

# Code of Governance

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**CODE OF GOVERNANCE**

**GENERAL INFORMATION**

# FRAMEWORK FOR THE NEW CODE OF GOVERNANCE

## 1.0 INTRODUCTION

- 1.1 Westminster recognises that it is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently and effectively. In discharging this accountability Members and officers will be responsible for putting in place proper arrangements for the governance of the authority's affairs and the resources at its disposal.
- 1.2 To this end the authority has adopted this Code of Corporate Governance which is kept under and updated in accordance with the principles and requirements of the CIPFA/SOLACE Consultation Draft "*Good Governance in Local Government : A Framework*".
- 1.3 Governance comprises the systems and processes for the direction and control of local authorities through which they account to, engage with and lead their communities. The function of governance is to ensure that the authority and connected partnerships fulfil their purpose and achieve their intended outcomes for citizens and service users and operate in an effective, efficient, economical and ethical manner.
- 1.4 The CIPFA/SOLACE revised Framework builds on governance work in both the public and private sectors and in particular "*The Good Governance Standard for Public Services*" drawn up by the Independent Commission on Good Governance in Public Services. The six core principles from the Good Governance Standard have been adapted and form the basis of the framework:
- 1.5 Good governance means:
  - (i) Focussing on the purpose of the authority and on outcomes for the community including citizens and service users and creating and implementing a vision for the local area
  - (ii) Members and officers working together to achieve a common purpose with clearly defined functions and roles
  - (iii) Promoting the values of the authority and demonstrating the values of good governance through behaviour
  - (iv) Taking informed and transparent decisions which are subject to effective scrutiny and managing risk
  - (v) Developing the capacity and capability of Members to be effective and ensuring that officers – including the statutory officers – also have the capability and capacity to deliver effectively
  - (vi) Engaging with local people and other stakeholders to ensure robust local public accountability.

## **2.0 ELEMENTS OF CORPORATE GOVERNANCE**

**To achieve the principles of good corporate governance, the authority supports and will apply the six core principles, and their related supporting principles, as follows:**

### **2.1 Core principle (i)**

**Focussing on the purpose of the authority and on outcomes for the community including citizens and service users and creating and implementing a vision for the local area.**

#### **Supporting principles**

- exercising leadership by clearly communicating the authority's purpose and vision and its intended outcome for citizens and service users.
- ensuring that users receive a high quality of service whether directly, or in partnership or by commissioning.
- ensuring that the authority makes best use of resources and that tax payers and service users receive excellent value for money.

#### **The authority:**

- reviews on a regular basis for its vision for the local area and its impact on the authority's governance arrangements by keeping the Council Tax affordable and through the Living City Programme.
- measures and ensures that the information needed to review service quality effectively and regularly is available through Performance Planning and Monitoring.
- through Performance Planning decide how value for money is to be measured and ensure that the information needed to review value for money and performance effectively is available to the Audit and Performance Committee and the Policy and Scrutiny Committees. The authority also ensure that the results are reflected in the Council's plans, department's service plans and in reviewing the work of the authority.
- has in place effective arrangements to deal with failure in service delivery.
- a clear statement of the authority's purpose and vision and use it as a basis for corporate and service planning and shaping the Community Strategy and Local Area Agreement.

- when working in partnership will ensure that there is a common vision underpinning the work of the partnership that is understood and agreed by all partners.

## **2.2 Core principle (ii)**

### **Members and officers working together to achieve a common purpose with clearly defined functions and roles**

#### **Supporting principles**

- ensuring effective leadership throughout the authority by being clear about executive and non executive functions and of the roles and responsibilities of the scrutiny function
- ensuring that a constructive working relationship exists between elected Members and officers and that Members and officers carry out their responsibilities to a high standard.
- ensuring relationships between the authority and the public are clear so that each know what to expect of the other.

#### **The authority has:**

- a clear statement of the respective roles and responsibilities of the Executive and of the Executive's members individually.
- a clear statement of the respective roles and responsibilities of Members in the existing Code of Governance
- developed protocols to ensure effective communication between Members and officers in their respective roles in the existing Code of Governance
- ensured that effective mechanisms exist to monitor service delivery through Performance Planning and Monitoring
- a scheme of delegated powers within the Constitution, including details of those matters reserved for collective decision the full Council taking account of relevant legislation and ensures that it is monitored and updated when required
- ensured that effective management arrangements are in place at the top of the organisation.
- made the City Treasurer responsible to the authority for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control.

- made the Monitoring Officer / Director of Law responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes, regulations and other relevant statements of good practice are complied with.
- will ensure that the Leader of the Council and Chief Executive agree their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained.
- will ensure that the Council's vision, strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the local community and other key stakeholders through partnership working, and that they are clearly articulated and disseminated
- when working in partnership will (i) ensure that there is clarity about the legal status of the partnership; (ii) ensure that the roles and responsibilities of the partners are agreed so that there is effective leadership and accountability and (iii) ensure that representatives or organisations make clear to all other partners the limit of their authority to bind their organisation to partner decisions

### **2.3 Core principle (iii)**

#### **Promoting the values of the authority and demonstrating the values of good governance through behaviour**

##### **Supporting Principles**

- ensuring council Members and officers exercise leadership by behaving in ways that uphold high standards of conduct and exemplify effective governance.
- ensuring that organisational values are put into practice and are effective.

##### **The authority has:**

- developed and maintained shared values including leadership values both for the organisation and its staff reflecting public expectations about the conduct and behaviour of individuals and groups within and associated with the authority such as set out in the Customer Charter.
- adopted formal Codes of Conduct defining the standards of personal behaviour as set in the Council's Constitution as in the Members Code of Conduct.

- developed and maintained an effective Standards Committee which acts as the main means to raise awareness and take the lead in ensuring high standards of conduct are firmly embedded within the local culture. The Terms of Reference of the Standards Committee and Membership are set out in the Council's Constitution.
- put in place arrangements to ensure that Members and employees of the authority are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders by ensuring that the Members Register of Interest Register is kept up to date by sending out regular reminders to Members, asking Members and Officers at the beginning of each meeting to declare any interests relative to the agenda and sending out yearly Related Party Transaction forms for all Members and Chief Officer to complete. Cabinet Members are required to declare any interest prior to taking an individual executive decision.
- will use the authority's shared values to act as a guide for decision making and as a basis for developing positive and trusting relationships within the authority.
- put in place arrangements to ensure that procedures and operations are designed in conformity with appropriate ethical standards, and to monitor continuing compliance in practice.
- in pursuing the vision of a partnership, agree a set of values against which decision making and actions can be judged. Such values will be 'alive' and demonstrated by partners' behaviour both individually and collectively.

## **2.4 Core principle (iv)**

### **Taking informed and transparent decisions which are subject to effective scrutiny and managing risk**

#### **Supporting principles**

- exercising leadership by being rigorous and transparent about how decisions are taken and listening to and acting upon the outcome of constructive scrutiny.
- having good quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs.
- making sure that an effective risk management system is in place.
- recognising the limits of lawful action and observing both the specific requirements of legislation and the general responsibilities placed on local authorities by public law, but also accepting responsibility to use

their legal powers to the full benefit of the citizens and communities in their area.

**The authority has:**

- developed and maintained an effective scrutiny function which encourages constructive challenge and enhances the authority's performance overall. This is outlined in detail in the Council's Constitution.
- developed and maintains effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based through Minutes and Reports to Council. All non-exempt Council, Cabinet, Committee Agendas/minutes, Cabinet Member Reports, Statements of Decisions and Minutes are available on the Council's Website and in person upon request.
- put in place arrangements for whistle blowing to which staff and all those contracting with the authority have access. The Whistle Blowing Policy is available on the website.
- developed and maintained an effective Audit and Performance Committee which is independent of both the Executive and the scrutiny function.
- developed and maintained an effective Standards Committee which (1) satisfies all relevant statutory requirements, undertakes its role impartially with all its Members have been trained in the duties of the Standards Committee; (2) all reports authorised by legal officers, on behalf of the Monitoring Officer before submission being issued for decision. Report Writing Guide issued on behalf of the Monitoring Officer, which contains relevant report templates.
- ensured that those making decisions are provided with information that is fit for the purpose – relevant, timely and gives clear explanations of technical issues and their implications through producing a Forward List of forthcoming decisions clearly stating when reports will be sent to Executive Members for decision and by officers following best practice guidelines before the formal issue of Cabinet Member Reports.
- ensured that professional advice on legal and financial matters is available and recorded well in advance of decision making and used appropriately when decisions have significant legal or financial implications.
- ensured that risk management is embedded into the culture of the authority, with Members and managers at all levels recognising that risk management is part of their job. This is incorporated into each Department's Service and Business Plan.

- has developed and maintains effective arrangements for determining the remuneration of all staff.
- ensure that risk management continues to be embedded into the culture of the authority, with Members and managers at all levels recognising that risk management is part of their job.
- actively recognise the limits of lawful activity placed on them by the ultra vires doctrine but also strive to utilise their powers to the full benefit of their communities making use of relevant legislation eg LGA 2003.
- when working in partnership, put in place protocols for working together which include a shared understanding of respective roles and responsibilities of each organisation.
- when working in partnership, ensure that there are robust procedures for scrutinising decisions and behaviour and that these decisions and behaviours are compliant with the City Council's own rules/codes or comply with any rules/codes developed for the purpose of the partnership.
- when working in partnership, ensure that partnership papers are easily accessible and meetings are held in public unless there are good reasons for confidentiality. The partners must ensure that:
  - the partnership receives good quality advice and support and information about the views of citizens and stakeholders, so that robust and well reasoned decisions are made
  - risk is managed at a corporate and operational level.

## 2.5 Core principle (v)

**Developing the capacity and capability of members to be effective and ensuring that officers – including the statutory officers – also have the capability and capacity to deliver effectively.**

### **Supporting principles**

- making sure that Members and officers have the skills, knowledge, experience and resources they need to perform well in their roles
- developing the capability of people with governance responsibilities and evaluating their performance, as individuals and as a group
- encouraging new talent for membership of the authority so that best use can be made of resources in balancing continuity and renewal.

**The authority has:**

- provided induction programmes tailored to individual needs and opportunities for Members and officers to update their knowledge on a regular basis.
- put in place effective arrangements designed to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the authority.

**The authority will:**

- develop those skills of Members and Officers to enable roles to be carried out effectively.
- ensure that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the authority.
- develop skills on a continuing basis to improve performance, including the ability to scrutinise and challenge and to recognise when outside expert advice is needed.
- put in place arrangements for reviewing the performance of the Executive as a whole and of individual Members and agreeing an action plan which might for example aim to address any training or development needs.
- consider career structures for Members and officers to encourage participation and development.
- when working in partnership, ensure that partners individually and the partnership collectively share responsibility for appointing people to the partnership who have the required skills and are at an appropriate level.

**2.6 Core principle (vi)****Engaging with local people and other stakeholders to ensure robust local public accountability****Supporting principle**

- exercising leadership through a robust scrutiny function which effectively engages local people and all local institutional stakeholders including partnerships, and develops constructive accountability relationships.
- taking an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery.

- making best use of resources by taking an active and planned approach to meet responsibility to staff.

**The authority has:**

- on an annual basis, published a performance plan giving information on the authority's vision, strategy, plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period.
- put in place effective systems to protect the rights of staff. Ensure that policies for whistle blowing which are accessible to staff and those contracting with the authority, and arrangements for the support of whistle blowers, are in place.
- produce an annual report on Scrutiny.

**The authority will:**

- make clear within the authority, all staff and the community, to whom they are accountable and for what.
- consider those institutional stakeholders to whom they are accountable and assess the effectiveness of the relationships and any changes required.
- establish clear channels of communication with all sections of the community and other stakeholders and put in place monitoring arrangements to ensure that they operate effectively.
- put in place arrangements to enable the authority to engage with all sections of the community effectively. These arrangements will recognise that different sections of the community have different priorities and there will be explicit processes for dealing with these competing demands.
- establish a clear policy on the types of issues they will meaningfully consult or engage with the public and service users including a feedback mechanism for those consulted.
- develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision making.
- ensure that the authority as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnerships, subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so.

- when working in partnership, ensure that engagement and consultation undertaken by the partnership is planned with regard to methodology, target audience and required outcomes. Existing mechanisms and groups should be used where appropriate. In the work cycle of the partnership it must be clear and demonstrable to the public what has happened to any feedback and what has changed as a result.

### **3.0 MONITORING AND REPORTING**

- 3.1 The authority will undertake regular reviews of its governance arrangements to ensure continuing compliance with best practice. It recognises the importance of ensuring that such reviews are reported both within the authority, to the Audit and Performance Committee and externally with the published accounts, to provide assurance that: corporate governance arrangements are adequate and operating effectively in practice; and where reviews of the corporate governance arrangements have revealed gaps, action is planned that will ensure effective governance in future.
- 3.2 The authority will prepare an annual Governance Statement and in so doing recognises that the process of preparing the Governance Statement should itself add value to the authority's corporate governance and internal control framework. It will be submitted to the Audit and Performance Committee and reported to the Council for information.
- 3.3 It will therefore cover performance issues – good governance promotes good service but poor service performance reflects a failure of governance.
- 3.4 It is accepted that approval and ownership of the Governance Statement should be at a corporate level and should be confirmed by the Chief Executive and Leader signing the statement on behalf of the authority.
- 3.5 In reviewing and approving the Governance Statement, Members will be provided with assurances on the effectiveness of the governance framework, and in particular the system of internal control, and how these address the key risks faced by the authority. Those assurances will be available from a wide range of sources, including internal and external audit, a range of external inspectorates and managers from across the authority. Management will provide the primary source of assurance. However, an effective internal audit function will also be a significant source of assurance.
- 3.6 The authority will strive to establish an assurance framework, embedded into its business processes, that maps strategic objectives to risks, controls and assurances. Such a framework will provide Members with assurances to support the Governance Statement on a structured basis, and will help Members to identify whether all strategic objectives and significant business risks are being addressed.

## **SECTION 1: GENERAL INFORMATION RELATING TO THE COUNCIL'S OVERALL DECISION MAKING PROCESS**

**This section deals with the City Council's Constitution, including**

- Citizen's Rights
- Meeting Procedures
- Terms of Reference of the Cabinet, Cabinet Members and Committees
- The Role of the full Council
- The Role of the Leader of the Council
- The Role of the Cabinet
- Policy and Scrutiny Committees
- Regulatory and other Committees
- Joint Arrangements
- The Lord Mayor of Westminster
- The Lord Lieutenant

### **The Council's Constitution**

The way in which the City Council operates, how decisions are made and the procedures to be followed to ensure that this is efficient, transparent and ensures accountability to local people are set out in the Constitution. The Rights of Citizens' are also included. The Council's General Purposes Committee, supported and advised by the Monitoring Officer, monitors and reviews the operation of the Constitution. The Constitution can be accessed on the website. Enquiries should be referred to Sarah Craddock ext 2770

Access to the Constitution via:

<https://committees.westminster.gov.uk/ieListDocuments.aspx?CId=403&MId=4776&Ver=4&info=1>

A copy of the Constitution is sent to every Member of the Council upon election and Members are urged to read it.

### **Citizen's Rights**

Citizen's have a number of rights in their dealings with the Council. Some of these are legal rights, whilst others are provided for within the Council's own processes. The rights of citizens are set out in the Council's Constitution.

## **Standing Orders**

Standing Orders, regulate the proceedings of business for Council, the Executive and Committees. Standing Orders can only be varied by the full Council on the recommendation of the General Purposes Committee. They must always be followed, unless properly suspended by agreement at a meeting where suspension of Standing Orders is agreed. However, Standing Orders, which are derived from statute, cannot be suspended. Anyone who identifies a breach should refer the matter to the Chief Executive and the Monitoring Officer.

## **Terms of Reference**

There are terms of reference for the Cabinet, Cabinet Members and Cabinet Committees and all other Council Committees and Sub-Committees. The scheduling and convening of meetings, issuing of agendas, production of minutes, etc is the responsibility of Officers in the Cabinet, Committee and Scrutiny Secretariat. If you have any questions about decision making procedures or terms of reference please contact Reuben Segal, the Head of Committee and Governance Services on extension 3160 or any of this team.

## **The List of Forthcoming Decisions**

The list is a rolling programme which sets out all “key” decisions and also other significant Executive Decisions to be taken over the next few months by the Executive, ie:-

- The Cabinet
- Committees of the Cabinet
- Individual Members of the Cabinet
- Officers (Key Decisions only)

The forthcoming list includes details of:-

- The matter in respect of which a decision is to be made
- The decision taker (eg the Cabinet or an individual Cabinet Member)
- The date on which, or the period within which, the decision will be taken
- The identity of the “stakeholders” whom the decision taker proposes to consult before taking the decision
- The means by which any such consultation is proposed to be undertaken
- The steps any person might take who wishes to make representations to the decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken
- A list of documents submitted to the decision taker for consideration in relation to the matter

The definition of a “key” Decision as set out in statutory regulations is:-

- (a) an executive decision which is likely to result in the local authority incurring expenditure which is, or the makings of savings which are, significant having regard to the local authority’s budget for the service or function to which the decision relates; or
- (b) one which is considered to be significant in terms of its effects on communities living or working in an area comprising of two or more wards or electoral divisions in the area of the local authority.

Any enquires relating to the list of forthcoming decisions should be referred to Reuben Segal, Head of Committee and Governance Services (x3160) or any of this team.

Access to the list of Executive Decisions via:

<http://committees.westminster.gov.uk/mgDelegatedDecisions.aspx?bcr=1&DM=0&DS=2&K=0&DR=&V=0>

## **The Council, the Leader of the Council, the Cabinet and Cabinet Committees**

### **The Council**

The Council is composed of 60 Councillors elected every four years. Councillors are democratically accountable to the residents (ie their constituents) of their respective wards. The overriding duty of Councillors is to the whole community, but they have a special duty to all their constituents. Westminster, like all local authorities, only has the power to take the actions it is allowed to by law. Any action or proposed action which a local authority does not have the power to undertake is referred to as “ultra vires” (beyond the powers conferred). Any such action would be open to challenge in the courts.

Meetings of the Council are held about 6 times a year and are open to the public. Details of all the functions exercised by the Council are set out in the Constitution.

There are 3 categories of Council meeting:-

- (a) the Annual meeting
- (b) ordinary meetings
- (c) extraordinary meetings

### **Role of the Leader of the Council**

- To provide leadership within the Council
- To undertake executive responsibility for developing and proposing overall strategy, budget, policy arrangements and service reviews

- To represent the Council in the community and in discussions and negotiations with regional, national and international organisations and others in relation to the pursuit of matters of interest to the authority and its community.
- To chair the Cabinet and to take responsibility, individually or collectively, for any specific portfolio allocated by the authority, including providing a political lead on and proposing new policy, strategy, programming, budget and services standards, as well as acting as spokesperson for the authority.

## **The Executive (or Cabinet)**

The Cabinet consists of the Leader and a maximum nine other Members of the Council appointed by the Leader. In general terms the Cabinet is the part of the Council responsible for the major policy decisions of the Council. When major key decisions are to be discussed or made, these are published in the Council's Forward Plan. The Cabinet has to make decisions which are in line with the Council's overall policy framework and budget. If it wishes to make a decision which is outside the budget or policy framework, the matter must be referred to the Council as a whole to decide. Meetings of the Cabinet are generally held monthly in public except where personal or confidential matters are being discussed. Decisions arising from Cabinet meetings are published and placed on the Council's website after each Cabinet meeting. They are also placed on the Council's website. Under the Policy and Scrutiny Procedure Rules any decisions capable of being "called in" are not implemented until five working days have elapsed from the decisions being published to allow time for three Members of the relevant Policy and Scrutiny Committee (or all three Members of a single ward affected by the decision) to decide if they wish to call the decision in.

An Urgency Committee of the Cabinet has been set up to deal with all matters, within the terms of reference of the Cabinet, which cannot wait for a decision by the Cabinet at its next programmed meeting.

## **Individual Cabinet Members**

In addition to the above, each Cabinet Member has decision-making powers within a given portfolio. These powers can only be exercised on consideration of an officer report. Prior to reports being considered by individual Cabinet Members, the relevant Chief Officer may brief his/her Cabinet Member on the content/implications of these reports. Subsequently decision takers are published in the same way as those taken by the Cabinet.

## **Informal Meetings of Cabinet Members**

There are occasions when it is necessary for officers to brief Cabinet Members as a group. When such a need arises the relevant Chief Officer(s) will present papers for consideration in the format of briefing notes. These meetings are non-decision making, but may provide "steers" to officers as to what Cabinet Members are likely to support to enable officers to progress a proposal further.

## **Cabinet Committees**

The Leader of the Council has the power to appoint and determine the membership and terms of reference of Cabinet Committees.

## **Cabinet Working Parties**

The Leader of the Council also has the power to appoint and determine the membership and terms of reference of any non-decision making Cabinet Working Parties.

## **Policy and Scrutiny Committees**

The City Council has 6 Policy and Scrutiny Committees including an overarching body known as the Westminster Scrutiny Commission which has responsibility for and reviewing the operation of the Policy and Scrutiny Committees as well as scrutinising the work of the Leader of the Council.

### **The Policy and Scrutiny Committees**

- review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions.
- make reports and/or recommendations to the full Council and/or the Executive and/or any policy, joint or area committee in the discharge of any functions.
- consider any matter affecting the area or its inhabitants.
- exercise the right to "call in" a decision which has been made by the Executive but not yet implemented to enable consideration to be given as to whether the decision is appropriate.

### **Policy development and review role**

- to assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues.
- to conduct research, community and other consultation in the analysis of policy issues and possible options.
- to consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
- to question members of the Cabinet and/or Committees and Chief Officers about their views on issues and proposals affecting the area.
- To liaise with other external organisations.

## **Scrutiny role**

- to review and scrutinise the decisions made and performance of the Executive and/or committees and council officers in relation to individual decisions and over time.
- to review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas.
- to question members of the Cabinet and/or Committees and Chief Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects.
- to make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process.
- to review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Policy and Scrutiny Committee and local people about their activities and performance and.
- to question and gather evidence from any person (with their consent).

## **Regulatory and other Committees**

### **Standards Committee**

The Standards Committee is composed of six Councillors. The Council's Independent Persons are invited to attend. The Standards Committee's role and function is to:-

- (a) promote and maintain high standards of conduct by councillors, co-opted members and church and parent governor representatives;
- (b) assist the councillors, co-opted members of church and parent governor representatives to observe the Members' Code of Conduct;
- (c) advise the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitor the operation of the Members' Code of Conduct;
- (e) advise, train or arrange to train councillors co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;
- (f) grant dispensation to councillors co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;

- (g) deal with any reports from a case tribunal or interim case tribunal, and any report from the monitoring officer on any matter which is referred by an ethical standards officer to the monitoring officer;
- (h) maintain an overview of the arrangements in place for maintaining High Ethical Standards throughout the Authority.
- (i) deal with alleged complaints by Members relating to alleged breaches of the Members' Code of Conduct.

### **Audit and Performance Committee**

The Audit and Performance Committee is composed of five Members of the Council and is independent of the Executive and Overview and Scrutiny functions. The Committee has the following duties:

- Audit activity.
- Regulatory framework
- Risk Management
- Accounts
- Performance Monitoring

It has the following Sub-Committees:

- Appointments
- Staff Appeals
- Urgency Sub-Committee

### **General Purposes Committee**

The General Purposes Committee is composed of 10 Members of the Council and has responsibility for the following functions:-

- Health and Safety
- Elections and Electoral Registration

It recommends the Council in respect of:-

- Members' Allowances
- The promotion and opposition of legislation and bylaws
- The Constitution and Standing Orders

It has the following Sub-Committees.

- Urgency Sub-Committee
- Education (Awards)

## **Joint Arrangements**

In order to promote the economic, social or environmental well being of its area, the Council or the Cabinet may:-

- Enter into arrangements or agreements with any person or body;
- Co-operate with, or facilitate or co-ordinate the activities of any person or body; and
- Exercise on behalf of that person or body or functions of that person or body.

The City Council participates in the following joint arrangements:-

- (a) London Councils
- (b) The Grants Committee
- (c) The London Council's Transport and Environment Committee
- (d) Joint Health Overview and Scrutiny Committee

Further details relating to Joint Arrangements, including any delegations to joint Committees, can be found in the Council's Constitution.

## **The Lord Mayor of Westminster**

The Lord Mayor (a serving Councillor) is elected at the Annual Meeting. The Lord Mayor is the civic and ceremonial head of the Council (and acts in the capacity of Chairman of the Council) and is the First Citizen of Westminster. As such the Lord Mayor represents and promotes the interests and welfare of the City of Westminster, its residents and visitors, council services and activities. A summary of the Lord Mayor's duties and responsibilities is set out in the Constitution.

## **The Lord Lieutenant**

The Lord Lieutenant is the representative of the Queen in Greater London and acts on her behalf on official occasions, including the presentation of awards from the Honours List.

## **SECTION 2 THE OFFICER STRUCTURE**

### **Statutory Officers**

#### **Functions of the Head of Paid Service (ie the Chief Executive)**

##### **Discharge of functions by the Council**

The Head of Paid Service reports to Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers. All relevant Local Authorities are required to appoint one of their officers as the Head of the Paid Service. The Chief Executive is the Head of the Paid Service.

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Financial Officer if he/she is a qualified accountant.

#### **Functions of the Monitoring Officer (ie the Director of Law)**

- To maintain the Constitution
- To ensure lawfulness and fairness of decision making
- To support the Standards Committee
- To receive and act on reports made by ethical standards officers and decisions of the case tribunals
- To conduct investigations
- To be the proper officer for access to information
- To advise on whether executive decisions are within the budget and policy framework
- To provide advice on the scope of powers and authority to take decisions, maladministration, impropriety, probity and budget and policy framework issues to all councillors and support and advise officers in their respective roles.

The Monitoring Officer cannot be the Chief Financial Officer or the Head of Paid Service. The Director of Law is the Council's Monitoring Officer.

#### **Functions of the Chief Financial Officer (ie the City Treasurer)**

- To ensure lawfulness and financial prudence of decision making
- To administer financial affairs
- To contribute to corporate management of the Council, in particular through the provision of professional financial advice
- To provide advice
- To give financial information to the media, members of the public and the community.

## **Functions of the Executive Director of Childrens Services**

To be responsible in partnership with other statutory and voluntary agencies for the standard and delivery of all services to children and young people including welfare and education services.

## **Functions of the Executive Director of Adult and Community Services**

- Accountability for assessing local needs and ensuring availability and delivery of a full range of adult social services;
- Professional leadership, including workforce planning;
- Leading the implementation of standards;
- Managing cultural change;
- Promoting local access and ownership and driving partnership working;
- Delivering an integrated whole systems approach to supporting communities;
- Promoting social inclusion and well being.'

To be responsible in partnership with other statutory and voluntary agencies for the standard and delivery of a full range of adult social services.

Further details about the role/duties of the above can be found in the Constitution.

## **SECTION 3 THE FRAMEWORK WITHIN WHICH DECISIONS ARE MADE**

This section deals with:-

- Financial Regulations
- Personnel Regulations
- Procurement & Contracts Code
- Audit Commission
- Performance Planning

### **The Framework within which decisions are made**

All Local Authorities have to have safeguards in place to ensure that they operate within the law, in line with agreed practice and within a controlled framework in terms of decisions taken and service delivery. The key documents approved by the Council in this respect are:

- The Constitution (see earlier)
- Financial Regulations
- Personnel Regulations
- Procurement and Contracts Code

### **Financial Regulations**

The Financial Regulations control the way in which the financial affairs of the Council are administered. The City Treasurer has specific powers and responsibilities under Section 151 of the Local Government Act 1972 to control the administration of the financial affairs of the Council. The Financial Regulations are included in the Constitution.

Section 114 of the Local Government Finance Act 1988 requires the City Treasurer to report if he/she considers that a decision has been made, or is about to be made, involving expenditure which is unlawful or which, if pursued to its conclusion, would be unlawful and likely to cause a loss to the authority. Chief Officers are required to provide the City Treasurer with any information available to them to enable him to fulfil these duties.

The City Treasurer also has the authority for making arrangements for the administration of the Council's financial affairs and must report regularly to the Cabinet and/or the Cabinet Member for Finance, the Audit and Performance Committee and the Finance Policy and Scrutiny Committee, on financial matters within their respective terms of reference. He/she may also require Chief Officers to report similarly to Cabinet Members in respect of the financial aspects of their activities and to the relevant Policy and Scrutiny Committee.

## **Personnel Regulations**

The Personnel Regulations set out the powers and responsibilities of the Director of Human Resources and other Chief Officers for personnel matters. The principal behind these Regulations is the devolution of day-to-day personnel management decisions to the point of service delivery as far as possible whilst ensuring that the Council's responsibilities as an employer are fulfilled. Details of the personnel policies of the Council are set out in the Personnel (The Corporate Framework section). The Council's Disciplinary Code (for staff) is a separate document which is circulated to every new member of staff on appointment.

## **Procurement & Contracts Code**

Westminster has a strong commitment to "Enabling" with the result that many of the Council's services are now provided by external companies under contract to the Council rather than being provided directly by the Council or by in-house staff. Having devoted considerable resources to examining all aspects of the Council's services to ensure they are being delivered in the most efficient and cost effective way, the "Enabling" Programme is drawing towards its conclusion, although identification of possible additional services for "Enabling" will continue as part of an on-going process.

The effective letting, management and monitoring of contracts is central to the way in which Westminster operates. The rules which govern all aspects of contract management are set out in the Procurement and Contracts Code which is included in the Constitution. The Code applies to all Officers dealing with the award, monitoring or reporting of contracts.

The purpose of the Procurement Code is to:-

- ensure that the City Council complies with all local, national and EU-based guidance, legislation and directives;
- ensure a clear audit trail is kept and protect the City Council against the risk of challenge;
- provide clear guidance to officers involved in the tendering and management of contracts;
- encourage the spread of best practice and lessons learned across the Council;
- reduce unnecessary bureaucracy by clarifying what is and is not allowed; and
- contribute to the City Council's aims to provide high-quality, cost-effective services.

## **Public Sector Audit Appointments**

The PSAA is responsible for:

- appointing auditors to local public bodies, including councils, police and crime commissioners, chief constables, fire and rescue authorities and other relevant principal local government bodies;
- setting scales of fees, and charging fees, for the audit of accounts of relevant bodies;
- overseeing the delivery by its appointed auditors of consistent, high-quality and effective external audit services to opted-in bodies; and
- ensuring effective management of contracts with audit firms for the delivery of external audit services to opted-in bodies.

## **Performance Planning**

The business planning process has been continually developed since this process began and helps the City Council focus on the future and identifies a clear course of action to take it there. The purpose of the business planning process at Westminster is:-

1. To bring together financial and service priorities in order to match resources against service objectives, and align legislative, organisational and partnership priorities into a single set of objectives.
2. To provide a sound basis for effective performance monitoring with clear targets and indicators so that Members can see that their priorities are being delivered and Officers know what is expected of them.
3. To think further ahead as an organisation whilst coherently reviewing and revising priorities in the light of any external influences and constraints.
4. To provide a link between strategic priorities and detailed service planning to ensure that a “golden thread” exists between the two.

## **SECTION 4 ROLES/RELATIONSHIPS**

This section deals with:-

- Protocol on Member/Officer Relationships, including:-
  - Principles underlying Member/Officer Relations
  - Relationship between Lord Mayor and Officers
  - Relationship between Leader and other Members of Cabinet and Officers
  - Relationship between Chairman and Members of Policy and Scrutiny
  - Committees and Officers
  - Role of Chairmen generally including relationship with Officers
  - Officer Relationship with Party Groups
  - Members in their Ward role and Officers
  - Deputy Cabinet Members and Lead Members

### **1. Principles underlying Member/Officer relations**

Good administration is dependent upon a successful relationship between Councillors and officers which can only be based upon mutual trust and an understanding of each other's roles and responsibilities. This relationship, and, the trust which underpins it, should not be abused or compromised. Accordingly, Councillors should not attempt in any way to influence the content of officers' reports or recommendations on any matter. Equally, officers should give clear, independent advice. It is not enough to avoid actual impropriety; Members and Officers should at all times avoid any occasion for suspicion and any appearance of improper conduct. The fundamental principle which underlies Member/Officer relationships is that officers are required to be politically neutral. The contents of the Code of Governance and the separate protocol on Member/Officer relationships are intended to ensure that there is no doubt about the roles and procedures of the City Council, which will help this partnership to operate effectively.

Officers serve the City Council as a whole, serving all elected Members. Officers must carry out the Council's work under the direction and control of the Council and properly constituted Committees and Sub-Committees, the Cabinet and Cabinet Members. A Member in an individual capacity (except a Cabinet Member acting within his/her terms of reference) can exercise no lawful authority and Members in general must operate through the Council and its Committees and Sub-Committees. Cabinet Members must exercise their functions in accordance with the Constitution and their terms of reference. However, it is also important that officers recognise the right of Members, the elected representatives, to determine policy and do not act in any way to undermine that right.

## **2. Relationship between Lord Mayor and Officers**

The Lord Mayor acts as Chairman of the Council. In this capacity the Lord Mayor is entitled to receive briefings from officers on matters relating to the conduct of Council Meetings.

## **3. Relationship between Leader and other Members of Cabinet and Officers**

The Leader of the Council, as Chairman and a member of the Cabinet, has the power to appoint up to nine other members of the Cabinet. As such the Leader has a special responsibility at the centre of the Council. Other members of the Cabinet will need to recognise this when taking decisions within their respective portfolios in terms of keeping the Leader informed. The Deputy Leader has the responsibility of exercising the functions of the Leader in the absence or unavailability of the Leader.

Officers will need to be conscious of the respective roles played by the Leader and individual Members of the Cabinet. These Members will require additional briefing on areas within their respective portfolios. It will be the responsibility of the relevant Chief Officer to ensure that this takes place. Officers and Members must be aware at all times that Cabinet Members are unable to take individual decisions without having first considered an Officer report.

## **4. Relationship between Chairmen and Members of Policy and Scrutiny Committees and Officers**

The Chairmen and Members' of Policy and Scrutiny Committees have powers to call in decisions taken, prior to implementation, in accordance with the procedures set out in the constitution.

The Chairmen and Members of Policy and Scrutiny Committees have a role in helping to ensure that Council services are provided in accordance with agreed policies. They can also require that reports relating to their areas of responsibility (as set out in the Terms of Reference) be submitted to assist them in their overview role. They can, however, only require this when acting collectively as a Committee.

Officers have a duty to ensure that Chairmen of Policy and Scrutiny Committees receive sufficient information to enable them to conduct their roles in respect of both overview and scrutiny.

## **5. Role of Chairmen generally, including relationship with Officers**

The Constitution gives Committee Chairmen certain responsibilities over the control and conduct meetings. Other than this, Chairmen are in the same constitutional position as all other members. The position of Chairmen as the spokesman for their Party on certain issues is informal, but reflects the reality that it would not be practical for Chief Officers to deal with whole committees, or all sixty Members, individually on a day to day basis. However, Chairmen have no executive role or powers to make decisions relating to the discharge of Council functions. The power to make such decisions remains with the Council, the Cabinet, the relevant Cabinet Member, committee or Chief Officer in accordance with agreed terms of reference and the scheme of delegation.

## **6. Officer Relationships with Party Groups**

Meetings of Party Groups are essentially political forums, and as such, not normally attended by Officers.

Officers may attend these meetings to provide briefings only with the express permission of the Chief Executive. Where this is agreed in respect of one party group, a similar briefing should be offered to all the Political Groups on the Council.

## **7. Members in their Ward role and Officers**

Members of the Council will, of course, take a special interest in matters in their ward. Procedures for Ward Member Consultation procedures are set out in the Guidance for Members Section of the Code of Governance and provide for Members to be consulted on all reports which affect their wards and have the right to have their comments included in such reports.

## **8. Deputy Cabinet Members and Lead Members**

Deputy Cabinet Members are appointed by the Leader of the Council. Their role is a non decision making one – they are appointed to assist Cabinet Members with their workload and provide support for the Council’s approach on issues falling within Cabinet Members’ areas of responsibility (approval of policy remains the responsibility of the Cabinet or Council in accordance with the Constitution). Lead Members are also appointed by the Leader who determines their terms of reference. They are also non-decision making but may act as spokespersons provided any views expressed are consistent with approved policy. The Leader has also appointed Specialist Lead Members who report directly to him on their areas of responsibility. These “Specialist” Lead Members are consulted on reports being prepared for Cabinet, Individual Cabinet Members, Policy and Scrutiny Committees and other Committees where relevant. Further details can be obtained from Mick Steward, Head of Council, Cabinet and Committee Secretariat on extension 3134.

## **SECTION 5**

This section deals with:-

1. Officer Support for Members, including:-
  - Cabinet Support
  - Cabinet, Committee and Scrutiny Secretariat
  - Corporate Management Board (CMB) Ward Champions
  - Neighbourhoods and Engagement Team
  - Scrutiny Research Analyst
  - The Leader of the Opposition's Secretary
  - Support to the Lord Mayor of Westminster
  - Handling the Media
  - Attendance at Meetings Generally
  - Handling Correspondence
  - Briefings
  - Handling Complaints by Telephone
  - Mayor of London/Greater London Authority
  - Local Government Associations
  - Inward Visits
2. Code of Conduct for Councillors
3. Appointments to Outside Bodies
4. Foreign and Other Visits by Members and Officers, including:-
  - Visitors to Westminster
  - Visits from Westminster
  - Criteria for accepting invitations
  - Procedure
  - Officers

### **Officer Support for Members**

#### **Cabinet Support**

The officer support provided for the Leader of the Council and Cabinet Members recognises these individual Member's heavy workload in terms of meetings and correspondence, and the need to be up to date and fully briefed on a range of issues - both corporate and those directly affecting their portfolios.

The role of Cabinet Support is to provide the Leader of the Council and Cabinet Members with a comprehensive research and support service. The team:

- a) Oversee the quality control of all work undertaken/produced for Cabinet Members.
- b) Ensure they are aware of relevant Council-wide strategic and operational issues.
- c) Monitor the progress and implementation of policy initiatives of interest to Cabinet Members.
- d) Commission and co-ordinate high quality briefings, providing research input where necessary.
- e) Provide Cabinet Members with a high quality research and support service.
- f) Provide a “signposting” service between Cabinet Members and Chief/Senior Officers.
- g) Liaise with the Press Office and Cabinet Members on media issues, including drafting and obtaining comments on press releases and statements; assist with the management of media events and photo-calls, providing briefing or ensuring it is provided as necessary.
- h) Manage Cabinet Members’ Ward and casework.

### **Committee and Governance Services**

The team is responsible for the convening and servicing of all formal Member level meetings and recording and disseminating the decisions taken.

### **Scrutiny Research Analysts**

The Scrutiny Research Analysts are a dedicated resource for the Policy and Scrutiny Committees and are responsible for commissioning and undertaking research as part of an agreed programme of scrutiny investigations.

### **The Leader of the Opposition’s Executive Assistant**

The Leader of the Opposition’s EA provides the Leader of the Opposition with comprehensive secretarial and administrative support.

### **Support to the Lord Mayor of Westminster**

- a) provide the Lord Mayor with a comprehensive secretarial and support service; and to
- b) ensure engagements and functions are organised effectively, with due protocol, and that the Lord Mayor is fully briefed.

The support provided takes account of the large number and diversity of ceremonial engagements the Lord Mayor takes part in on behalf of the Council and citizens of Westminster.

## **Handling the Media**

Most media enquiries are made to the Press Office. However, it is inevitable that some will be made direct to staff in Cabinet Support and other parts of the Council. These should always be referred to a Media Officer to log and take forward. If, for any reason, a Media Officer is not available and the enquiry is urgent, details should be taken of the name of the reporter/journalist, paper/TV programme/radio station they represent; object of the enquiry; telephone number; deadline and then passed to the relevant Member. The Press Office will also be informed as soon as possible.

The Press Office will arrange for press releases to be cleared by the relevant Department(s), and press statements agreed with Members via their support staff. Officers in Cabinet Support do not draft press releases or press statements, or provide quotes from Members. The protocol regarding Press Releases and Policy and Scrutiny Committees can be found in the Council's constitution.

## **Attendance at Meetings Generally**

Cabinet Support staff will attend meetings with Cabinet Members and Officers on policy and operational issues. They may be asked to take notes as appropriate and ensure that follow-up action is taken.

## **Handling Correspondence**

All correspondence addressed to the Leader of the Council, Leader of the Opposition, Cabinet Members and Lord Mayor will be referred to the relevant support staff.

Individual Members may wish for their correspondence to be handled in a particular way but, in general terms:

- all letters are appropriately logged, acknowledged and their progress monitored.
- those seeking information or complaining about operational service provision are referred to the appropriate Department to answer direct, with a request that a copy of the response be sent to the appropriate Member.
- those dealing with policy issues or are from 'VIPs' - including, for example, Members of Parliament, are referred to the appropriate Department for comment or draft response for Member's signature.
- copies of signed letters on policy issues, or for which a draft had been supplied, will then be sent to the appropriate Department.

## **Briefings**

Support staff will request briefings on behalf of the Leader, Cabinet Members and Committee Chairmen on all aspects of the Council's work - including policy issues, operational service related matters, events and procedures.

However, it is expected that all other Members will go directly to Chief Officers, or other relevant staff in Departments, on most policy related issues.

## **Handling Complaints by Telephone**

Callers with complaints about operational service provision (or simply seeking information about a Council service or procedure) will be strongly encouraged to be transferred to the relevant Department (or the caller's details requested so that the Department can ring back). Where the complaint is policy-related, or from a 'VIP', details will be taken and the appropriate Department contacted to provide comment or briefing in order for the relevant Member to respond - either by phone or in writing.

## **Mayor of London/Greater London Authority**

The Head of Members Support is responsible for leading and co-ordinating the Council's communication and relationship with the Mayor of London/GLA, ensuring Members and Chief Officers are briefed on relevant issues and co-ordinating the work of the GLA officers' group.

## **Local Government Associations**

Members Support has responsibility for the distribution of documents from Associations such London Councils and LGA and for the co-ordination of any briefing required by Leading Members for their meetings.

## **Inward Visits**

Staff in Cabinet Support organise and support the many inward visits by foreign and other delegations by arranging speakers, background material, presentations, etc.

## **Code of Conduct for Members**

The Code sets out rules of conduct which Members and co-opted members of local authorities will be required to comply with when carrying out their duties.

Further information about the provisions of the Code can be found in the Guidance for Members' Section of the Code of Governance.

## **Protection from Personal Liability**

As a matter of policy the City Council has decided, subject to various exceptions, to indemnify all Councillors or employees of the Council against any damages or costs or legal expenses which they may be ordered to pay or may have reasonably incurred,

arising from activities carried out on behalf of the City Council. The form of the indemnity is set out on the following page.

This indemnity will apply to the activities of Councillors or employees carried out on behalf of the City Council itself and, in certain circumstances, will also apply to activities on outside bodies, where the Member or Officer concerned is acting as a representative of the City Council on that outside body or where, for example, the City Council is required or empowered to appoint Members to the body in question by statute. However, it should be noted that the indemnity will not apply in respect of all appointments the City Council makes in respect of outside bodies. In many cases the appointee or nominee, is not representing the City Council as such and the indemnity will not apply.

## **Indemnity**

The City Council will, subject to the exceptions below, indemnify all Councillors or employees of the Council against any damages, costs or legal expenses which any such Councillor or employee may be ordered to pay or may reasonably have incurred arising from activities carried out on behalf of the Council if the Councillor or employee acted in good faith and honestly believed that the act complained of was within his/her power and that his/her duty as a Councillor or employee required or entitled him/her to do or omit to do it. Such indemnity shall apply to any liability incurred by any Councillor or employee as the City Council's representative on an outside body and to any employee who in connection with his/her employment with the City Council provides an administrative, technical, professional or other service to any person or body outside the City Council.

For avoidance of doubt this indemnity will apply to existing and former Councillors and employees in respect of acts and omissions whilst they were Councillors or employees.

Except as mentioned above the City Council will not itself make any claim against any Councillor or employee for any loss or damage occasioned by any neglect, act, error or omission committed by an individual arising from the pursuit of his/her duties on behalf of the City Council whilst acting within the scope of his/her authority.

### **Exceptions:**

(1) This indemnity will not extend to loss or damage directly or indirectly caused by or arising from:

- (a) Fraud, dishonesty or any criminal offence on the part of a Councillor or employee (except where the criminal offence is an offence under the provisions of the Health & Safety at Work Act 1974 or relevant statutory provisions within the meaning of that Act in which case the indemnity will continue to apply.
- (b) Any neglect, error or omission by an individual otherwise than in the course of his/her duty
- (c) Activities which are "ultra vires" i.e outside the legal powers of the City Council, save to the extent that at the time of the activity concerned the individual bona fide and reasonably believed that the activity was intra vires, i.e. within the legal powers of the City Council
- (d) Liability in respect of any surcharge and Sections 17 and 18 of the Audit Commission Act 1998. Provided that where upon final determination of an objection to the Auditor the Council is satisfied that a person the subject of an objection was not blameworthy it will meet the legal costs reasonably incurred by such a person in connection with such objection.

(2) This indemnity will not apply if a Councillor or employee without the written authority of the Director of Legal and Administrative Services admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of this resolution.

(3) This indemnity will not apply where a Councillor or employee has been appointed to and is acting in the capacity of:

- (a) a director on a board of directors of a company; or
- (b) a trustee of a trust
- (c) a voting member of a management committee of another outside body

## Appointments to Outside Bodies

Members are appointed to represent the Council on the various committees and panels of the Local Authority Associations: London Councils and the Local Government Association. Officers will upon request prepare briefings for any Member attending such meetings. If you have any queries about the Local Authority Associations please contact Members Support.

Members will also from time to time be appointed or nominated to outside bodies by the City Council. Such bodies may, for example, be a London wide body or a local voluntary body. If appointed as a Director, Trustee or Member of the Management Committee, Members need to take particular care, as they could face personal liabilities if they fail to discharge their responsibilities properly.

As mentioned above some protection from personal liability may be available either under the City Council's indemnity or alternatively through insurance. If you have any queries please contact the Head of Legal Services for advice.

Members or Officers appointed to those bodies to which the City Council makes appointments and where the appointees may be regarded as representing the City Council will be covered by the City Council's indemnity **unless** they occupy the position of a Director, Trustee or voting member of the Management Committee where the organisation is an unincorporated organisation. The indemnity will **not** apply where Members or Officers are appointed to such positions and whilst they are acting in that capacity.

**However**, where the City Council nominates Members to serve on outside bodies (**whether or not as a Director, Trustee or voting member of the Management Committee**) the individual member concerned should satisfy themselves as to the insurance cover available from the organisation is question. Further guidance will be issued shortly.

## Foreign and other Visits by Members and Officers

Due to its location and scale of service responsibilities the City Council attracts several requests for visits each year from representatives of local governments and related organisations world-wide. The former Policy and Resources Committee agreed a strategy for International Visits in June 1997. The strategy provides a structured approach to ensure maximum benefit is obtained and that requests for visits that do not support agreed priorities can be refused. The procedures are detailed below. Separate arrangements apply to the Lord Mayor's Office.

### Visitors to Westminster

The relevance of all requests is assessed by the Director of Communications and Strategy in accordance with the International Visits and Exchange strategy agreed by the Policy and Resources Committee on 30 June 1997. The current aims of engaging in international exchanges are:

- 1) To encourage exchange between countries with inward investment potential
- 2) To maximise external funding opportunities through trans-national partnership.
- 3) To maintain Westminster's competitive edge and assist professional exchange.
- 4) To develop commercial arrangements in support of the strategy.

Visits will usually take the following form:

- (i) Brief meetings/discussions of up to a maximum of two hours (possibly involving site visits), negotiated between the Members/officers concerned.
- (ii) Half day presentations/seminars, often against an agreed fee
- (iii) Longer-term visits or traineeships (normally between 1-2 months) for foreign local government employees, which are sanctioned by the relevant Chief Officer prior to acceptance.

### **Visits from Westminster**

In addition to dedicating time to the above aims, Members and officers are occasionally invited abroad at the invitation of foreign governments and other bodies. These invitations normally fall into three discrete categories:-

- (a) where there is no cost involved to the Council as the host country or other organisation is funding the visit (other than the 'time' cost for the officer's absence from work).
- (b) where there is a cost to the Council that can be met from within the estimates for the Department for whom the officer concerned works.
- (c) where there is a cost to the Council requiring supplementary funding arrangements because it cannot be contained within approved estimates.

### **Criteria for accepting invitations**

Invitations may be extended by a host country on the basis of our expertise or as a vehicle for exchange and mutual benefit. In addition, Members may occasionally need to travel abroad in progressing particular corporate goals.

Examples of circumstances in which acceptance should be considered are where:-

- The offer is made by a suitable organisation in a professional capacity only.
- The Invitee, the City Council and its residents are likely to benefit from the exchange of experience and additional knowledge gained from the visit.
- As an Ambassador for the City Council and its achievements, the Invitee is promoting the goals and aims outlined above.

## Procedure

Overseas visits by Members and officers are subject to endorsement in the following way. Please note that this procedure only refers to Members travelling as representatives of the City Council and not in their private or professional capacity.

### Members:

**Category (A)** Insofar as there is a 'time' cost only: Approval to be obtained from the Leader of the relevant Political Group and the Chief Executive, the Monitoring Officer and the City Treasurer to be informed prior to departure.

**Category (B)** Insofar as there is a cost to the Council, albeit containable within existing estimates, there should be a 'financial check' and, therefore approval to be obtained by means of a report by any relevant Chief Officer and the Chief Executive and the City Treasurer to the Leader of the Council. Approval by this means must be obtained prior to departure.

**Category (C)** - Insofar as there is a cost to the Council that will require supplementary funding (even though this may be within the £10,000 contingency drawdown powers available to the City Treasurer), the following should apply:- Approval to be obtained by means of a report by any relevant Chief Officer and the Chief Executive and the City Treasurer to the Leader, the relevant Cabinet Member and the Cabinet Member for Finance. Approval must be obtained prior to departure.

### Officers

**Category (A)** - Where there is a 'time' cost only: Approval *to be obtained from* the relevant SEB Member (both the Leader and the Leader of the Opposition to be advised prior to departure).

**Category (B)** - Where there is a cost to the Council, which will be met from existing budgets: Approval to be obtained by means of a report by the relevant SEB Member and the Chief Executive and City Treasurer to the Leader of the Council. Approval by this means must be obtained prior to departure.

**Category (C)** - Where there is a cost to the Council that will require supplementary funding (even though this may be within the £10,000 contingency drawdown powers available to the Chief Executive and the City Treasurer), the following should apply: Approval to be obtained by means of a report by any relevant SEB Member and the Chief Executive and the City Treasurer to the Leader of the Council, the relevant Cabinet Member and the Cabinet Member for Finance. Approval must be obtained prior to departure.

**Category (D)** - The relevant EMT Member can approve visits where the following criteria are met:

1. the purpose is to visit the European Commission or to European Union agencies or institutions in Europe or to undertake joint work within Europe with existing or potential partners
2. the cost to the Council will be met from existing budgets

The Chief Executive should be kept informed of any foreign visits planned by Members or officers of the City Council under these procedures and may require that they be treated as for category (C), if, for any reason, he deems it appropriate.

Progress reports of both incoming and outgoing visits will be circulated, where necessary, to the Leader and/or Cabinet.

## **SECTION 6 THE PROCESS OF DECISION MAKING**

All decisions of the Council, (whether they be by the full Council, Cabinet or individual Cabinet Member) except those which have been delegated to officers, must be taken following receipt of a report from the appropriate Chief Officer. The law requires reports for Cabinet or Council to be despatched at least five clear days before the meeting. The practice at Westminster, however, is for the agenda for Council and Cabinet meetings to be despatched 10 days before the meeting. In respect of action to be taken by individual Cabinet Members, approval of reports which are open to the public cannot be given until they have been notified/listed in public for five clear days other than in cases of urgency.

All reports must contain all the necessary detail to enable Members' to make a decision. They will, in most cases, include recommendations based on the officers' professional judgement and existing Council policy. Reports in relation to executive functions will also contain a paragraph setting out reasons why a course of action is being recommended. This will be included in the formal record of the decision along with any other options considered and rejected, and the reasons why.

Officers have been given clear guidelines on the information which must be included in reports. These instructions are set out in the Best Practice Guide to Report Writing in Westminster, a copy of which can be obtained from the Committee and Governance Team or is available by contacting Sarah Craddock on 7641 2770.

### **Information Reports**

Where no decision on a report is necessary (ie where the report is for noting only) it may be circulated to Member(s) of Cabinet/Cabinet Member/the relevant Committee in the form of a briefing note. A decision as to whether a matter can be dealt with in this way rests with the appropriate Chief Officer.

### **Callover Processes (Policy and Scrutiny Committees, General Purposes Committee and Audit and Performance Committee)**

For reports scheduled for submission to one of the above, there may be three stages which they have to go through:-

- **Officers' Callover** - chaired by the Controlling Officer (the relevant Senior Committee and Governance Officer), where reports are considered in draft by Officers to ensure that:
  - a corporate approach has been taken by departments in the preparation of reports
  - legal formalities have been complied with
  - reports are in line with corporate priorities as outlined in the Performance Plan and are included in the work programme.
  - reports have properly taken into account the City Council's procedures
  - reports are in the proper format and in plain English

- reports conform to the Council's Budget and Policy framework or reflect the requirements to obtain Council approval if this is not the case.

Where an Officer Callover is not held the relevant Senior Committee and Governance Officer will be able to advise on the formal clearance process.

- **Chairman's Callover** - is held to enable the Chief Officer to brief the Chairman on the issues to be reported and to consult him/her on the content of the report. All reports on the agenda are ultimately the responsibility of the relevant Chief Officer and while the Chairman is consulted on the draft reports s/he has no power to alter them.
- **The meeting itself** – the third stage is the formal meeting itself. The agenda for the Cabinet/Committee meeting will normally be despatched 10 days before the meeting date (but not less than 5 clear working days) to give Members sufficient time to consider the issues and collect any background information they may additionally require. A note to Members is included on the Cabinet/Committee agenda reminding them that they are able to contact report authors in advance of the meeting to raise any questions they may have. It is important that reporting Officers are aware of this so they can prepare for any such calls.

### **Individual Cabinet Member Reports**

There are no formal callovers for this process. Most Chief Officers have arrangements whereby they hold regular informal briefing meetings with their individual Cabinet Members to discuss forthcoming reports and to seek an indication from the Cabinet Member as to whether s/he considers the report should be referred to the Leader and Deputy Leader for consultation.

Further details of Westminster's process, the relevant meeting, callover and agenda despatch dates can be obtained from the Head of Committee and Governance Services on extension 3160.

For guidance on report writing, please refer to the report writing guide on the Wire.

Staff in the Committee and Governance Services team have authority to return reports to report authors if they are incomplete or do not conform with the Council's Report Writing Guide.

## **SECTION 7      WHEN THINGS GO WRONG**

### **Corporate Complaints Procedure**

Although the Council aims to provide quality services that meet its customers needs at all times, it is inevitable that it will not always get it right first time. It is important that the Council admits its mistakes and does all it can to put things right. All complaints must be treated seriously. Complaints may be made by letter, telephone, fax, in person or by e-mail.

The Council has a three stage corporate complaint procedure.

**Stage One:** when a complaint is initially received, it is directed to the staff with the in-depth knowledge of the relevant service. These are the staff most able to deal with the complaint effectively.

**Stage Two:** If the complainant is still not satisfied an Officer from the Corporate Complaints Team of the Chief Executive's department will review the complaint on behalf of the Chief Executive.

Information about complaints received is used both by departments and corporately to identify and address problem areas and improve service delivery. Information about complaints is also submitted to the Audit and Performance Committee for monitoring by Members.

### **The Local Government Ombudsman**

The Commission for Local Administration in England (commonly known as the Ombudsman) was set up by the Local Government Act 1974 for the investigation of complaints by members of the public about maladministration in local government. The procedure enables complainants to appeal to an external body if they are not happy with the way the Council has treated their complaint. The Ombudsman is restricted to investigating complaints about maladministration in local government.

Maladministration is not defined in the Act and it is left to the individual Ombudsman to decide whether it has occurred. Maladministration refers to the manner in which an authority's decision has been taken not the merits of the decision itself. Such factors as neglect, bias, unfairness, incompetence, excess delay or the use of faulty systems for handling cases could be regarded as elements for maladministration.

If the complainant or a Member, in consultation with the complainant, is unhappy with the explanation of events and remedial action offered by the Council they may refer it to the Ombudsman. A complaint can be referred to the Local Government Ombudsman at any time but he would usually refer it back to the Council's own complaints procedure if he considers we have not yet have had a reasonable opportunity to deal with the matter. If this is not evident on the complaint and will then decide whether or not to investigate the complaint further.

If the complaint is investigated the Corporate Complaints Unit in the Policy and Performance department (extension 8013) co-ordinates the submission of the

Council's evidence to the Ombudsman and they make the necessary arrangements for provision of the information required including the inspection of files and holding interviews if necessary.

When the Ombudsman has completed his investigation he will make a decision if there has been any maladministration or he wants to discontinue the investigation because action has agreed by the Council and accepted by the Ombudsman as a satisfactory outcome to the complaint. This is known as a local settlement. If he decided that there has been maladministration he will prepare a report on the complaint. Such a report will either find maladministration with injustice or maladministration finding no injustice to the complainant. The fact that this report has been issued is published in the local press and the report itself made available for public inspection. Copies of the Ombudsman's final report are sent to the Leader of the Council, the Leader of the Opposition and the relevant Cabinet Member. The procedure for dealing with reports will vary depending on whether or not maladministration with or without injustice has been found as follows:

- a. Reports with a finding of maladministration (with or without injustice). These are submitted by the relevant Chief Officer to the relevant Cabinet Member or General Purposes Committee, as well as the appropriate Policy and Scrutiny Committee.
- b. Reports without a finding of maladministration. These are simply placed on deposit for public inspection.

In addition to the above, the Monitoring Officer has a statutory duty to report to the Council or Cabinet, as appropriate, on all reports where maladministration is found. In practice this will usually be done after the Chief Officer has prepared his report and this has been considered.

### **What is an "Ex Gratia Payment" and when can they be made?**

In broad terms an "ex gratia" payment is a sum of money paid by the City Council where it maintains that there is no legal obligation to make such a payment (e.g. to compromise potential litigation). This is a complex legal area and this section is only intended to provide an outline of the issues involved. Please contact the Head of Legal Services to discuss the specific circumstances before taking any steps relating to making an ex gratia payment (see below).

Financial Regulations give each Chief Officer the authority to make ex gratia payments providing they do not exceed £2000. However, before making any such payment it is essential that the Chief Officer has established that the City Council has the legal power to do so in the particular circumstances concerned.

The City Council does not have the power to simply make a gift of money to a resident, by way of an ex gratia payment. However, there are circumstances in which an ex gratia payment can be made. Basically, the City Council can make payments only if it has the statutory authority to do so. Please note that all payments must be made in a form that will protect the City Council's position in

any subsequent legal proceedings. This means that any offer or payment must be clearly marked “**without prejudice**” and “**in full and final settlement of any claim.**” In any case where the City Council may be covered by insurance, it is prudent to ensure our insurers have no objection to a payment being made. The circumstances in which payments can be made are outlined below:

1. Where there is **specific statutory power** eg. standard disturbance grants to tenants.
2. To **settle litigation** (or potential litigation) where there is at least a significant risk that if the matter proceeds to court the City Council would be found liable (eg. negligence or in contract) to the Plaintiff. In such circumstances, Local Authorities derive the power to pay such compensation or “ex gratia” payments, from the subsidiary powers in Section 111 of the Local Government Act 1972. This is because such a settlement before court proceedings could be said to facilitate or be conducive or incidental to the discharge of a local authority’s primary statutory functions.

In the absence of a specific power, therefore, it is necessary to establish that there is at least a risk of liability, if compensation or an “ex gratia” payment is to be paid. It is important to realise that something which might conceivably be described as maladministration, eg delay, would not of itself necessarily lead to liability in, for example, negligence. There have been a number of significant recent cases in this area.

3. Where it is considered that action taken by the Council in the exercise of its functions amounts to, or may amount to maladministration and a person has been, or may have been, adversely affected by that action. In these circumstances, under Section 92 of the Local Government Act 2000, the Council may, if it decides it appropriate, make a payment of financial compensation to that person or provide some other benefit/remedy. Guidance on when such remedies can be considered is set out in the Corporate guidance on remedies for complainant’s and the payment of financial compensation. A copy of this guidance note can be obtained from the Corporate Complaints team (extension 8013) in City Hall).
4. Where, in the context of a **Charter**, a “**charter**” payment is appropriate. Counsel’s advice has been obtained on payments in such circumstances and subsequently discussed by Chief Officers. It is possible to make “charter” payments in certain circumstances but it is a complex area and cautious consideration of the merits of each individual scheme is required. It is essential that any scheme can be linked directly to the efficiency of the service in question ie. that making a payment under the scheme is conducive to or facilitates the efficient delivery of the service. There are a number of ways this may be achieved eg by linking PRP or bonus schemes to the level of charter payments made or through the use of trading account principles (so that compensation to the complainant is balanced by a reduction of expenditure elsewhere.) The Director of Law

must be consulted before a charter scheme involving payments is established.

If you require any advice please contact the Director of Law.

### **Complaints About Member Conduct**

Complaints relating to Member conduct are dealt with by the Council's Standards Committee.

The full details of the process are set out on the Council's website at [www.westminster/governance](http://www.westminster.gov.uk/governance).

## **SECTION 8      CUSTOMER CARE STANDARDS**

Westminster is committed to providing high quality services for its customers. As part of this drive for quality, to ensure consistently high standards of customer service, the Council has established a number of corporate customer care standards.

The minimum standards that all staff should meet are set out below:

(Please note at the time of this update the Council has just purchased a new telephony system which offer much greater flexibility in its use. In order to ensure that our customers gain the same benefits as staff do from the new features of the system we will need to develop a new set of telephone standards. These will be incorporated into the new Westminster Standard

In November 2002 the Council began providing a high proportion of its front line customer contact through a Customer Service Initiative, the CSi. The CSi has significantly improved the quality and accessibility of our service to customers, and it is important to ensure that the rest of the Council aims to deliver the same standard of customer care.

To do this the Council introduced a Customer Charter setting out the level of service it expects to deliver to its customers whether the service is provided directly by Council staff, through the CSi or by other contractors. The service standards in the Charter are similar to those specified in the CSi to meet the *Westminster Standard* level. All sections of the Council have developed an action plan setting out what is required to meet this standard. Members of staff should ensure that they know what are the present standards within their section or department, and that they are familiar with the action plan to achieve the standards in Westminster's Customer Charter.

In the 2008 One City Programme the Council is committed to the delivery of a Westminster Standard which will produce a single standard for service across the whole of Westminster irrespective of provider. This standard is due to be published in Autumn 2008. During the course of the year customers and staff will be consulted on what should be in the standard and all services will be subject to mystery shopping to see the extent to which they are already achieving the standards set out in the charter.

**Answering correspondence** – a full response should be sent within 10 working days using Plain English.

**Answering the telephone** – calls should be answered within 4 rings/10 seconds using a three part announcement. Hello/good morning/afternoon; your name; your service area or department (whichever is more informative for your callers). All telephone numbers published in the A-Z must have a service level set and performance against that SLA must be monitored.

**Use of voicemail/answer machines** – messages should be informative and include: your name; your service area or department; the date; a short message giving your expected date/time of return. This can be expanded according to your work (eg sometimes it is appropriate to say where you are or give another contact number). Voicemail messages should be updated at least daily and any messages left should be responded to on the next working day. There should be no voicemail or answer machines on public numbers between normal opening hours, out of hours messages should contain details of the service's opening hours. If you are off sick someone should update your voicemail and deal with incoming messages.

**Email** – all officers using email should have an automated sign-off which includes: name, service area/department, telephone number, fax number, email address. All emails should be acknowledged by the next working day and, where appropriate, give a timescale for a full reply (this should be no more than 10 working days). Out of office messages should be used for absences of more than one day. If you are likely to get important external e-mails you should arrange for them to be forwarded to someone who can deal with them while you are away.

**Published e-mail addresses** – no personal e-mail addresses should be published as a means of the public making contact with a service as these cannot be effectively monitored. All e-mails set up as a service route for the public must have an automatic acknowledgement, an owner who is separate from the person responding, a generic address and an agreed service level which is monitored by the owner.

**Security Passes/Name Badges** – staff and Members are required to have these clearly showing at all times.

**Complaint handling procedures** – all staff are required to handle complaints in accordance with the corporate procedures.

**Published phone numbers, web and e-mail addresses and faxes** – every year the Council publishes an A-Z of services which is distributed to the public with Council Tax notification. The same information is also used to publish the A to Z of services on the web site and on the WIRE. All this information is held in a database which is owned and updated by the Customer Services Team. No new contact details for the public to use for the first time or routine contact should be set up without first ensuring they are entered in the central database. In this way we ensure that the information to the public is kept up-to-date and correct.

**Guidance for Members**

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**CODE OF GOVERNANCE**

**GUIDANCE FOR MEMBERS**

## **General Information**

This section gives information on the following:-

- Introduction
- Finding your way round the organisation
- Emergency/Out of hours contacts
- Procedures in the event of an emergency
- Visits by Members to Council premises

### **Introduction**

This section of the Code of Governance is aimed primarily at Members. It is intended to assist Members in their work at Westminster. It provides greater details of some of the issues covered in the first general section of the Code and other issues which are particularly relevant to Members. If you have any queries or questions about matters in this section please contact either the Chief Executive or the officers/extensions numbers referred to within specific sections.

### **The Members' Information Portal**

The Members' Information Portal is a means through which Westminster City Council members can access and use information applicable to their needs. Councillors are able to access 'Ward' specific information including Calendar events taking place, Ward Profiles and general information relating to a wide range of subjects. The website also incorporates elements of the council's own website along with partner websites.'

<http://partnerweb/members/default.org>

This website can be accessed via any Council computer or via external remote access. For details on how to access this site remotely, from a home PC or laptop, please contact Janis Best on 7641 3255.

### **Westminster City Council Management and Departmental Structure – Finding Your Way Round the Organisation**

Understanding how a complex organisation like Westminster is structured can seem rather a complicated process. However, there is a logic to the organisation and help is at hand from staff in Member Services on extension 3255 to assist all Members – and particularly new Members – to ensure they are able to contact the appropriate department(s)/Officer(s) to obtain information. Members will, of course, build up their own network of contacts over a period of time, which will doubtless prove invaluable. Alphabetical listing of Officer names, with telephone extension numbers, are contained in the public folders on the exchange system and 'hard' copy of the up to date internal telephone directory can be obtained from Janis Best on 7641 3255.

Further information on facilities available to Members is included later on in this guide, with appropriate contact points.

A structure chart setting out the management and Departmental structure is contained on the Members' Website. Individual Chief Officers will be able to provide further information on the breakdown of their department on request. Useful telephone numbers can also be found in the A-Z of Services and in the Members' Handbook.

### **Emergency Contacts**

During office hours Members can contact individual officers in departments direct to deal with problems and emergencies.

### **VIP Number**

To help Members contact Council officers and be transferred as quickly and efficiently as possible, a dedicated enquiry line is available on **0207 641 6060**. By ringing this number, Members will be transferred immediately to the officer or service area they require. Customer Service staff will also be able to assist with general enquiries if required.

If it is out of hours and you cannot find a relevant specific contact number, a "Duty Officer" system is operated by the Facilities Manager-. Emergency calls should be made to City Hall (020 7641 – 6000). An Auto Attendant facility will give you an opportunity to speak to somebody in connection with general noise, cleansing or housing issues. Alternatively you can speak to an Emergency Duty Officer who will be able to provide assistance on a wider range of issues.

### **How would the Council respond to an emergency in the City?**

In the event of a major accident or natural disaster occurring within the City of Westminster and causing death, injury or disruption to normal life on a large scale, the City Council would implement an emergency plan, the aim of which is to mobilise and co-ordinate the resources and services of the City Council, in order to fulfil two objectives – to provide assistance and support to the emergency services, and welfare and help to people affected by the major incident.

The emergency plan provides guidelines for Chief Officers and managers called upon to organise and co-ordinate a corporate response to a major disaster. A requirement of the plan is the corporate management of the response under the direction of the Chief Executive from an emergency control centre in City Hall, or alternatively at Lisson Grove.

The plan would be implemented following receipt of information from the police. The duty officer or telephonist receiving the information would notify the emergency planning officer who, after assessing the situation, would implement the plan and inform the Chief Executive.

In the event of any queries or further information required, please contact the City Coordination Manager on telephone 7641 7092.

### **Visits by Members to the Council's Premises – Right of Access**

Premises of the Council are controlled by the Chief Officer of the department by which the premises are provided. Members of the Cabinet and Chairmen and Vice Chairmen of Committees/Sub-Committees have a right of access at any time to any premises which fall within their particular terms of reference. The Leader of the Council and the Leader of the Opposition have a right of access to Council premises at any time. Visits by other Members to establishments are controlled by the body managing the establishment. No instruction may be given by any Member when visiting premises. Concerns/requests for specific action should be addressed to the appropriate Chief Officer on the Member's return.

## **SECTION 1 PROCEDURES – COUNCIL AND CABINET, COMMITTEE AND SUB-COMMITTEE MEETINGS**

This section gives information on the following:-

- Procedures at Council meetings including Council questions (questions asked at the Council meeting, written and urgent questions)
- Petitions
- Refreshments at Council, Cabinet and Committee meetings
- The Cabinet and Committee process
- Cabinet and Committee reports and the ward member consultation process

### **Procedures**

#### ***Council Meetings***

The General Section of the Code of Governance sets out the way in which the Council is structured in terms of the role of the Council, the Cabinet, individual Cabinet Members and Committees. Further details of the above can also be found in the Constitution.

Council Meetings are scheduled approximately 6 times a year. Details of the business to be transacted at Annual, Ordinary and Extraordinary meetings of the Council are set out in the Constitution.

A summary of the procedures followed at full Council meetings is contained in the Members' Induction Pack or available from Reuben Segal, ext 3160.

#### **Refreshments provided at Council, Cabinet and Committee meetings**

Prior to full Council meetings a meal is provided for Council Members free of charge from 6pm before each meeting. Meals are available for Members' guests at a cost of £10 per head. Members wishing to order meals for their guests must notify the Head of Committee and Governance Services on extension 3160 at least 48 hours before the meeting. No food is allowed in the Council meeting.

A varied range of sandwiches (vegetarian and non-vegetarian) are provided at Cabinet/Committee meetings. Members who have specific dietary requirements should inform the Head of Committee and Governance Services (extension 3160) at the earliest possible opportunity to enable appropriate catering arrangements to be made.

#### **Cabinet, Committee and Sub-Committee Meetings**

The terms of reference of the Cabinet, individual Committees and Sub-Committees are set out in the Constitution.

A Member of the Council is entitled to attend a meeting of the Cabinet, a Committee or Sub-Committee of which he is not a member, except the following, once the press and public have been excluded:-

- Staff Appeals Sub-Committee
- Education Awards Appeals Sub-Committee
- Licensing Sub-Committees
- Rating Panel
- Appointments Sub-Committee
- Standards Committee and its Sub-Committees

Any Member who wishes to remain at a meeting of one of the above, when the press and public have been excluded, must seek the agreement of the Director of Law by no later than 12 noon on the day before the meeting setting out the reasons for wishing to attend. The Director of Law will then, in consultation with the relevant Chairman, decide whether the Member concerned should be permitted to attend the meeting on a 'need to know' basis. Any Member (other than the Leader and Leader of the Opposition) attending a meeting of the Cabinet, a Committee or Sub-Committee who is not a Member of that body may not speak except with the consent of the Leader (in the case of Cabinet Meetings) or the appropriate Chairman (in the case of other meetings). A 'visiting' Member should always indicate to the Leader/Chairman before the start of the meeting the agenda item(s) on which they wish to speak.

### **The Cabinet and Committee Process**

Section 1 of the General Information section of the Code explains the role of:-

- The Council
- The Cabinet (or Executive)
- Committees and Sub-Committees

The meetings are by law open to the press and public unless it is decided that there is good reason to exclude them. Agenda will, if necessary, be prepared in two parts to reflect the business to be carried out in public and which is exempt from public disclosure and, therefore, confidential (i.e. items for which the public may not attend).

Senior Officers will be present at meetings to give any further information on reports and answer Members' questions.

When reaching a view on a matter for decision Members should only have regard to relevant considerations and disregard all irrelevant ones. All relevant considerations will be clearly set out in the officers' report (with a concluding paragraph explaining the reasons why they are recommending the course of action set out in the report).

Further information as to how reports are prepared by officers, the style in which reports are written and the matters which are taken into consideration when a

report is being prepared are set out in the Council's Best Practice Guide to Report Writing. Copies of the Guide can be obtained from the Committee and Governance team.

### **Procedures for Consulting Ward Members on Reports**

Chief Officers must ensure that Ward Members are consulted on any initiative that particularly affects their ward which is to be reported to Cabinet/individual Cabinet Member(s)/Committee/Sub Committee/Urgency Sub-Committees and a summary of their comments must be included in the report. They must if possible be given 7 days to respond.

For urgent reports normal rules for consulting Ward Members should apply, although because meetings are convened at short notice there may be less time for the consultation process than is the case with items for scheduled meetings.

Where the initiative particularly affects a number of wards, the Members for all the affected wards must be consulted. If an initiative has some dimensions which are ward specific, and others which are general, the relevant ward Members must be consulted on the matters which will affect their ward.

Where it is not straightforward, eg: the initiative is near to a ward boundary, the appropriate Chief Officer will need to determine which wards are particularly affected. Where the proposals set out in a report are not considered to have ward implications eg a policy change or budget strategy no specific consultation with Ward Members is necessary.

### **Timing of consultation**

Ward Members should usually be consulted, at the latest, immediately after officer clearance of the report. However, the timing is at the discretion of the Chief Officer and the consultation may take place before if the issue is straightforward. This timing will ensure Ward Members' and officers' time is not wasted discussing matters which are unlikely to proceed but ensures Ward Member views can be considered by officers before the report is finalised. It is important that Ward Members are kept informed of any major changes which occur after they have been consulted so their comments relate to the final proposals.

### ***Paperwork***

Ward Members will not be supplied with draft reports as they are being consulted on the proposed initiative rather than how it is to be presented. However, Ward Members must be provided with sufficient information to enable them to comment on the issue/initiative and the appropriate information will therefore be provided as a briefing paper which may be supplemented verbally or as part of a site visit.

### ***Making Cabinet Members aware of the consultation***

The relevant Cabinet Member will be advised of the intention to consult on the initiative before consultation is started and be sent a copy of the briefing paper at the same time as it is sent to Ward Member. This will ensure that the Cabinet Member is aware of the issue if the Ward Member chooses to lobby about it.

### **Contracts**

If a contract relates to a particular ward(s) the Ward Member will be consulted about all aspects except the award of the contract. There may be exceptional circumstances in which, because of a local dimension to a contract, it would be appropriate to consult Ward Members on the award of the contract.

### ***Ward specific issues not requiring consultation***

Ward Members will not be consulted about issues which relate to specific individuals. However, this guideline does not apply where the Ward Member is acting on behalf of a constituent.

### ***Confidential Issues***

These guidelines will also apply to issues which are to be reported in the confidential section of the agenda but will be subject to the same restrictions. The confidential nature of the issue will be highlighted to Members by the appropriate Chief Officer when they are consulted.

### ***Members' Comments***

To avoid misunderstanding, other than simple agreement to a proposal, Members' comments must be made to officers in writing. As all reports submitted to Cabinet/Individual Cabinet Members/Committees or Sub-Committees are the responsibility of the relevant Chief Officer(s) they must not be drafted/amended by Members. The Ward Members' views must be fairly represented. If the Ward Members have no comments that will also be reflected in the report. Any comments made must be directly related to the issue under consideration. A suitable form of wording is:

"Ward Members have been consulted and the following comments have been received:"

This requirement applies to licensing and planning application reports.

### ***Background papers***

Written responses from Ward Members will become background papers to the final report and listed as such on the report.

### ***Final Report***

Ward Members will be sent a copy of the final report by the Cabinet and Committee Secretariat.

### **Lead Member Consultation**

Lead Member(s) should be consulted by the relevant Chief Officer on draft report(s) which fall within their remit. The report should include reference to the Lead Member being consulted and their views should be incorporated into the report.

## **SECTION 2 CODE OF CONDUCT FOR MEMBERS**

This section gives information on the following:

- Code of Conduct for Members
- Role of the Standards Board
- Register of Interests
- Declaration of Interest
- Accepting Gifts and Hospitality

### **Code of Conduct for Members**

All Members of the City Council are bound by the provisions of the Code. If any member fails to sign the Declaration of Acceptance of Office within 2 months of being elected, then they will cease to be a member of the Council.

Members who require any advice regarding provisions of the Code should contact the Director of Law (Head of Committee and Governance Services on extension 3160).

Copies of the Code are available from Reuben Segal on extension 3160. A copy of the Code is included in the Constitution. Members of the public have the right to inspect the Code. It can also be accessed at [www.westminster.gov.uk](http://www.westminster.gov.uk)

The Director of Law now has a duty to consider complaints made about Member Conduct. More details and a complaint form on which to make a complaint can be found at [www.westminster.gov.uk](http://www.westminster.gov.uk)

### **1. Registering and Declaring Membership of Political Party Councillor Associations**

Following an enquiry from the Conservative Party about membership of the Conservative Councillors' Association, the Standards Board have clarified that membership of councillor associations should be registered with the authority under paragraph [now 8 (11 (a) (ii) (cc))] of the Code of Conduct.

The Code of Conduct requires the registering of membership of bodies "whose principal purposes include the influence of public opinion or policy". Political Party Councillor Associations fall under this requirement and membership of such Associations therefore needs to be registered."

**Members should notify any changes to their declaration on the register within 28 days to Reuben Segal, Council, Cabinet and Committee Secretariat on extension 3160. Failure to do so will be a breach of the Code of Conduct.**

### **Declarations of interest**

Alongside the register of interests, the Code also requires the declaration of interests at meetings of the Council (including Cabinet and Committee meetings). Members have to decide first whether or not they have a personal interest in the

matter under discussion. They will then have to decide whether that personal interest is also prejudicial.

A **personal** interest is (a) any interest you are obliged to register, and (b) which affects you (or a relevant person) more than most other people in the ward concerned. People in the area include those who live, work or have property in the “relevant person” includes a member of your family, a close associate, partner, employer etc (see code for full definition).

If you do have a personal interest, you must declare it and say what the interest is at the beginning of any meeting where the issue is to be discussed or as soon as it comes to light. However, you can still take part in the meeting and vote unless the personal interest is also a prejudicial interest.

Whether the interest is **prejudicial** is a matter of judgement for each member. What members have to do is ask themselves whether a member of the public – if he or she knew the facts – would reasonably think that the member’s interest was so significant that his/her judgement of the public interest is likely to be prejudiced by it.

Having said that, the new Code of Conduct provides that various types of interest are not prejudicial interests (see paragraph 10 (2) of the Code, or seek advice if in doubt).

If a Cabinet Member has a prejudicial interest in a matter he/she cannot take part in decisions about that matter.

A member with a prejudicial interest should not seek improperly to influence a decision on the matter in question.

Members are encouraged to bring their personal experience to bear when considering matters but they should not be involved in taking decisions if they have a prejudicial interest.

Further information on the nature of prejudicial interests can be provided the Head of the Committee and Governance Services (ex 3134).

### **Gifts or hospitality**

Members are required, within 28 days of receiving gifts or hospitality over the value of £25, to provide written notification to the Council’s Monitoring Officer giving details of the nature of that gift or hospitality and the person from who it was received. Please contact Reuben Segal on 7641 3160.

### **Training on Planning and Licensing Procedures**

Detailed training on these two important aspects of the City Council’s statutory functions is provided to assist Members and officers. The Planning training is based on the Nolan Committee’s recommendations and guidance provided by the Royal Town Planning Institute, the Local Government Association, the Commission for Local Administration in England and the Audit Commission. The

Licensing training is based on the requirements of Licensing Act 2003, related Regulations and the rules of procedure adopted by the Licensing Committee.

Copies of both sets of slides used for training purposes are available from the Committee and Governance team (x 3160).

**The following note is still included for information and guidance:**

**ADDITIONAL GUIDANCE FOR ALL MEMBERS OF THE CITY COUNCIL ON DECLARATIONS OF INTEREST FOLLOWING THE LOCAL GOVERNMENT OMBUDSMAN'S REPORT INTO THE BELGRAVE ROAD/VAUXHALL BRIDGE ROAD MATTER**

1. The full Council received a report on the Ombudsman's report into complaints about the way in which the Council had dealt with traffic proposals affecting Belgrave Road and Vauxhall Bridge Road at their meeting on 14 November 2001. Most of the complaints were rejected by the Ombudsman, but he did find that three Councillors failed to declare a personal or private non-pecuniary interest at the Committee meetings on 30 June 1998 and 26 January 1999; and that a fourth Councillor had a "clear and substantial interest" which was not declared at those two Committee meetings. He said that these Councillors breached the National Code of Local Government Conduct and that this amounted to maladministration.
2. The City Council's Standards Committee has, therefore, approved this guidance to all Councillors in an attempt to avoid a similar situation arising in the future.
3. The relevant provisions of the former National Code, which were found by the Ombudsman to have been breached in the Belgrave Road/Vauxhall Bridge Road matter, have now been superseded by the statutory Code of Conduct for Members and Co-opted Members summarised above.
4. Direct and Indirect Pecuniary Interests (under the Local Government Act 1972) and substantial and non substantial non pecuniary interests (under the former National Code of Local Government Conduct) are now replaced simply by "personal interests" and "prejudicial interests" under the new Code of Conduct.
5. Under the former National Code if a member had a significant non-pecuniary interest it had to be declared, but the Member could nevertheless participate in debate and vote, unless the interest was "clear and substantial". Similarly, under the new Code, personal interests must be declared but a member who has declared such an interest may nevertheless participate and vote unless the interest is also "prejudicial" in which case (generally speaking) the Member must leave the meeting when the matter is being decided. (In addition the Code provides that a Member with a prejudicial interest must not exercise executive functions in relation to

the matter in question nor seek to improperly influence a decision about the matter).

6. A "prejudicial interest" is (subject to exceptions) one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest.
7. In the Belgrave Road/Vauxhall Bridge Road matter, all four Councillors concerned lived within the consultation area for the traffic proposals concerned. Three lived in streets at varying distances from the principal routes affected, but the fourth lived literally a few doors away from Belgrave Road, although not on a street which was identified in the Committee reports as being particularly affected by traffic flows etc. as result of the proposals concerned. None of the Councillors concerned realised at the meetings in question that they ought to be declaring an interest. Arguably, none of the Councillors concerned were more affected by the proposal to remove Belgrave Road from the red route network than other people living in the area although, as previously noted, one Councillor did live particularly close to Belgrave Road.
8. The Ombudsman concluded, in relation to the first three Councillors, that whilst they should have declared a non-pecuniary interest, the interests were not "clear and substantial" and they were, therefore, entitled to participate and vote on the issue. With regard to the fourth Councillor, however, the Ombudsman wrote as follows:-

"Councillor B's case is more difficult to judge because of the proximity of his home to Belgrave Road.

....The reports about the red route options did not say that either option would have an affect on Councillor B's street.....

Councillor B's house is a few doors away from Belgrave Road: **because of this proximity**, I consider that a member of the public, knowing the facts, probably would reasonably think that Councillor B **might** be influenced by his interest .....

On balance, I have concluded that Councillor B's interest was clear and substantial and that, in accordance with paragraph 11 of the Code, he should have withdrawn from the meetings at which the red routes were considered."

(Emphasis added.)

It is reasonable to suppose that if a similar situation arose under the new Code of Conduct. The first 3 Councillors would be held to have "personal interests", but only the fourth a "prejudicial interest" (on the basis that the value of his home would have been affected by the proposals).

9. **In view of the Ombudsman's findings, the Standards Committee would advise all Councillors as follows:**

- **If you (or a relative or friend or other person with whom you are associated under paragraph 8 of the Code) are included within the consultation area for a development proposal, highway scheme, or other matter, this is arguably because the view has been taken that you (or they) may be affected by the matter in question (albeit, possibly, along with many others). That being the case, it would be safest to conclude that you have a personal interest in the matter and to declare that interest if you are present at a meeting at which the matter is being considered (or if you are a Cabinet Member taking a decision on the matter). The only exception would be if you are not affected to a greater extent than the majority of other council taxpayers, ratepayers or inhabitants of the ward affected.**
  
- **Declaring such an interest does not mean that you need necessarily withdraw from participation in debate, voting or decision making. You need to decide whether the interest is prejudicial. If it is not, then you may continue to take part in the discussion of the matter and vote on it (or if a Cabinet Member, make the relevant decision).**
  
- **If, however, it is prejudicial, then you should not take any part in the proceedings and should always withdraw from the meeting whilst the matter is being considered (in the case of a Cabinet Member invited to make a decision, the decision will need to be taken either by the Leader, or by another Cabinet Member nominated by the Leader).**
  
- **In deciding whether such an interest is prejudicial, you should ask yourself whether members of the public, knowing the facts of the situation, would reasonably regard it as so significant that it is likely to prejudice your judgement of the public interest. If you think so, and the proposals could have an impact on you (or a ..... or body described in paragraph 8 of the Code) you should regard the interest as prejudicial.**
  
- **You will need to make a judgment on the facts and, if in doubt, seek advice from the Head of Legal and Democratic Services, preferably well in advance of the meeting in question. What does seem to be clear from the Ombudsman's decision is:**
  - **You are likely to have a prejudicial interest and should not, therefore, participate if you are affected by the proposed decision in some particular way, ie. more than the generality of those affected by the decision, eg. in the context of a highway scheme, if you live in the principal streets affected, or in a street which is identified as being indirectly affected, such as by increased or decreased traffic flows.**

- **Even if you are not particularly affected by a scheme in this way, but you live particularly close to the routes concerned, then, in view of the Ombudsman's decision in the Belgrave Road/Vauxhall Bridge Road case, and if the scheme could have a financial impact on you (or a person or body mentioned in paragraph 8 of the Code) it would be advisable to regard your interest as prejudicial and, therefore, not to participate.**
- **In the context of a development proposal, if you are in any way directly affected, eg because you are within sight of the development, overlooked by it, or directly affected by increased or reduced traffic or parking, and the proposal could have a financial impact as aforesaid then you should regard the interest as prejudicial.**

(Note: The guidelines set out above have been modified since they were approved by the Standards Committee to take account changes introduced in the new Code of Conduct).

#### Advice

In general, if Members are in any doubt about whether they have a personal or prejudicial interest in a matter, or in respect of any other aspect of the Code of Conduct, they are encouraged to seek advice from the Head of Legal and Democratic Services on extension 2711.

### ***Bribery Act***

*The Bribery Act 2010, which repealed existing corruption legislation, has introduced the offences of offering and/or receiving a bribe. It also places specific responsibility on organisations to have in place sufficient and adequate procedures in place to prevent corruption taking place. Under the Act, Bribery is defined as “inducement for an action which is illegal, unethical or a breach of trust”. Inducements can take the form of gifts, loans, fees, rewards or other privileges.*

*Corruption is broadly defined as the offering or the acceptance of inducements or gifts or favours, payments or benefits in kind which may influence the improper action of any person; corruption does not always result in a loss. The corrupt person may not benefit directly from their*

*deeds; However, they may be unreasonably using their position to give some advantage to another.*

*To demonstrate the Council has sufficient and adequate procedures in place and to demonstrate openness and transparency all staff and Members are required to comply with the requirements of the Council's Gifts and Hospitality policy.*

## **SECTION 3 FACILITIES FOR MEMBERS**

This section gives information on the following:-

- Guidelines on the Use of Council Resources
- Cabinet Support Team
- Scrutiny Team
- Committee and Governance Services
- Media Relations Service
- Facilities provided at City Hall
- Postal and Despatch Arrangements

### **Guidelines on the Use of Council Resources**

All the expenses of the Authority are met from public funds. Any facility provided, should not, therefore, be used without first considering whether the use to which it is to be put is legitimately a Council purpose as opposed to a private or political purpose. While it is not intended to prevent or hinder in any way Members from carrying out their duties, Members themselves must take account of the distinction between their official duties as Members of the Council and their wider party political role.

Although the Council does provide facilities for political groups to assist them in the discharge of their functions, e.g. the provision of accommodation for group and caucus meetings and the provision of support services for the Leader of the Council and the Leader of the Opposition, the provision of such administrative/clerical support is strictly limited to the internal work of the political group in relation to Council business. While there can be no objection to officers being involved in assisting with the organisation and distribution of material relevant to Council business (e.g. in connection with the organisation of group meetings) it would be inappropriate for officers to be asked to become involved in the distribution of any material which might be regarded as “inappropriate” (for example it would not be appropriate for officers to be asked to distribute material which is disparaging to other Members of the Council).

[For further advice on the above, please contact Janis Best, Member Services Manager on extension 3255.]

Council stationery and photocopying, despatch and postal facilities, wherever provided, are available to provide support to Members of the Council. These services are provided to assist Members in the performance of their official Council duties and with constituent’s casework only. They must not be used by Members in connection with party political matters.

**Please note: The production of papers and letters for circulation to Members of the public etc on a large scale will not normally be acceptable nor will services be provided on matters which are, in the opinion of the Chief Executive, of a political nature.**

## **What is provided?**

### **Members' Services**

Services for Members can be obtained from:-

- Cabinet Support (ext. 3255)
- Scrutiny Team (ext 2636)
- Committee and Governance Services (ext. 3134)
- Media Relations Service (ext. 3995)

### **Cabinet Support Team**

This team is part of the Member Services team within the Communications and Strategy Directorate. It provides support to:-

- Leader of the Council
- Cabinet Members
- Chairman of the Planning and City Development Committee
- Chairman of the Licensing Committee

The team provides research and project support on Council-wide and operational issues, monitoring the progress and implementation of policy initiatives as well as providing a comprehensive administrative and support service. Further details about the functions of the Cabinet Support Team can be found in the General Information Section of this Code.

### **Civic Communities Team (ext. 3255)**

The Civic Communities Team, also situated within Member Services, provides support in producing the annual Statement of Ward Members' Priorities for each ward. They also research, draft and submit recommendations for expenditure from the Ward Budgets as well as monitoring expenditure of the budgets.

The Executive Civic Officers provide Members not supported elsewhere with a casework service and also act as the general contact point for Members enquires for the public. In addition to the above services, Members can of course contact departments directly with enquiries /complaints/requests for information.

Finally, the team is responsible for the Council's engagement function through the delivery of three rounds of six Area Forums every year.

### **Scrutiny Team (ext 2636)**

This is a dedicated resource available within Member Services responsible for driving improvements in the scrutiny function, agenda setting, the delivery of the annual Scrutiny Monitoring report, as well as commissioning and undertaking scrutiny research as part of an agreed programme of investigations.

For all matters relevant to the Member Services team, please contact Janis Best, Member Services Manager, on ex 3255.

### **Committee and Governance Team**

- compile agenda and drafts minutes for all Cabinet meetings, Cabinet Committees, Policy and Scrutiny and other Committees and Sub-Committees
- advise on the clearance of Committee reports
- advise on the programming of Cabinet/Committee business/rules of procedures, including individual Cabinet Member decisions
- provide information on previous Cabinet/Committee decisions

[For further advice on the above or the role of individual Cabinet Members, please contact Reuben Segal, Head of Council, Cabinet and Committee Secretariat on extension 3160.]

### **Media Relations Service**

The Communications Team are responsible for:-

- media relations – responding swiftly to requests for information from journalists on Council matters
- marketing and design for corporate publications (The Annual Report and Westminster Reporter)
- providing a daily media monitor for Members and Senior Officers.

For all matters relevant to the media team, please contact Fergus Sheppard, Media Relations Manager on ex 3995

Where are services provided?

Accommodation

General

**It is the policy of the Council that accommodation in administrative buildings should not be used for Members' Surgeries. Accommodation in other Council buildings can be used for surgeries upon payment of the normal hiring charges.**

Members' Rooms are situated in City Hall and the facilities available are as follows:

- **a telephone extension to the main switchboard for official internal and external calls**
- **a television set**
- **photocopier**
- **a writing desk, supply of official Members' stationary, envelopes, headed note paper and reply paid envelopes**

- a word processor with links to the internet and intranet
- copies of some daily and local newspapers
- copies of periodicals eg, Local Government Chronicle, Municipal Journal
- other general information and reading of interest which is related to local government and public service
- City Map and Index to Streets
- Paper shredding machine
- a complete copy of the Electoral Register
- Coffee and tea making facilities, sandwiches and confectionery

Health Warnings

Photocopier

The photocopier is not intended to be used for high volume printing and must only be used for a limited amount of copying (up to a maximum of 50 copies of any particular item).

For larger print runs, photocopying facilities can be obtained from the Print Room on the first floor.

Use of the above facilities

**Please note that use of all the above are restricted to official council business and casework papers and must not be used by Members in connection with party political matters.**

Additional Meeting Room Facilities at City Hall

There are a number of rooms on the 17<sup>th</sup> floor which can be used by Members for official Council business. The rooms seat between 12-18 and 20-40 people depending on the required room layout. Rooms 3 and 4 and 5, 6 and 7 can be opened up to make larger rooms.

These rooms are heavily used and must be reserved in advance through the Helpdesk on extension 2020. Certain outside organisations may use the rooms at City Hall although a charge will be made. The City Council may waive the charge in respect of certain specific organisations.

**These meeting rooms may not be used for Members' private business or for Members' Surgeries.**

Westminster Council House, Marylebone Road

All meetings of the full Council are held at Council House. No car parking facilities are available.

**NB. Please note that Council House is expected to be closed until late 2016.**

## Additional Meeting Room Facilities at Council House

**There are a number of rooms available which can be used by Members for official purposes connected with Council business. These rooms can be booked subject to availability in advance through the Helpdesk on extension 2020.**

### Disabled Access

**There is a stairlift for wheelchairs through a side entrance at Council House but this is not large enough to take the larger powered wheelchairs. The porter on duty can be called upon to help people to gain entry to the building.**

**Disabled toilets are provided at City Hall on 17<sup>th</sup>, 18<sup>th</sup> and 19<sup>th</sup> floors at City Hall and on the first floor of the Council House.**

### Car Parking

(i) at City Hall

**Due the refurbishment of the adjoining property, Kingsgate House, car parking is not currently available at Westminster City Hall. Limited car parking facilities, pre-booked at least 24 hours in advance, are available in the basement car park at Cardinal Place for Members attending on official business. Any general queries concerning car parking for Members should be addressed to the Helpdesk on extension 2020.**

(ii) at Council House

**There are no parking facilities at Council House.**

(iii) Assistance with Parking whilst on Official Duties

**All zone ResPark permits are available to all Members of the Council to assist them with parking whilst carrying out official Council duties only.**

**The permits are renewed annually subject to completion of the necessary application form. The administration is carried out by Janis Best, 7641 3255. Any vehicle changes should also be reported to that officer as soon as they occur, as the permit covers the actual vehicle being used. In the event of a change of vehicle please remember to return the old permit.**

### Catering

(i) City Hall

**Members may make use of the restaurant, which is situated on the first floor of City Hall. The restaurant is open daily between 8am and 4pm (but closed between 11.30am and 11.45am for cleaning/restocking) and provides**

**cooked breakfasts, filled rolls and sandwiches during the morning and hot lunches, pizzas, jacket potatoes, a salad bar and a selection of fruits and confectionery.**

**Coffee, tea and a selection of food, including sandwiches, are provided at the majority of evening Committee and Sub-Committee meetings.**

**Coffee and tea making facilities and a selection of light refreshments are provided in the Members' room.**

(ii) Council House

**A full meal is provided to Councillors free of charge before Council Meetings in the Reception Room. Councillors may invite guests to Council Meetings but a charge will be made if the guest requires a meal. If an additional meal for a guest (£10) is required, the Head of Council, Cabinet and Committee Secretariat (extension 3134) should be notified in advance of this request.**

Council Diary and Handbook

**Every Member is issued with a Diary and Handbook. Both are regularly updated and distributed to Members. However, the accuracy of the information contained in the handbook in particular can only reflect the information given by individual Members to Member Services. Members should, therefore advise Member Services at the earliest opportunity to advise of any changes to their address/telephone/fax numbers/email address advising whether they are for release to members of the public.**

The diary contains:-

- **dates of all scheduled Council meetings**

The handbook contains:-

- **some statistical information about Westminster**
- **services of the Council and premises from which they are administered**
- **information on Chief Officers, past Lord Mayors, Honorary Freeman of the City and Members of Parliament who represent constituencies in Westminster**
- **details of Council Members**

Postal and Despatch Arrangements at City Hall

**The Post/Despatch room is situated on the ground floor at City Hall and handles all internal and external postal arrangements. Members can use this office for the despatch of mail relating to official Council business and casework mail (the Chief Executive can require envelopes to be left open so that the use of the postal and despatch facilities**

may be monitored). This facility must not be used for mass circulation of individual items nor for party political material.

All post from Members will be despatched on the day of receipt and posted second class unless otherwise specified. Members may leave their post for collection (appropriately addressed) at:-

- ground floor reception
- libraries
- any main administrative building

The post and despatch office also organises the despatch of Council post to Members – Members can, subject to request, receive a delivery by courier on Wednesdays and Fridays (and on other days when papers are urgently required).

Collection of Mail

It is possible for Members to arrange to have mail collected from their homes as part of the multi-drop service on either Wednesday or Friday evenings. Members should call 020 7641 1831 to make appropriate arrangements.

Green Promise Campaign – Recycling Services for Members

Members can make their own “green promise” and actively participate in the Campaign to Reduce, Reuse and Recycle (the 3R’s) by using the specialist recycling service. A canvas bag service is available for the recycling of committee or other papers and envelopes for reuse. The bag, once filled, will be collected from Members’ homes for return to City Hall.

[For further information, or to organise a collection, please contact extension 1831].

## SECTION 4 INFORMATION

This section provides information on:-

- Receiving Information
- What types of Information are held by Westminster City Council
- What confidential information is held by Westminster City Council
- Requirement to maintain confidentiality
- Members' Rights of Access to information not available to the public

*Receiving information*

**It is essential that Members have the information they require to enable them to fulfil their policy formulation, monitoring and ward representative roles. Members receive a wide variety of information from Council officers:**

- **Agenda, reports and minutes** of the committees they belong to and any other they request (there may be limitations on the confidential parts of some agenda)
- **Weekly Information Bulletin (known as "WIB")** This is produced each Friday by Member Services and provides up to date information on general matters of interest to Members and officers including decisions taken during the previous week.
- **Operational information** such as the list of planning and licensing applications received.
- Briefing notes on **'information' items**
- A daily **Media Monitor** in the morning and **Evening Standard Summary** in the afternoon
- A daily **Public Affairs Today** publication
- A wide variety of **other information**

If requested Chief Officers will as far as reasonable and practicable hold periodic briefings for groups of Members from either party (either together or separately) about the substantive issues facing the department or on subjects identified by Members.

Members should note that a copy of any factual information supplied by an officer in response to a request will be sent to the relevant Chairman, Cabinet Member and/or Lead Member. This provision relates to all factual information supplied except matters which relate personally to a Member or their casework. And ensures that the relevant Chairmen, Cabinet Members and Lead Members are aware of the issues of general concern.

Subject to the guidance below, Officers will endeavour to supply Members with any information which has been requested. However, it may not be possible for the required information to be made immediately available particularly if the matter is complex. Members are requested to give Officers as much notice as possible if information is required or Members wish to discuss any issues.

**Before passing, or discussing, any information received from Officers to anyone else, Members must ensure that it is appropriate to do so and if there is any doubt they must seek advice from the Head of Legal and Democratic Services. This is particularly critical in relation to personal information about particular people or groups of people. Members must also consider the status of information they have access to as a Councillor when serving on outside bodies such as School Governing Bodies, etc, see sections on Confidential Information below.**

What types of information are held by the City Council?

Information held by the City Council can be classed into three categories:

#### **1. Information available to Members and the Public**

The Freedom of Information Act 2000 gives anyone the right to request information held by the Council. In most cases the Council is under a duty to confirm or deny that it holds the information and unless an exemption applies it has a duty to supply the information. Other Access to information legislation lays down the documents which must be made available to the press and public in the context of Committee, Cabinet and Cabinet member decision making.

The City Council, as a matter of policy, confers on **Members** the right to see information which extends beyond the legal requirements. Thus, the Council's former Policy and Resources Committee adopted the following policy:

“Information and documents should be made available on request by Officers to Members unless (a) there is a clearly and properly justifiable reason for declining access and (b) the Member in question cannot establish a legal right to the information or documentation.”

It is also worth noting that wherever possible, the City Council makes information available for public consumption in line with the transparency agenda set by central government, including all expenditure over £500.

However, as indicated below, not all information which is made available to Members can be made available to the public.

## **2. Information not available to the public but available to Members on a confidential basis**

Some information is made available to Members subject to a requirement that such information is kept confidential to the Member concerned. This information must not be made available to the public, press, other organisations or anyone else. The information can be discussed between Members and appropriate officers in the “closed” session of Committee and Cabinet meetings or outside formal meetings with appropriate officers. Such information is often personal to particular individuals and, or commercially or otherwise sensitive. It is essential that such information is not passed onto or discussed with anyone else.

Information in this category will be clearly marked as confidential before it is released to Members.

## **3. Information not available to all Members, or the public**

**There is some information which is not automatically available to all members, even on a confidential basis, and should not be made available to the public.**

What confidential information is held by the City Council?

**There are three types of sensitive information held by the Council and which can be described as ‘confidential’. All information falling within any of the three categories must be recognised as confidential and preserved by both Members and Officers alike.**

**However, information which at one time was to be treated as confidential may subsequently cease to be confidential. Members should seek advice from the Head of Legal Services if they consider that this might apply to any confidential information which they hold.**

**The three types of sensitive information held by the Council are:**

1. Confidential Information in respect of which the press and public must be excluded from meetings

**Confidential information is defined in Section 100A(3) of the Local Government Act 1972 as:**

- “(a) information furnished to the Council by a Government department upon terms (however expressed) which forbid the disclosure of the information to the public; and**
- (b) information the disclosure of which to the public is prohibited by or under any enactment or by order of a court”.**

## 2. Exempt Information

Information of the type listed in Schedule 12A of the Local Government Act 1972 in relation to which the Council may pass a resolution to exclude the press and public during consideration of the relevant item of business.

The table below identifies 7 categories of information which are exempt subject to certain conditions. However, information falling within any of the 7 categories is not exempt if:

- a) the public interest in disclosing the information outweighs the public interest in maintaining the exemption, or
- b) it relates to proposed development for which the Council as the local planning authority may grant itself planning permission under Regulation 3 of the Town and Country Planning General regulations 1992(a).

Guidance published by the Information Commissioner's Office states that "in effect something 'in the public interest' is simply something which serves the interests of the public. When applying the test, the public authority is simply deciding whether in any particular case it serves the interests of the public better to withhold or to disclose information."

<b>Category</b>	<b>Condition</b>
1. Information relating to any individual.	
2. Information which is likely to reveal the identity of an individual	
3. Information relating to the financial or business affairs of any particular person (including the authority holding the information)	Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under – (a) the Companies Act 1985; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Industrial and Provident Societies Act 1965 to 1978; (e) the Building Societies Act 1986; or (f) the Charities Act 1993.

Category	Condition
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6 Information which reveals that the authority proposes – (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.	
7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	

3. Other Confidential Information which is not the subject of discussion at a meeting.

**It is not only ‘confidential information’ or ‘exempt information’ as defined in the legislation that should be protected. Information other than that which is to be discussed at, or is the subject of a report to, a Council meeting may be provided to a Member in confidence. Information provided expressly ‘in confidence’ to a Member (whatever words are used to describe its confidential nature) should be treated as confidential information. An example might be sensitive legal or**

**financial information provided to Members by Officers outside the context of a formal Council meeting.**

**Requirements to maintain confidentiality**

The City Council's Standing orders, Contracts Code, Members' Code of Conduct and the Officer's Disciplinary Code require Members and officers to maintain confidentiality.

In particular paragraph 4 of the Members Code of Conduct states:

*"You must not:*

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:*
  - (i) you have the consent of a person authorised to give it;*
  - (ii) you are required by law to do so;*
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or*
  - (iv) the disclosure is:*
    - (aa) reasonable and in the public interest; and*
    - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or*
- (b) prevent another person from gaining access to information to which that person is entitled by law."*

Unauthorised disclosure of information provided in confidence may therefore breach paragraph 4 of the Code and/or paragraph 5 'by bringing your office or authority into disrepute' and/or paragraph 6 by conferring on or securing an improper advantage or disadvantage on any person, including yourself.

In addition to this paragraph 7 of the Code states:

*"When reaching decisions on any matter you must have regard to any relevant advice provided to you by ...your authority's Monitoring Officer; where that officer is acting pursuant to his or her statutory duties."*

Any clear breaches of the Code by Members will be drawn to the attention of the Party Whips by the Chief Executive and may be the subject of a complaint to the Council's Standards Committee.

Members have wide rights of access to information held by the Council but this does not mean that they may share all this information with other people or the public. Much of the information disclosed under the "need to know" or the additional statutory rights of access to Council and Executive documents will include confidential information, either about individuals, the Council or other persons/organisations.

Members are strongly advised to seek advice from the Director of Legal and Administrative Services before considering the disclosure of information given to them in confidential or otherwise restricted circumstances. It may be that a Member receives information which s/he believes has been incorrectly classified as confidential. In such an event the Member should seek legal advice.

Experience in dealing with requests for information from Members has demonstrated that deciding whether the requested information should be released is not always a straightforward issue. In the case of a dispute the Chief Executive will make the final decision.

Member's must also consider that the Council could face legal action for breach of confidentiality due to the Member's actions.

Any officer who breaches confidentiality is committing a disciplinary offence and action will be taken wherever possible.

## **Members' Rights of Access to Information not available to the public**

Information available to the public under the Freedom of Information Act (FOI) or other legislation is also available to Members. However, information which would not be made available to the public under the FOI may nevertheless be made available to Members on a confidential basis. The circumstances in which Members may have a right to information not available to the public, either under the common law or under statute, are set out below:

### **The Common Law position**

At common law a Member has a prima-facie right to inspect documents so far as access is reasonably necessary for them to perform his or her duties. This is not a "roving commission" to access any documents and the member needs to prove he/she has a right to know. If a Member's motive for seeing documents is indirect, improper or ulterior this may be raised by the Council as a bar to the entitlement.

Much of Council business is conducted through Committees of the Council or Cabinet. If a Councillor is a Member of a Committee or Cabinet he/she has the right to inspect documents relating to the business of that body. If not the Councillor has to show cause why sight of them is necessary to perform his or her duties. The entitlement of Committee and Cabinet Members to inspect documents of the Committee or Cabinet is a very strong one and certainly stronger than that of the non-member. Ordinary "confidentiality" is not a good reason for officers declining access to documents although it is legitimate to release documents on a confidential basis to Members.

The right of access is to the Member only. It does not generally allow a Member to further disclose the information and indeed the unauthorised disclosure of confidential information may be a breach of the Code of Conduct.

Based on legal advice received from Leading Counsel over the years, there are categories of documents which need not be made available and, in some cases, should not be made available. In particular, advice prepared by officers for a group of Members from one political party will not be accessible to other Members. However this does not mean that it is legitimate for officers to give Members political advice. Thus for example, confidential briefing notes to Chairmen, Cabinet Members and briefing notes to informal meetings of the Cabinet are not generally disclosed to other Members.

Other categories of documents where access may be declined are as follows:-

1. Working drafts and officers aide-memoirs and possibly memoranda depending on the circumstances.
2. Notes of informal working groups of officers – this would not cover for example Contracts Review Board (does this still exist?) which is enshrined within standing orders of the City Council and exercises formal functions. It would cover however an ad-hoc grouping of officers who are effectively

“thinking things through” before putting up proposals to their Chief Officer or a relevant Committee or Cabinet/Cabinet Member.

The right of access is access to **documents**. It is not a right to cross examine officers (though Policy and Scrutiny Committees may question officers about the discharge of their functions). Standing Orders provide a mechanism by which Members can raise questions at Council if they wish. Of course in practice, officers frequently answer questions raised by Members. Where it applies, the common law right of access to documents does not depend on whether the issue is about to be reported to Committee, Cabinet or a Cabinet Member but can be exercised at any time.

### **Additional statutory Members’ rights of access**

Any document which is in the possession or under the control of the Council and contains material relating to any business to be transacted at a Council meeting or committee or sub-committee of the Council shall be open to inspection by any Member unless it appears to the Director of Legal and Administrative Services that the document/s disclose exempt information (s.100F Local Government Act 1972).

However, those documents which contain information which is exempt by virtue of categories 3 or 6 in the above table, will still be available for Members to inspect, ie those documents which contain:

- a) information relating to the financial or business affairs of any particular person, (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract), or
- b) information which reveals that the authority proposes (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.

## **SECTION 5 CONFERENCES**

The following protocol for Members wanting to attend conferences was agreed by the former Policy and Resources Committee in February 1996.

- a) **If you are the Council's representative (or nominee) on Local Government Association (LGA) or London Councils Committees and want to attend relevant conferences.**

**When this occurs the Member is entitled to attend the conference as an approved duty without the need to seek approval. In most cases the Council's representative will be the relevant Cabinet Member (or Deputy Cabinet Member).**

- b) **A Member who is not the Council's nominated representative (of either political party) wishes to attend a conference which is relevant to Council business.**

**In this case the Party Whips' nomination must be sought and the Chief Executive has delegated authority to approve the attendance. The following criteria will be used:**

1. Is the Conference relevant to Council business?
2. Is the Member on the relevant Committee or the relevant spokesperson (or opposition spokesperson) on the given subject?
3. Can the expenditure be met from the budget allocation?

### **Payment of fees and expenses**

For attendance at conferences travelling and subsistence (up to the amounts specified in the City Council's scheme) will be paid to Members.

There is an annual budget for meeting conference fees which can be funded from the £15,000 per annum Members Training Budget..

### **Reporting back**

**Any Member who attends a conference is asked to report back on the conference, cost and attendees to the next meeting of the relevant Committee.**

## **Conference Bookings**

Member Services are responsible for Conference arrangements.

## **SECTION 6 MAKING AND MANAGING COMPLAINTS – ADVICE TO MEMBERS**

Section 6 of the General Section of the Code “When Things Go Wrong” gives advice on the:-

- Corporate Complaints Procedure
- Role of the Local Government Ombudsman

Details on how complaints raised by Members are handled is available from Cabinet, Committee and Scrutiny Secretariat (x 3160).

Officers are provided with a guide to complaints handling (“Westminster Corporate Complaints Team, Best Practice Guide for Effective Complaints Handling”). This provision addresses the quality of responses and includes checklists, advice on how to respond to a complaint at each stage, information on each department’s procedures and contact names.

Some services are under statutory requirement to deal with complaints in specific ways and have their own legally specified appeals procedures. These include parking charge notices, planning applications, and housing benefit. There are also special arrangements for schools and social services. Stages 1, 2 and 3 complaints can still be carried out on any of these services providing they address matters not covered by the statutory provision. For example, a complaint about a schoolteacher would be dealt with by the appropriate Headmaster and Board of Governors in the first instance but a complaint about an education policy would be considered by the Education Department.

The guidance will be reviewed regularly to ensure it reflects current practice.

## **SECTION 7 COMMUNICATIONS AND THE MEDIA**

### **Communications**

**The Communications department covers media relations, marketing, internal communications, public affairs and consultation.**

### **Media relations**

The Council is quoted, reported or covered in more than 4,500 articles or broadcast reports each year. The following vehicles are commonly used to communicate to journalists the position of the Council on a number of policies.

- **Broadcast Interviews:** Media Officers offer Members or Senior Officers for interview on radio and television to explain and promote council policies.
- **Press releases:** To support council policy and promote the interests of the city, the media team issues press releases setting out the views of the authority. These are in response to news events, council activities and performance or policy decisions.
- **Verbal or written briefing:** Press Officers offer briefing to journalists on a range of issues based on material supplied by service departments.

Members can contact the Communications Team direct to make an enquiry on a particular issue. The Communication's Team cannot, engage in party political activity or promote the individual interests (political or otherwise) of an individual Officer or Member.

Members must have regard to any applicable Code of publicity made under the Local Government Act 1986.

### **Media enquiries**

There will be occasions when callers will seek a view or opinion from the City Council on a particular issue. The Communications Team can provide that view from a relevant official document or from facts provided by officers. The Communications Team may seek a view or opinion on an issue from the relevant Chief Officer and/or Cabinet/Leading Member before responding to the enquiry. In these cases, it must be stressed to all parties concerned that this represents the view of the Council as a corporate body.

**In most circumstances the team will seek the view of the relevant service department and legal services before issuing a comment. The Director of Communications and Strategy will authorise the 'line to take' on an issue in exceptional circumstances where the news agenda dictates the need to act with speed; where officers cannot be contacted or outside office hours.**

Callers seeking a view specifically from a political group will be directed to the most appropriate member of the Council. The role of the Communication's Team in these circumstances is to contact the appropriate Member with the request providing the journalist and Member with their contact details and a brief description of the nature of the enquiry.

### **Publications and Corporate Controls**

The City Council produces a large amount of printed material to promote services, inform customers and raise awareness of certain issues.

In most cases, publicity material is commissioned by Chief Officers through service heads and the Communications Team provides an "agency" service for them to call on. The City Council does not have a general central publicity budget but does have budgets to pay for the production of the Council's "core" publications (Westminster Reporter, Annual report etc.). Funding for publications outside this core group is the responsibility of the commissioning officer and the relevant Chief Officer.

There may be occasions where it is appropriate for Members to be consulted on the content and style of publicity material either as a formal group, such as a Committee, or perhaps on a less formal basis if the material impacts on a particular area or service issue.

**In these instances, the officer responsible for producing the publicity material will need to ensure that Members' comments are taken into account, subject to the rules governing publicity detailed above.**

## **SECTION 8 MEMBERS ALLOWANCES**

The City Council has decided to pay basic allowances to all Members towards the expenses they incur as Members. The Members Allowances Scheme which gives details of the allowances Members are entitled to receive is set out in full in the Constitution and on the Council's website ([www.westminster.gov.uk](http://www.westminster.gov.uk)).

The Basic allowance is paid to all Members who wish to receive it. In addition, in the June following the City Council elections, or upon election if elected at a by election, each Councillor will receive an additional one off basic allowance to fund the setting up costs associated with being elected as a Councillor, primarily those relating to the provision of ICT. A Special Responsibility allowance is paid to Members who have specific additional responsibilities.

The Council is required to publish annually the amounts of allowances paid to individual Members. Travel claim forms are also open to public inspection.

Members wishing to query any aspect of their allowance should contact Reuben Segal on extension 3160.

## **SECTION 9 DATA PROTECTION ADVICE FOR MEMBERS**

### **What is Personal Data?**

Under the Data Protection Act 1998, Personal Data is defined as data that relates to a living individual who can be identified:

- (a) from those data, or
- (b) from those data and other information which is in the possession of, or likely to come into the possession of, the data controller,

and includes any expression of opinion about the individual, and any indication of the intentions of the data controller or any other person in respect of the individual. (Section 1(1)).

Personal data will therefore cover basic details such as name, address, telephone number, and Date of Birth, as well as opinions, facts and figures with regard to a particular individual. Processing personal data encompasses the following:

Any activity (obtaining, recording, holding, organisation, adaptation, alteration, retrieval, consultation, use, disclosure, alignment, combination, blocking, erasure and destruction.) that involves Personal Data, which is undertaken either directly, by a Data Controller, or on their behalf by a Data Processor.

Processing personal data must be purposeful, should not be excessive and not misleading as to the reasons for collecting and/or disclosing information. It should be held securely and accessed only on a 'needs to know' basis. Personal data should not be kept for longer than is necessary and should not be shared for reasons outside of the original purpose for which it was collected.

### **Key Definitions and Processes**

**Data Subject:** - the individual who is the subject of the personal data held by a Councillor. Or who is significantly mentioned within any correspondence held by a Councillor.

The Act only applies to living individuals who have a Right of Access. This is defined as the right to be informed if their personal data is being processed by a Data Controller or by someone on his behalf. This is followed by the right to have the information communicated to him/her in intelligible form (normally hard copy) detailing the information being processed, where or how it was obtained, why it is being processed and to whom it is has or will be disclosed.

Councillors have an obligation to respond to requests for information, formally described as a **Data Subject Access Request**. This must be made in writing. Councillors must satisfy themselves as to the identity of the applicant, as unauthorised disclosures to third parties not entitled to receive the information breaches the Act. All such requests should be acknowledged immediately, and in any event a response must be made within 40 calendar days of receipt of the request. It is a criminal offence to destroy information requested under the right of

Subject Access once it has been received by the Data Controller or his/her Data Processor.

Data Subjects have other rights conferred on them by the Act. These are:

The right to prevent processing likely to cause distress and/or damage  
The right to Prevention of Direct Marketing  
Prevention of Processing for Automated Decisions

Where Councillors receive a request pertaining to any of the rights conferred to data subjects under the Act due care must be given to statutory obligations and council best practice in this area.

**Data Controller:** - the person who determines the purposes for which and the manner in which personal data will be processed.

Councillors fall under this definition where they are processing other people's personal data for the purpose of their constituency, party political or other non-personal civic activities. All Councillors must comply with the 8 Data Protection Principles and must provide the Right of Access to personal data. All Councillors are required to **register individually with the Data Protection Registrar**. All Councillors are responsible for the security of the personal data they hold.

Examples of personal data falling under the control of Councillors include:

Details of complaints  
Case work on behalf of a constituent  
List of contacts  
Personal data held for general constituency work.  
Canvassing on behalf of your party

**Data Processor:** - the person or organisation who processed the information on behalf of the data controller.

Councillors do not have an automatic right of access to any of the personal data processed by the Authority, and must adhere to internal data protection and security procedures with regards to the obtaining and use of such data. Personal data will only be disclosed to Councillors where they can demonstrate that it is necessary in relation to their specific Council duties or work with their constituents. Councillors are not entitled to obtain from the Authority personal data relating to non-constituents. Information obtained from the Authority should be treated in confidence, and only disclosed in line with the Council's wishes. Councillors must seek authorisation to disclose personal data to other organisations.

Examples of personal data processed on behalf of the Authority include:

Constituency Work  
Case Work  
Committee Work

All requests for personal data held by the Council should be made in writing to the department concerned, stipulating in what capacity and for what purpose the information is required.

### **Summary of Obligations**

Process personal data including its storage and disposal in line with the 8 Data Protection Principles (see below)

Register with the Data Protection Registrar

Provide and ensure the right of Data Subject Access to personal data held in your capacity as a Councillor, Cabinet Member, Party Member or Activist or other non-personal civic duties

Provide and ensure the other rights conferred on individuals under the Act

Obtain personal data in line with the constraints sent out in this code of governance

### **Data Protection Principles**

1. Personal data shall be processed fairly and lawfully and, in particular, shall not be processed
2. Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.
3. Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
4. Personal data shall be accurate and, where necessary, kept up to date.
5. Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
6. Personal data shall be processed in accordance with the rights of data subjects under this Act.
7. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
8. Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

If you have any queries regarding Data Protection, please contact the Corporate Data Protection Team at [dataprotection@westminster.gov.uk](mailto:dataprotection@westminster.gov.uk)

# Guidance for Officers

## Introduction

This section of the Code of Governance is aimed primarily at officers. It is intended to assist officers in their work at Westminster. It provides greater detail of some of the issues covered in the first section and other issues which are particularly relevant to officers. If you have any queries or questions about matters in this section please contact either the Chief Executive or the officers referred to within specific sections.

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**CODE OF GOVERNANCE**

**GUIDANCE FOR OFFICERS**

## SECTION 1 THE CORPORATE FRAMEWORK

A number of documents make up the Corporate Framework and form the basis for the smooth and efficient running of the City Council. It is essential that all departments across the Council operate in the same way and adhere to agreed, procedures. In order to ensure that this happens, and that the City Council acts within the law and in line with best practice, the following documents have been approved. These documents are not included in full in the Code of Governance but reference is made to all of them in various Sections of the Code. If you require a copy, the contact details are set out below:-

Constitution, which includes Standing Orders	Committee and Governance Services
Human Resources Framework	Director of People Services
Financial Regulations	S.151 Officer
Procurement and Contracts Code	Chief Procurement Officer

## Finance

### Financial Regulations

The Financial Regulations for financial reporting and financial accounting and processing form part of the Constitution. The Chief Finance Officer has specific powers and responsibilities under Section 151 of the Local Government Act 1972 to:

- oversee the financial affairs of the Council
- make arrangements for the administration of the Council's financial affairs
- report regularly to the Cabinet, Cabinet Members and the relevant Policy and Scrutiny Committee and other committees about financial performance.

**Financial Regulations** lay down the procedures which must be followed by Members and officers throughout the decision making process.

**The Finance Framework** covers a range of corporate standards, accounting requirements and financial processes applicable to all departmental finance staff. Each section provides an overview of the subject followed by detailed procedure notes. The Finance contact officers, shown on the contents page, will be pleased to provide any further advice and details required. The document is updated on a regular basis.

A **Glossary of Financial Terms and Procedures** is also available and may be helpful to read in conjunction with the above. The Glossary is available from the Chief Finance Officer.

## Contracts and Purchasing

### Procurement & Contracts Code

The Procurement & Contracts Code which is to be used in relation to the Award, Monitoring and Reporting of Contracts forms part of the Constitution. The Code must be complied with when purchasing works, services or goods. The Code is currently being updated. For further information, contact the Head of Procurement.

The current version of the Procurement and Contracts Code is available at <http://committees.westminster.gov.uk/documents/s891/ProcurementCodeVersion19.pdf>

Standing Orders requires that the City Council have a code for contracting. This is now known as the Procurement and Contracts Code and relates to all procurement and contracts for works, services and goods entered into by the City Council. When taken in conjunction with any departmental guidelines, it provides the corporate framework for letting and managing contracts for the City Council. It should be noted that the procedures in this Code take priority over any local guidelines held within departments.

Procurement is the means by which the City Council purchases its services, works and goods. Significant proportions of the City Council's activities are performed through procurement. These activities range from care service contracts with non-profit organisations to large contracts often delivered in partnership with other agencies. Procurement activities are largely unseen by the public but sound procurement practice is vital to the City Council's ability to deliver essential quality services as well as ensuring good governance.

## **Corporate Ordering Policy**

The Corporate Ordering Policy must be used for the purchase of goods and services, including hire, maintenance repair and servicing of such goods not covered by the Procurement Code. Full details of the policy are provided in the Contracts (The Corporate Framework). It must be used:

- when buying goods or having the goods maintained;
- Information Technology (IT) and telecommunications purchases, where no ongoing contract is involved (there is a separate procedure on Approval of IT and telecommunications Acquisitions). IT purchases which involve an ongoing contract, bespoke software or software packages which require source code changes to meet the Council's requirements or a consultant providing professional advice should be obtained under the provisions of the Procurement Code;
- IT and telecommunications maintenance

All purchases under the Corporate Ordering Policy should result in an order being placed which quotes the Council's approved Terms and Conditions of Purchase
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### **When is the Corporate Ordering Policy not appropriate?**

- Works contracts/orders or building works are not covered by the Corporate Ordering Policy. A works contract or works order would normally require "supply and fit" where there is a need for the contractor to provide insurance cover on the "fit" element of the contract/order. Where purchases are to be made under the Corporate Ordering Policy which include the installation of the purchase, the terms and conditions of supply must address the installation aspect of the contract and the need for insurance must be considered. In any circumstances, where the estimated value of the purchase is exceeded by the estimated value of installing or fitting it, the contract/order cannot be let under the provisions of the Corporate Ordering Policy but must be let in accordance with the provisions of the Procurement Code.
- Consultancy services should be obtained in accordance with the terms of the Procurement Code and not the Corporate Ordering Policy.

Service contracts should be covered by the Procurement Code. A service agreement for a piece of equipment is more properly termed a maintenance agreement, which is covered by the Corporate Ordering Policy.

Chief Officers must ensure that the Corporate Ordering Policy is complied with.

## **Responsibilities for Council Equipment**

Guidance is available from Information Services about the responsibilities for Council equipment both at work and at home. These guidelines may have been supplemented by Chief Officers for their own department so please check whether you are subject to further guidance before acting on these guidelines. There are also detailed guidelines for the disposal of surplus equipment where appropriate and in particular of IT equipment. Equipment must be disposed of in such a way to:

- ensure suitable controls laid down to maximise income (where appropriate) provide a clear audit trail
- minimise effort for the individual department

If you do need to dispose of any equipment, please contact your Departmental Disposals Officer for further information.

## **Anti-Fraud Policy and Strategy**

The Council has an Anti-Fraud Strategy a copy of which can be found <http://committees.westminster.gov.uk/documents/s834/AntiFraudBriberyActandCorruptionStrategy.pdf>

The aims and objectives of the policy are to:

- Promote an anti-fraud culture
- Encourage prevention
- Act as a deterrent to fraudulent and corrupt acts
- Promote detection
- Provide guidance on roles and responsibilities
- Identify the pathway for investigation and remedial action

## **Response and Investment Plan**

The Council has a Response and Investment Plan which provides detailed guidance and information relating to:

- The Role of Internal Audit
- Fraud Referrals – the need to report concerns
- What to do if you suspect fraud, corruption or wrongdoing Where to report your concerns
- Action following referral - How the City Council will respond to allegations The course of investigation and potential outcomes
- Possibility of Disciplinary Offence by Council staff
- Offences committed by employees of a contractor

- Liaison with External Bodies
- Specialist Investigation Techniques
- Audit and Performance Committee
- External Audit
- *Reporting Arrangements*
- *Concluding the Investigation*
- Other related considerations
- Prosecution of offenders

A copy of which can be found

<http://committees.westminster.gov.uk/documents/s834/AntiFraudBriberyActandCorruptionStrategy.pdf>

## **Prosecution and Sanctions Policy**

This policy falls under the umbrella of the City Council's Corporate Enforcement Policy and specifically relates to the work carried out by the City Council's Internal Audit contractor.

The City Council takes fraud committed against it very seriously. This document sets down the criteria which determines when the City Council will or will not normally pursue criminal prosecution proceedings. In relation to cases involving Housing Benefits the document also sets down the alternatives to prosecution and when these will and will not normally be considered appropriate.

The decision to prosecute someone is a serious step. The aim of this policy is to provide a framework and guidance that investigators and those prosecuting offences use to ensure fair and consistent decisions are made.

This Policy forms part of the City Council's Anti – Fraud, Bribery Act and Corruption Strategy

although decisions about the course of action to take in any case can be made in reference to this Policy alone. This document is intended for public consumption.

## **Internal Control**

The Council's system of internal control is integral to its overall governance arrangements. It comprises all the policies, procedures and operations in place to:

- Promote achievement of objectives
- Manage risks
- Facilitate policy and decision making
- Ensure the economical, effective and efficient use of resources
- Ensure the integrity and reliability of information
- Ensure compliance with established policies, procedures, laws and regulations
- Safeguard the organisation's assets and interests from losses

Managers are responsible for establishing, maintaining and monitoring internal control systems and for reporting on the effectiveness of these.

The Council's governance and internal control systems are summarised in the Annual Governance Statement.

## **Internal Audit**

The Council maintains an outsourced internal audit service which operates to the standards set out in the CIPFA Code of Practice for Internal Audit in Local Government in the UK.

The purpose of internal audit is to provide an independent opinion on the effectiveness of the Council's control systems in minimising risk, supporting the achievement of objectives and promoting compliance with policies, procedures, laws and regulations.

The internal audit team carries out a risk-based annual programme of audits which span across all departments of the Council. Coverage is planned in consultation with departmental management teams and the annual programme is approved by the Executive Management Team and the Audit & Performance Committee.

There is also a counter-fraud team which conducts investigations into suspected fraud and undertakes an annual programme of pro-active counter-fraud work.

## **WESTMINSTER CITY COUNCIL'S CODE OF CONDUCT FOR EMPLOYEES - EMPLOYEES' HANDBOOK**

The law, the Council's constitution, code of governance, terms and conditions of employment, policies and procedures all bear on the way Council employees carry out their duties. The main provisions as summarised in the Council's Code of Conduct for Employees, and this Handbook offers practical advice on following the Code of Conduct in day to day work situations.

Employees are expected to be familiar with this document – ignorance is not an acceptable excuse on the rare occasions when things go wrong.

## **SECTION 2 - OFFICER STRUCTURES**

### **Introduction**

The first section of the Code of Governance gives details of how the Council's various departments are organised and the areas covered by each department.

With an organisation the size of the City Council it is essential that officers across all departments work together to the same policy guidelines and follow standard procedures.

### **Corporate Working**

Much of the Council's work involves, or has implications for, more than one department. There are extensive informal networks of communication between officers in different departments at all levels to ensure that this is achieved. One of the ways Chief Officers ensure that they are aware of all major issues occurring across the Council is by attending the Executive Management Team or the Senior Leadership Team (SLT) (see below).

Corporate Working (officers working together across departmental boundaries) is one of the most important ways of improving co-ordination and service delivery. The City Council is committed to ensuring that corporate working is followed by all Officers as a matter of course. This commitment has been – and will continue to be

– reflected in any restructuring of departments.

### **Executive Leadership Team (ELT)**

Meets monthly and comprises the Chief Executive and all the Directors. ELT's role is to ensure that an overview is taken of initiatives and activities and to assess their impact (or potential impact) on different areas of the Council.

### **Senior Leadership Team (SLT)**

The Senior Leadership Team comprises all Chief Officers and some Heads of Service and meets as necessary to discuss:

- Major issues of corporate significance
- The introduction/progress of corporate initiatives
- Liaison on cross departmental issues
- Co-ordination of the overall management of the Council

## **SECTION 3 - CONDUCT**

This Section covers:-

- Fundamental principles which underpin Officer/Member relationships
- Politically restricted posts
- Gifts, Hospitality and Entertaining guidance for Officer (including Guidelines in respect of receipt of gifts)
- Out of Work Activities and Declarations of Interest
- Conferences
- Whistleblowing at Work
- Email, Internet and Intranet Usage Policy
- Social Media

### **Fundamental principle**

The fundamental principle, which underlies Member/Officer relationships, is that officers work for the City Council as a whole. They are not employed to serve just the interests of any one group of Members but to be politically neutral and treat all Members equally. For more guidance on Member/Officer Relations see the protocol on this subject in the Constitution.

The role of officers is to carry out the Council's work under the direction of their Chief Officer in accordance with the decisions of Cabinet, Cabinet Members and properly constituted Committees and Sub-Committees.

### **Politically Restricted Posts**

In order to avoid any potential conflict of interests, and to comply with Local Government Regulations, some posts within the council are designated politically restricted posts. This means that there are constraints imposed on those postholders from undertaking political activities. (*see Part 1 Local Government and Housing Act 1989, as amended*)

The decision as to whether a post is to be designated as politically restricted on the grounds that it is a "Politically Sensitive Post" (as defined above) will be taken by the appropriate SEB Member or their nominated officer eg manager for the service/ team.

This will be determined when the post is created or when there is a change in role and responsibilities and confirmed as per the establishment management and recruitment processes. (The relevant forms under these processes require confirmation as to whether a post is politically restricted).

Staff holding jobs which are politically restricted may not:

- Stand for election as a Member of Parliament
- Stand for election as a Member of the European Parliament

- Stand for election as a Councillor in any local authority (although staff may still stand for election to a Parish or Community Council)
- Stand for election as a Member of the Scottish Parliament.
- Stand for election as a Member of the Welsh Assembly
- Act as an election agent or sub-agent for a candidate of any of the above
- Canvass at elections on behalf of a political party or a person who is or seeks to be a candidate of any of the above.

Hold office in a political party where his duties as a member require him to participate in the general management of the party or to act on behalf of the party in dealings with persons other than members of the party or members of another political party associated with the party.

Speak or write publicly on matters with the apparent intention of affecting public support for a political party (this does not apply to political assistants and is not to be construed as precluding the appointee from engaging in activities to such an extent as is necessary for the proper performance of his official duties).

The cumulative effect of these restrictions is to limit the holders of politically restricted posts to bare membership of political parties, with no active participation within the party

permitted. *(Schedule 1 of the Local Government Officer (Political Restriction) (England and Wales) Regulations 1990 provides further detail.)*

## **Gifts, Hospitality and Entertaining Guidance**

The Bribery Act 2010 which came into force on 1 July 2011 makes it an offence to request, agree to receive or accept an advantage of some kind in return for improperly performing , or allowing the improper performance of a function or activity where that function / activity is either of a public nature or done in the course of business. The Act makes it clear that if the bribery offence is committed with the consent / connivance of a senior officer, then that person is also personally guilty of an offence.

It is a serious criminal offence under the Bribery Act 2010 for employees to corruptly receive or give any gift, loan, fee, reward, or advantage for doing, or not doing, anything in connection with their duties. This also applies to showing favour or disfavour. Employees who are in breach of the provisions of this policy may also be liable to disciplinary action under the council's disciplinary code

Key principles:

- Employees may not accept any fee or reward whatsoever other than their proper contractual pay and benefits.
- Employees cannot accept or give gifts and hospitality unless authorised by their Chief Officer or their nominated officer in limited exceptions set out below.

- All gifts or hospitality whether accepted or refused must be recorded.
- Chief Officers must have arrangements in place within their departments for recording and authorising gifts and hospitality and ensure that there is clear segregation of duties between officers declaring the receipt of the gift/hospitality and the approving manager.
- The examples set out in this policy should be regarded as the corporate minimum. Chief Officers can impose tighter standards where necessary for staff dealing with sensitive issues. In such circumstances the Chief Officers will notify the staff concerned and ensure that the standards are documented for ease of reference .
- If it is alleged that an employee has corruptly received or given a gift or hospitality, it will be for him/her to demonstrate that this is not the case

#### What are considered to be Gifts and Hospitality which must be recorded?

Gifts are not defined in the Employee Code of Conduct, but examples of the most commonly offered gifts are listed below.

Hospitality is defined as drinks, meals, entertainment, overnight accommodation, travel and holidays, but not a lift in a private or company car or in a taxi, or light refreshment in the course of official duty, eg tea, coffee provided at business meetings.

#### Receiving Gifts

It is important for all employees to exercise vigilance where gifts are offered from organisations (or their representatives) that are able to provide work, goods or services to the City Council.

An employee should politely refuse any personal gift offered to them or to any member of their family by any person or body (including Council Members) that has, or seeks to have, dealings with the council.

In particular, gifts of alcohol, hampers or other articles which could be misinterpreted by the public or assume a more serious importance in any form of future enquiry or investigation, should not usually be accepted.

#### Are there any exceptions?

Provided they are declared to and approved by Chief Officers or their nominated officers, gifts may be accepted if they are -

- small gifts of a promotional or advertising nature, which are frequently given to a wide range of people, e.g. calendars, diaries, mugs, mouse mats, pens and other similar articles frequently given at Christmas for use in the office. Such gifts should not exceed £25 in value;

- small gifts given on the conclusion of a courtesy visit to a factory or firm, of a type normally given by the organisation concerned, or where the contractor wishes to mark the completion of a new building, providing such gifts are made to a number of people on the same occasion as part of a normally accepted practice. Such gifts should not exceed £25 in value; and
- a small gift where refusal would cause needless offence and the giver is not seeking a decision or business from the Council but merely wishes to express thanks for advice, help or co-operation received. Such gifts should not exceed £25 in value.
- a gift received from a foreign visitor. These should generally be accepted since refusal might give offence. However, such gifts should not normally be accepted personally and should be treated in an appropriate fashion. The council should retain ownership and safeguard the gifts or display them. The council might also wish to give a small gift in return. Where a gift is personal, is valued at less than £25 and cannot be used by the council, an individual may accept it.

### Giving Gifts

Any purchase of a gift must be fully authorised and auditable.

Employees must not give gifts to any other party (including other Council employees) unless previously authorised by their Chief Officer or their nominated officer. The level of cost of the gift to be purchased is at Chief Officer or their nominated officers discretion.

All authorised gifts must be purchased using recognised corporate purchasing methods such as procurement cards.

### Receiving Hospitality

The main guidelines on receiving hospitality are “can it be clearly and positively seen to be in the interests of the Council to accept this particular hospitality?”

Where hospitality is offered to an individual employee, special caution is needed especially where the host is seeking to do business with the City Council or to obtain a decision from it.

It is essential that any suggestion of improper influence should be avoided and the question is one of very careful judgement. If you have any doubts then do not accept the hospitality.

Hospitality must not be accepted during the tendering period and you should also be aware of the possibility that the contractor/consultant offering hospitality may be tendering for a contract elsewhere in the Council. The tendering period is defined as being the point when the specification is first being drawn up or at the point when contact is first made with contractors whichever is the earliest.

The following examples of hospitality are generally acceptable:

- a working lunch provided to allow the parties to discuss business. Here judgement should be carefully exercised in that lavish provision could well raise questions. It is important that the level is appropriate to the circumstances;
- attendance in an official capacity at functions to which invitations have also been sent to employees of other local authorities or at official occasions relating to Westminster functions, e.g. official opening ceremonies;
- attendance in an official capacity at functions arranged by public utilities and public authorities; and
- an invitation to take part in a company jubilee or other anniversary celebration.

Any of the following facilities provided by companies or others who do business with the City Council or may wish to do so, are considered to be unacceptable offers of hospitality:

- the provision of holiday or weekend hospitality;
- hotel or theatre tickets;
- the use of a company flat or hotel suite;
- lunch with a developer whose application is awaiting consideration by the City Council;
- an invitation to join other company guests as spectators at sporting or other events;
- when a matter such as arbitration arises from a contract, any offer of hospitality should be refused even if, in normal circumstances, it would come within the categories suggested as acceptable.

### Giving Hospitality

No hospitality may be provided to any other party (including another council employee) by an employee unless authorised by their Chief Officer or their nominated officer

The Chief Officer or their nominated officer must provide a financial ceiling for the event and ensure that there is sufficient budget.

Unless totally unavoidable employees should not fund hospitality from their own money in such circumstances, should they occur, they should be recorded in the register.

### The Recording of Gifts and Hospitality

- Employees must ensure that they receive Chief Officer or their nominated officers approval before giving or receiving gifts and hospitality.

- Without exception all gifts and hospitality given and received, whether accepted or declined, must be entered in the designated corporate register immediately after the offer is made.
- With regards to these two requirements only where this is totally impracticable should retrospective approval be sought, and this must be done at the earliest opportunity
- Chief Officers must ensure that that their staff use the corporate automated WIRE online recording system for registering gifts and hospitality.
- On completion of the 2-page form by the staff member in question, an email will be sent to the their manager who will advise staff whether they should approve or reject it. Staff will be informed of their decision via email.
- The corporate Gifts and Hospitality register will be maintained and reviewed by the designated monitoring officer on a regular basis. This is currently the Audit Manager .
- A sample letter when declining gifts and hospitality is attached to this policy. The employee concerned must keep a copy of this letter to provide an audit trail.

### **Out of Work Activities and Declarations of Interest**

- This policy provides managers with guidance on when and how Council employees (including all staff employed in schools maintained by the Council, and voluntary aided schools) must declare personal interests in any Council business, decision, policy or procedure on which they may have some influence, and sets out the procedure for recording such interests.
- Employees' off-duty hours are their personal concern, but they must not subordinate their Council duties to their private interests or put themselves in a position where they may appear to conflict. Any outside activities, additional employment, or voluntary work must not, in the Council's view, be at the expense of the Council's interests, nor undermine public confidence in the Council's affairs.

### Key Principles

- The Council requires all its employees to maintain the highest standards of propriety in public service.
- Employees must not misuse their official position or information acquired in the course of their employment to further their private interest or the interests of others, and must take all necessary steps to prevent a conflict arising between their Council duties and any outside interests they may hold.

Employees must not be involved in any decisions relating to discipline, promotion, or pay adjustments for any employee who is a relative, spouse or partner, friend or acquaintance (outside work), someone with whom they have

a business relationship etc.

All managers must ensure that all the Council's relationships with stakeholders, outside bodies and partners, are conducted to the highest standards of probity, and any written contract or agreement should include provisions to further this standard.

The Bribery Act 2010 which came into force on 1 July 2011 makes it an offence to request, agree to receive or accept an advantage of some kind in return for improperly performing , or allowing the improper performance of a function or activity where that function / activity is either of a public nature or done in the course of business. If the bribery offence is committed with the consent / connivance of a senior officer, then that person is also personally guilty of an offence. It is a serious criminal offence under the Bribery Act 2010 for employees to corruptly receive or give any gift, loan, fee, reward, or advantage for doing, or not doing, anything in connection with their duties. This also applies to showing favour or disfavour.

- The Council requires all employees to disclose any personal interests which may create a conflict of interest with their Council duties by completing a Declarations of Interests Form.
- The Council also requires all employees in specified Designated posts to complete a Declarations of Interests Form on taking up post, on any change in personal circumstances and on the next general Declaration Completion Date and every three years thereafter
- Failure to disclose such interests may lead to disciplinary action under the council's policies.
- In addition, in accordance with section 117 of the Local Government Act 1972, employees are legally required to disclose in writing any direct or indirect pecuniary interests in contracts to which the Council is/may/will be party. If an employee is aware that their spouse has a pecuniary interest, that interest will be regarded as an indirect interest of the employee and must therefore be declared. Failure to disclose such interests is a criminal offence.
- Should members of staff wish to report any concerns or allegations they should follow the procedure set out in the Whistleblowing Policy.

#### What are Designated Posts

- all posts at Band 5 or above level or their non-Reward equivalent
- any post referred to on a Directorate / Unit Scheme of Delegation for contract purposes; and
- any other post as determined by the Strategic Executive Board (SEB) member or their nominated officer where the post holder has a significant involvement in contract matters or other work which requires a high level of transparent probity.

## Special requirements for Designated Posts

EMT members or their nominated officer must ensure that post holders whose posts are designated as described above, are requested to declare personal interests on:

- appointment /promotion/transfer to a designated post,
- on any change in personal circumstances and
- on the next general Declaration Completion Date 01.04.16 and every three years after.

## How do employees declare personal interests

- Employees must complete a Declaration of Interests Form
- The form must be completed or resubmitted whenever circumstances change necessitating declaration of personal interests.
- Employees must submit the form to the appropriate EMT member
- Using the same process, EMT members will submit the Form to the Chief Executive. Similarly, The Chief Executive will submit the Form to the Leader of the Council.

## How this information is held?

- The Chief Executive, EMT members or their nominated officer, will use the information on Declaration of Interests Forms to compile and maintain a Register of pecuniary and personal interests for their area of responsibility.
- Chief Executive or EMT member will review Registers and consider whether any steps need to be taken to avoid conflict when relevant employees complete and resubmit forms
- Every endeavour is made to keep the registers up to date but the onus is on employees to ensure that their registration details are accurate and up to date.
- Information will be maintained and held on the register during the employees' employment and for six years thereafter.
- The Register will not be available for public inspection. However, subject to any exemptions which may apply, information contained within the register will be disclosed in accordance with the Freedom of Information Act 2001.

## What else must employees do

Employees whose duties involve tendering, outsourcing, partnerships, the awarding of contracts, dealing with contractors, etc. must:

- always award contracts on merit, by fair competition against other tenderers, and show no special favour to businesses run by, for example, friends, partners, and relatives;
- be aware of and follow the relevant Council procedures set out in the Code of Governance, the Constitution and any other relevant procedures;
- be clear on the separation of client and service-provider roles;
- not disclose confidential information to any unauthorised party or organisation;
- exercise fairness and impartiality when dealing with potential service providers;
- not show special favour to current or former employees or their partners, friends,
- relatives, or associates in outsourcing to businesses run by them in a senior or relevant managerial capacity;
- comply with the confidentiality arrangements of the Council's partner organisations; discuss any problems with their Director/Head of Service if they are unclear whether or not they may be compromised in relation to the awarding of contracts;
- In addition to completion of the declaration of interests form, employees must also declare any interests at meetings as appropriate.

## Declarations of Interests at Cabinet/Committee/Sub-Committee meetings

All Cabinet/Committee/Sub-Committee agendas contain a standard item as follows:-  
"To receive declarations by Members and Officers of the existence and nature of any personal or prejudicial interests in matters on this agenda".

Employees must:

- declare a financial or non-financial interest in an issue if they are advising or otherwise participating in debate (this does not negate the need to make a written notification as described before);
- such a declaration of interest should, wherever possible, be made at the beginning of the meeting if the necessity for such a declaration is foreseen; or at the earliest moment if it was not foreseen that an employee would be required to participate in advising/debating;

- if in doubt, consult the Head of Legal and Democratic Services or their representative well in advance of the meeting in question.

In addition, Officers should be aware that there is no de minimis rule as such in considering pecuniary interests.

However, where a Member has an interest, by reason only of a beneficial interest in securities of the company or other body and the total nominal value of those securities does not exceed £25,000, then the Member is not obliged to declare the interest.

The limit of £25,000 could be used by way of analogy for determining whether an officer, should continue to advise on the matter in question. If a Member's ability to vote is determined by this threshold, it seems sensible for Officers to be governed by the same threshold.

## Conferences

Officers are sometimes asked to address conferences or make presentations about their area of work. If you receive such a request you must consult your Chief Officer **before accepting**. Section 117(2) of the Local Government Act 1972 provides that an officer of a local authority "*shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his proper remuneration.*"

Contravention of this provision is a criminal offence.

There may be circumstances where it may be appropriate to accept a fee or payment when an officer's own time and resources are being used but such an occasion would require specific authority from your Chief Officer.

## Whistleblowing Policy

The City Council is committed to achieving the highest possible standards of service and ethics in public life and in all its activities. Council employees are encouraged to bring to their managers' attention any misconduct, suspected misconduct, malpractice or illegal acts or omissions by Members, employees, or by members of the public in relation to the services they receive from the City Council. The Whistleblowing policy has been developed so that employees will know how to raise concerns in the right way at an early stage, and managers understand their responsibilities in relation to allegations of misconduct and impropriety. For the avoidance of doubt, reference to Council employees includes all staff employed in schools which are maintained by the Council, including voluntary aided schools.

Employees who make a disclosure reasonably believing that:

- (a) a criminal offence has been committed, is being committed or is likely to be committed;

- (b) a person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject;
- (c) a miscarriage of justice has occurred, is occurring or is likely to occur;
- (d) the health or safety of any individual has been, is being or is likely to be endangered;
- (e) the environment has been, is being or is likely to be damaged; or
- (f) information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed
- (g) the disclosure is in the public interest

are protected by law (under the Public Interest Disclosure Act 1998 as amended by the Enterprise and Regulatory Reform Act 2013) from any victimisation for having raised these issues.

Employees of the Council's partners and contractors are also encouraged to use these procedures to bring any misconduct, or suspected misconduct, malpractice or illegal acts or omissions by Members, the Council's employees, or by partners'/contractors' employees in relation to the provision of services on behalf of the Council, to the attention of appropriate Council managers. Council partners and contractors will be required to bring this procedure to the attention of their employees.

This policy should be read in conjunction with the Council's Anti-Fraud, Bribery Act and Corruption Strategy.

Employees who have concerns or complaints in relation to their own contracts of employment or terms and conditions should raise a grievance under the council's Dignity at Work policy.

#### When should this policy be used?

This policy should be used when employees have concerns that the interests of others or the Council (and therefore its residents) are at risk e.g.

- Criminal activities and any activities, suspected or ongoing, which may break the law (including fraud, any form of child abuse, or the abuse of other vulnerable clients)
- Disregard for legislation, Council rules, policies and procedures
- The mistreatment of a service user which may endanger the health and safety of that service user.
- This list is not exhaustive

#### What Protection will employees have?

Employees raising issues, and managers investigating them, will suffer no detriment as a result, of the disclosure. The City Council will not tolerate any harassment or victimisation of a whistleblower (including informal pressures), and will treat this as a serious disciplinary offence, which will be dealt with under the Disciplinary Code. An employee whose concerns are raised under this procedure but referred for

investigation under another procedure (e.g. the anti-fraud policy) will receive the same protection from victimisation under the Public Interest Disclosure Act 1998.

#### How will any concerns raised under this policy be dealt with?

- An employee can raise concerns orally or, preferably, in writing.
- Any concerns raised by an employee will be dealt with promptly.
- The concerns will be considered as thoroughly as possible by the most relevant person, whether this be an internal manager or some appropriate external official or organisation delegated by the Council.
- Employees have the right to seek assistance and advice from trade union representatives or Council colleagues; and to be accompanied by a trade union representative or Council colleague at all meetings held under this procedure.
- The Council will not tolerate complaints which are deliberately made without substance, or are frivolous or malicious. Such cases will be dealt with very seriously and formal disciplinary action may be considered under the Council's Disciplinary Code.

This policy does not restrict employees' rights to raise their concerns outside the Council

(e.g. the Audit Commission, the Environment Agency, the Health and Safety Executive or the police), but is intended to facilitate speedy internal investigation and resolve employees' concerns, so that they do not feel the need to refer to external agencies.

#### What must managers do?

You must:

- deal promptly and fairly with any concerns raised under this policy in accordance with the procedure set out in Appendix 1;
- make sure that the employee's concerns are appropriate for consideration under this policy as against another procedure (e.g. Council's anti-fraud policy, strategy and response plan; grievance or disciplinary procedures). If the concerns are not appropriate to this policy, refer them to the correct procedure;
- immediately refer matters concerning fraud and/or corrupt acts to the Fraud Team;
- support and facilitate the employee in pursuing whistleblowing concerns;
- maintain confidentiality throughout any proceedings;

- as far as possible, withhold the identity of the employee who has raised the concerns, if the employee has so requested. (Managers may be obliged in some circumstances to reveal the name of the employee who raised concerns, in which event the situation should be discussed with the employee before proceeding.); keep the employee apprised of progress in investigating and resolving their concerns;
- advise the employee that they have the right to bring a trade union representative or a Council colleague to any meetings under this policy;
- implement any actions/recommendations arising from the investigation into the employee's concerns;
- not allow the employee to suffer any detriment as a result of raising their concerns (to do so would be unlawful under the Public Interest Disclosure Act 1998); and investigate anonymous complaints as far as practicable.

What should an employee that has concerns covered by this policy do?

You must

- raise concerns (orally or in writing) in confidence with their managers (or their manager's manager if it is inappropriate to raise the concerns with their immediate line-manager) at the earliest possible moment. In exceptional circumstances, employees may raise concerns with a manager who is outside their service; in these cases they should approach:
  - the Director of Finance
  - the Head of Legal and Democratic

(On rare occasions (e.g. employees' want to report issues involving more than one department), concerns can be raised directly with the Chief Executive or the Chairman of the Council's Standards Committee.)

or

- use the Fraud and Whistleblowing Hotline (0800 028 9888) to report concerns; immediately refer matters concerning fraud and/or corrupt acts to the Fraud Team (fraud hotline on 0800 028 9888; on-line (If there is any doubt, proceed under this procedure and the manager will refer the matter if appropriate.);
- never carry out their own investigation;
- assist with any investigation into their concerns, including attendance at meetings, replying to requests for information, and providing signed statements as appropriate;
- immediately pass any evidence to the investigating manager/ official; follow the stages of the procedure in sequence;

- always act honestly when raising and pursuing concerns through this policy; and inform the investigating manager/official if they have a personal interest in the matters under investigation.

Employees are encouraged to raise “whistleblowing” concerns in the first instance via the Whistleblowing policy rather than going straight to external agencies. Reporting concerns to e.g. the press, may seriously undermine any investigation into the issues of concern. Advice can be obtained from a trade union representative or “Public Concern at Work” (phone: 020 7404 6609; web: [www.pcaw.co.uk/](http://www.pcaw.co.uk/)), an independent charity which gives advice on how to raise concerns about serious malpractice at work.

## **The Council's E-mail, Internet and Intranet Usage Policy**

This section highlights key HR aspects regarding the use of the Council’s e-mail, Intranet and Internet facilities. For detailed information about the standards required for e-mail, intranet and internet use, [click here](#)

### Authorised use of the Council’s E-mail, Intranet and Internet facilities

- The Council’s e-mail, Intranet and Internet facilities are provided for use in connection with Council business only.
- Reasonable personal use of the e-mail and Internet systems is however allowed subject to compliance with the current e-mail /Internet use Codes of Practice and guidelines (see above). The Council considers the expectations set out in these Codes of Practice and Guidelines mandatory.
- Use of the Council’s e-mail, Intranet and Internet facilities for private business purposes is expressly forbidden.
- Authorisation of the Council’s e-mail, Intranet and Internet facilities will be withdrawn from any person who is found to be misusing them.

### Monitoring of e-mail and Internet use

- All Internet usage is monitored and logged by the Council.
- E-mails with a non-business content should be flagged as “personal” and will not normally be subject to manual monitoring, but will still be subject to automated checks.
- not read other people’s e-mails without their express permission, except when a colleague is unexpectedly away and access is required by their manager to maintain service .

### What must managers do?

- Investigate any e-mails containing offensive material which are brought to their attention.
- Investigate any apparent misuse of the Council's e-mail, Intranet and Internet facilities.
- Establish local reasonable practices for personal use of e-mail/Internet facilities by staff; e.g. during lunch-breaks or after work-time.
- Monitor the personal use of systems in the same way as monitoring reasonable personal use of telephones.

### What must employees do?

- You must comply with the Council's Codes of Practice and Guidelines on e-mail and internet use
- You must make sure that personal e-mail and Internet use does not interfere with the performance of your duties, and does not take priority over work responsibilities.

## **Social Media**

Social media is a broad term and includes any form of interactive online channel and social networking tool such as, Twitter, Facebook, LinkedIn, Blogs, discussion forums on the Intranet (The Wire) and the Internet, video networks such as YouTube and Vimeo, Flickr and anywhere else that allows you to publish comments.

### Key Principles

- The Council recognises that social media sites provide a useful tool for communication and are accessed widely by many employees, both for work and non-work purposes. We do not as a result restrict access to these sites.
- If you have been authorised by your manager to use social media for work purposes, you are clearly governed by the council's policies and procedures in everything you post.
- The lines between public and private, and personal and professional are blurred in online social networks. You should therefore recognise the potential for damage to be caused (either directly or indirectly) to the council in certain circumstances through your personal use of social media when you can be identified as a WCC employee.
- To safeguard yourself and the council, unless you use social media for work purposes exclusively, you should either create separate profiles for work and personal use, or if you use just one account for both, you must use a disclaimer

which says: “The postings on this site are my own and don't necessarily represent the council's position or opinions”.

### Employees must

- Only disclose and discuss publicly available information
- Be careful about what you say and how it might be interpreted, particularly discussing topics which can be inflammatory, eg politics, religion etc, and show respect for other's opinions.
- Keep privacy settings and controls up to date and be aware that your personal life could become subject to scrutiny by service users, clients (and their families) and the public if you can be identified as a WCC employee.
- Remember it is difficult to be sure that material you have posted, then deleted on social media has not already been re-tweeted etc so think before you post.
- Respect copyrights. Always credit other's work, and make sure you have the right to use something with attribution before you publish. Just because something's online doesn't mean it's OK to copy it.
- Contact the Communications team if you want to use social media to promote council services. They can provide advice and guidance on the best way to do this.

### Employees must not

- Use Social media sites for contacting clients/ service users unless this has been authorised by your manager
- Use the council's own logo for any kind of personal use
- Offer your opinion as that of the councils or make generalised comments about the council's decisions or interests
- Make defamatory remarks about the Council, colleagues or service users or misrepresent the Council by posting false or inaccurate statements about the work of the Council
- Publish any material or comment that could undermine public confidence in you as an employee of the Council and/or in position of trust within the Community Disclose any information that is confidential to the Council or any third party or disclose personal data or information about individuals, colleagues or service users,
- Do anything that could be considered discriminatory against, or bullying or harassment of, any individual, for example by:

- making offensive or derogatory comments relating to sex, gender reassignment, race (including nationality), disability, pregnancy, sexual orientation, religion or belief or age;
- using social media to bully a work colleague or other employee
- posting images that are discriminatory, offensive (for example inciting racial hatred etc) or which constitute a criminal offence (for example images or pseudo images of child abuse)
- Use external blogs, social networks or other tools for internal communications to air your differences with colleagues.
- Discuss your colleagues, or post pictures of them or any clients or service users on a council social media site, without their permission.
- Ever allow a client /service user to become a 'friend' on a social media site, or post pictures of them on such sites

### Personal Use

Employees may access social media sites on work premises for their own use, in accordance with the council's E-mail and Internet Use Policy, which requires you to use these resources reasonably, and in a manner that does not interfere with your work, is not inappropriate or excessively accessed.

Examples of reasonable use include:

- re-tweeting content from the WCC account on your own Twitter account participating in discussion forums on the Wire
- updating Facebook status/ posting messages during a lunch break
- Employees' use of social media sites will be monitored in line with the Council's Policy on E-mail and Internet Use Policy.

### Using social media to engage with children and young people

Employees must not use social media to communicate and engage with children and young people as part of their work unless this has been authorised by their manager. If you want to engage with young people to promote council services or activities please contact the Communications team for advice and guidance.

[Click here](#) for guidance on the use of such sites for employees who are required to maintain statutory registration with their professional body.

## SECTION 4 - INFORMATION

### Information for Members

It is essential that Members have the information they require to enable them to fulfil their policy formulation, monitoring and ward representative roles. Members receive a wide variety of information from Council Officers, including:

- **Agenda, Reports and minutes** of the committees they serve on or any other they request (there may be limitations on the issuing of confidential reports)
- **Weekly Information Bulletin (known as the “WIB”)**. This is produced each Friday and provides up to date information on committee decisions and on general matters of interest to Members and Officers. It is a very useful way of getting information to all Members. Whenever possible information being made for all Members should be circulated through the WIB rather than separately. Information for the WIB should be passed to Members Support (ext 3255).
- **Operational information** such as the weekly list of planning and licensing applications received.
- Briefing notes on **‘information’ items** which are circulated to all Members of the relevant committee separately from agenda. The circulation is undertaken by Committee and Governance Services (x 3134) please contact them if you require further information or advice.
- As far as possible information to all Members is placed on the Members website, contact Janis Best, ext 3255 to place items on the Member’s website.
- If requested Chief Officers will as far as reasonable and practicable hold periodic briefings for groups of Members from either party (either together or separately) about the substantive issues facing the department or on subjects identified by Members.
- Officers should note that a copy of any factual information supplied to a Member in response to a request, must also be sent to the Cabinet Member. This provision relates to all factual information supplied except matters which relate personally to a Member or their casework. The procedure ensures that Cabinet Members are aware of the issues of general concern to other Members.
- Westminster City Council is committed to open government. In July 1995 the Policy and Resources Committee agreed a policy statement about access to information.

### Policy

“Information and documents should be made available on request by Officers to Members unless (a) there is a clearly and properly justifiable reason for declining access and (b) the Member in question cannot establish a legal right to the information or documentation”.

The following sections provides guidance on how Officers should treat the information they receive.

**Other relevant documents:** This information section should be read in conjunction with Standing Orders and the Contracts Code.

## **When is Information Confidential?**

As officers, you have access to a wide variety of information. Guidance to help you identify how any particular piece of information should be treated is available from the Committee and Governance Services (x 3160).

## **Information Procedure Rules in the Constitution**

1. With the full implementation of the Freedom of Information Act 2000 on 1<sup>st</sup> January 2005, the Government wanted to ensure that the Local Government Access to Information rules were compatible with both the Data Protection Act 1998 and the Freedom of Information Act 2000.
2. Two new sets of regulations relating to the public's right of access to meetings and the disclosure of exempt information come into force on the **1<sup>st</sup> March 2006**.
3. The 2006 Regulations changed Part 5A (Access to Meetings and Documents of Certain Authorities, Committees and Sub-Committees) of and Schedule 12A (Access to Information: exempt information) to the Local Government Act 1972 both of which are concerned with access to meetings and documents of principal councils and certain committees and sub-committees of those councils.
4. Part 5A, Section 100 A(4) (Admission to Meetings of Principal Councils) of the 1972 Act permits a principal council to exclude the public from a meeting whenever it is likely that there would otherwise be a disclosure of exempt information to the public. Exempt information is defined in Section 100 1 as the descriptions of information which are, for the purposes of Part 5A for the time being specified in Schedule 12 A to the 1972 Act. The 2006 Regulations substituted a new Schedule 12A. In Part 2 of the new Schedule 12A, some of the previous qualifications relating to exempt information are replaced by a public interest test – see (c) below.
5. Schedule 12A now comprises of the following paragraphs:  
Part 1
  1. Information relating to any individual.
  2. Information which is likely to reveal the identity of an individual.
  3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).

4. Information relating to any consultations or negotiations or contemplated consultations in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes – (a) to give under any enactment a notice under or by virtue of which requirements are imposed upon a person; or (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

## **Part 2**

### **Qualifications to the above exempt information:**

- (a) Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under – (a) the Companies Act 1985 (b) the Friendly Societies Act 1974 (c) The Friendly Societies Act 1992 (d) The Industrial and Provident Societies Act 1965 – 1978 (e) The Building Societies Act 1986 (f) The Charities Act 1993.
- (b) Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
- (c) Information which – (a) falls within any of paragraphs 1-7 above; and (b) is not prevented from being exempt by virtue of paragraph (a) or (b) above is exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- (d) The Best Practice Guide to Report Writing in Westminster will be updated to reflect the new regulations and future corporate report writing workshops will include a briefing on the new provisions. In addition advice can be sought at any time from the Committee and Governance Team (3160).