder
- (ii) Councillor Rory Vaughan

This Council welcomes the fact that residents in Hammersmith and Fulham are being invited to come and have their say on local healthcare at Neighbourhood Health Care Forums.

These events will provide local residents a platform to air their views directly to the NHS.

As part of the Council's healthcare priorities it is essential that the Council hears the views and experiences of local residents.

SPECIAL MOTION NO. 8 – IMPERIAL WHARF FULHAM CROSSRAIL 2 STATION

Standing in the names of:

- (i) Councillor Andrew Jones
- (ii) Councillor Michael Cartwright

This Council is aware of the significant developments in Sands End Ward that have already taken place and note further ones in the pipeline and therefore resolve to continue to lobby Crossrail 2 to construct a new station at Imperial Wharf Fulham that will allow for interchange with Crossrail 2. The upgrading of the West London Line has been a great success but it is now at full capacity at peak times. A new interchange station at Imperial Wharf will bring much needed improvements to rail travel in Fulham.