

EAST LONDON WASTE AUTHORITY

elwva

CONSTITUTION

EAST LONDON WASTE AUTHORITY CONSTITUTION

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1. Introduction

- 1.1 This Constitution sets out how the East London Waste Authority ("the Authority") operates, how decisions are made and the procedures that are followed to ensure that decisions are efficient, transparent and accountable to local people. Some of the processes are required by law, while others are a matter of local choice.
- 1.2 It aims to:
- a) explain how the Authority operates, how decisions are made and the procedures which are in place to ensure efficient, effective, transparent and accountable decision taking;
 - b) ensure that high standards of conduct are exercised by Members and officers;
 - c) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
 - d) provide a means of improving the delivery of services to the community.
- 1.3 Where the Constitution permits the Authority to choose between different courses of action, the Authority will always choose the option which it thinks is closest to these aims.
- 1.4 The whole Constitution is a lengthy and comprehensive document, so this Part gives a very brief overview of the Authority's operation, its make-up and citizens' rights.
- 1.5 The Constitution is then divided into other Parts that explain the elements in more detail.
- 1.6 A copy of the Constitution can be inspected at the Authority's offices, 1st Floor, Harvey House, London Road, Romford, RM7 9QD between 9.30am. - 4.00pm. Monday to Friday (excluding Bank Holidays). Alternatively, the document can be found on the Authority's web site (www.eastlondonwaste.gov.uk).

2. Definitions and interpretation

- 2.1 "Authority" means the East London Waste Authority and shall where the context so admits include a committee of the Authority.
- 2.2 "Constituent Council" means any of the London Boroughs of Barking & Dagenham, Havering, Newham and Redbridge.
- 2.3 "Legal Adviser" means generally the London Borough of Barking & Dagenham Legal Practice and more specifically, the lawyer nominated by the said Legal Practice to advise and manage the Authority's legal affairs.
- 2.4 "Member" means any of the Councillors nominated by the Constituent Councils to be a member of the Authority.
- 2.5 "Statutory Officers" means the three officer posts as required by the Local Government and Housing Act 1989 (in brackets) being:
- The Managing Director (Head of Paid Service),
 - the Monitoring Officer, and
 - the Finance Director (Chief Finance Officer)

3. Role of the Authority

- 3.1 The Authority was established on 1 January 1986 as a statutory joint waste disposal authority under Schedule 1 to the Waste Regulation and Disposal (Authorities) Order 1985. The Authority's main waste disposal functions are set out in section 51 the Environmental Protection Act 1990 as follows:
- a) to make arrangements for the disposal of waste collected by the Constituent London Borough Councils, being: Barking & Dagenham, Havering, Newham, and Redbridge;

- b) to make arrangements for places to be provided at which persons resident in its area may deposit their household waste or other controlled waste by other persons (on such terms as to payment (if any) as the Authority determines) and for the disposal of waste so deposited; and
- c) to make arrangements for the storage and disposal of abandoned vehicles in accordance with section 3 (8) of the Refuse Disposal (Amenity) Act 1978 (Removal of abandoned vehicles).

3.2 The Authority is also required by other statute:

- a) to recycle and/or compost the required percentage of household waste under the Local Government (Best Value) Performance Indicators and Performance Standards Order (England) 2005; and
- b) to prepare a joint municipal waste management strategy in accordance with section 32 of the Waste & Emissions Trading Act 2003 (unless exempted by the Secretary of State);

3.3 The Authority's powers include:

- a) to make arrangements to recycle, use, sell or otherwise dispose of deposited waste or anything produced from such waste including for the purpose of producing from it heat or electricity or both (section 55 Environmental Protection Act 1990);
- b) to take steps to minimise the generation of controlled waste of any description, generated in its area (section 63A Environmental Protection Act 1990);
- c) to enter into agreements with other local authorities (Section 1 of the Local Authorities (Goods and Services) Act 1970);
- d) to direct the Constituent Councils on the delivery and separation of waste (section 51 Environmental Protection Act 1990) and object to independent recycling by the Constituent Councils (section 48 Environmental Protection Act 1990);
- e) to acquire land for the purposes of any of its functions and dispose of land (section of 146A, 120 and 123 of the Local Government Act 1972); and
- f) to carry out activities considered appropriate and incidental to the furtherance of the Authority's statutory functions (section 111 of the Local Government Act 1972).

4. Members

4.1 The Authority is comprised of eight Members, with two Members appointed annually by each of the Constituent Councils and notified in writing to the Authority. These Members are councillors within their respective Councils. Although the eight Members of the Authority are appointed by the Councils they are required, when sitting as Authority Members, to act in the interests of the Authority - as a Waste Disposal Authority - and its residents and not of their respective Councils or political affiliations.

4.2 The Authority's Members

- a) are, collectively, the ultimate policy-makers and those responsible for strategic and corporate management functions of the Authority as a Waste Disposal Authority;
- b) participate in the sound governance and management of the Authority;
- c) are available to represent the Authority on other bodies; and
- d) have a duty to maintain the highest standards of conduct and ethics and follow the relevant Members Code of Conduct adopted by their respective Constituent Councils and the Member / Officer & Employee Relations Protocol.

4.3 Members have rights of access to such documents, information, land and buildings of the Authority as are necessary to enable them to carry out their functions.

- 4.4 Members will not make public information that is confidential or exempt without the decision of an Authority meeting, or divulge information given in confidence to anyone other than an individual entitled to know it. For these purposes, “confidential” and “exempt” information is defined in Article 2 (Access to Information) in Part B of the Constitution.
- 4.5 Members may be entitled to receive allowances for their work with the Authority in accordance with their respective Council’s Members’ Allowances Scheme. Details of each Scheme are available from the respective Constituent Councils.
- 4.6 Members are entitled to claim expenses reasonably incurred to attend approved events.

5. Officers

- 5.1 The description of the Authority’s Officers, (including its Statutory and Proper Officers) and their respective functions are set out in Part G of this Constitution.
- 5.2 Statutory Officers at June 2019

Andrew Lappage Clerk/Managing Director Tel. 020 8724 5614

Maria Christofi Finance Director (Chief Finance Officer) Tel. 020 8708 3861

Fiona Taylor Monitoring Officer/Legal Adviser Tel. 020 8227 2951

- 5.3 Officers shall be appointed in accordance with and be subject to the Employment Rules, Part D3 and the Employee Code of Conduct referred to in this Constitution and any relevant legislation or regulations.

6. The Management Board

- 6.1 The Authority Management Board is made up of the following officers:
- a) The Managing Director (Chair)
 - b) The Finance Director
 - c) The Monitoring Officer
 - d) The corporate Directors responsible for Environmental issues in each of the four Constituent Councils
- 6.2 The Authority’s Management Board is an advisory body that ensures co-ordination between Authority and Constituent Council services and developments. Other joint officer groups focus on specific aspects of service delivery.

7. Citizens’ Rights

- 7.1 Citizens have a number of rights in their dealings with local authorities and some are relevant to the Authority. For example, they have the right to:
- a) contact their local councillor about any matters of concern to them;
 - b) obtain a copy of this Constitution;
 - c) attend the Authority meetings (except when exempt or confidential matters are being discussed);
 - d) see reports and background papers for formal Authority meetings (except in respect of exempt or confidential information) and any record of decisions made at these meetings;
 - e) complain to the Authority about a related service they have received;
 - f) complain to the Local Government Ombudsman if they think the Authority has not followed its procedures properly. (However, they should only do this after using the Authority’s own complaints procedure);

- g) complain to the body responsible for regulating the conduct of Members if they have evidence which they think shows that an Authority Member has not followed the Code of Conduct for Members;
- h) inspect the Authority's accounts and make their views known to the Authority's external auditor; and
- i) make requests for access to information, particularly under the Data Protection Act 1998, Data Protection Act 2018, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 (and any successor or amending legislation).

8. ELWA Statement on Modern Slavery Act 2015

- 8.1 Modern slavery is the practice of servitude and forced or compulsory labour; and human trafficking recruitment, movement, harbouring or receiving of children, women or men through the use of force, coercion, abuse of vulnerability, deception or other means for the purpose of exploitation. Individuals may be trafficked into, out of or within the UK, and they may be trafficked for a number of reasons including sexual exploitation, forced labour, domestic servitude and organ harvesting.
- 8.2 The Government has introduced a provision in the Modern Slavery Act 2015 which requires certain businesses to produce a statement setting out the steps they have taken to ensure there is no modern slavery in their own business and their supply chains. If an organisation has taken no steps to do this, their statement should say so. The measure is designed to create a level playing field between those businesses, whose turnover is over a certain threshold, which act responsibly and those that need to change their policies and practices. However, the Government wants to encourage businesses to do more, not just because they are legally obliged to, but also because they recognise it is the right thing to do.
- 8.3 Section 54 of the Modern Slavery Act 2015 requires that any commercial organisation in any sector, which supplies goods or services, and carries on a business or part of a business in the UK, and is above a specified total turnover, must produce a slavery and human trafficking statement for each financial year of the organisation. For the purposes of this requirement, 'supply chain' has its everyday meaning. Regulations have set the total turnover threshold at £36m. The statement must set out what steps they have taken during the financial year to ensure that modern slavery is not occurring in their supply chains and in their own organisation.
- 8.4 While ELWA is not a commercial organisation it does have an interest in ELWA Limited which does carry on the business of waste disposal on behalf of the waste disposal authority.
- 8.5 The Act specifically states that the statement must include 'the steps the organisation has taken during the financial year to ensure that slavery and human trafficking is not taking place in any of its supply chains, and in any part of its own business'. When the Act refers to ensuring that slavery and human trafficking is not taking part in any part of its supply chain, this does not mean that the organisation in question must guarantee that the entire supply chain is slavery free. Instead, it means an organisation must set out the steps it has taken in relation to any part of the supply chain (that is, it should capture all the actions it has taken).
- 8.6 ELWA commits that the Authority will in the exercise of its functions take all necessary steps to ensure that that slavery and human trafficking is not taking part in any part of its supply chain, by reviewing the following:
- a) the organisation's structure, its business and its supply chains;
 - b) its policies in relation to slavery and human trafficking;
 - c) its due diligence processes in relation to slavery and human trafficking in its business and supply chains;

- d) the parts of its business and supply chains where there is a risk of slavery and human trafficking taking place, and the steps it has taken to assess and manage that risk;
- e) its effectiveness in ensuring that slavery and human trafficking is not taking place in its business or supply chains, measured against such performance indicators as it considers appropriate;
- f) the training and capacity building about slavery and human trafficking available to its staff.





1. Authority Meetings

- 1.1 In terms of Authority meetings, ELWA agrees a programme of meetings for the coming municipal year (May to April) approximately four months in advance. Occasionally it is necessary for additional meetings to be arranged during the year, mainly to consider issues that cannot reasonably wait until the next programmed meeting. Details of ELWA's programme of meetings is available on its website (www.eastlondonwaste.gov.uk) or by contacting the Support Services Manager on 020 8724 5803.
- 1.2 Authority meetings are open to the public, unless exempt or confidential matters are being discussed (see paragraph 10 of Article 2 of Part B for further details). Attendance by the public is encouraged.
- 1.3 The Managing Director is responsible for ensuring appropriate support for all Member meetings.

2. Role

- 2.1 Authority meetings are the main decision-making forum for ELWA matters. At these meetings, the Authority sets its overall corporate direction, policy framework and financial limits, within which all ELWA's operations and policies are carried out.

3. Functions

- 3.1 There are certain matters which, by law, can only be carried out by the Authority. These are set out in Part C of the Constitution.
- 3.2 All functions that the Authority has by local choice decided it should undertake itself rather than to delegate to Officers are also set out in Part C.

4. Membership

- 4.1 Authority meetings shall be attended by the eight Members of the Authority (two appointed by each of the Constituent Councils).
- 4.2 The term of office of each appointed Member of the Authority shall be until the next annual meeting of the Constituent Council making the appointment, or until notification in writing by a Constituent Council of a change in their appointment(s) before their next annual Council meeting.

5. Chair and Vice-Chair

- 5.1 Meetings of the Authority shall be presided over by the Chair who shall be responsible for:
- a) upholding and promoting the purposes of the Constitution and interpreting it (with the assistance of the Managing Director and the Monitoring Officer); and
 - b) ensuring that its business can be carried out efficiently and with regard to the rights of Members and the interests of the community.
- 5.2 The Chair and Vice-Chair shall be appointed at each Annual General Meeting of the Authority.
- 5.3 Appointments to the positions of Chair and Vice-Chair shall be made by the Authority by resolution passed by a majority of the Members of the Authority [present at the Annual General Meeting] provided at least one Member from three of the Constituent Councils shall vote in favour.
- 5.4 The appointments of the Chair and Vice-Chair shall be the first business transacted at the annual meeting of the Authority.
- 5.5 The Chair and Vice-Chair shall each hold office until the next Annual General Meeting of the Authority or until the Authority is notified in writing by the Constituent Council of which the Chair/Vice-Chair is a representative that the appointment of the Member occupying the position of Chair or Vice-Chair has changed.

- 5.6 Where the Authority is notified in writing by the Constituent Council of which the Chair is a representative, that the appointment of the Member occupying the position of Chair has changed, the position of Chair shall be occupied by the Vice-Chair who shall remain in office until the next Annual General Meeting of the Authority.
- 5.7 Where the Authority is notified in writing by the Constituent Council of which the Vice Chair is a representative, that the appointment of the Member occupying the position of Vice Chair has changed, the Authority shall appoint another Member from among its membership to occupy the position of Vice Chair until the next Annual General Meeting of the Authority.
- 5.8 In making the appointments to the positions of Chair and Vice Chair, the Authority shall endeavour as best as possible to ensure that the positions of Chair and Vice Chair are not occupied in any one year by the two Member representatives of the same Constituent Council.
- 5.9 Subject to clauses 5.5, 5.6, 5.7 and 5.8 above, or unless there are other good reasons which the Authority deems necessary the Members holding the positions of Chair and Vice-Chair in any one year shall be eligible to be appointed or re-appointed to the positions of Chair and Vice-Chair respectively at the next Annual General Meeting of the Authority following their first appointment.

6. Committees

- 6.1 The Authority may appoint such committees of its membership and for such purposes as it shall deem necessary.
- 6.2 The Authority shall set out the terms of reference of any committee established by it and shall further determine any powers or functions as shall be delegated to or be exercised by such committee.

7. Accessibility

- 7.1 ELWA wishes to be as open as possible in its dealings and the press and public are encouraged to attend meetings. Occasionally there will be some matters which are legally restricted from the public eye, (for example, if discussing issues concerning a member of staff), but wherever possible issues are discussed in the open forum.
- 7.2 Further details of the types of matters that are considered in private are contained in Article 2, Access to Information, Part B of the Constitution.

8. Venues

- 8.1 Meetings are generally held at the offices of one of the four Constituent Councils.
- 8.2 Public accessibility and appropriateness (particularly for people with limited mobility) are key factors in determining the suitability of venues for meetings.

9. Calendar and Timing of Meetings

- 9.1 Where possible, meetings are programmed in advance. A programme of meetings for the coming municipal year is agreed by ELWA approximately four months prior.
- 9.2 To enable completion of business in compliance with statutory financial frameworks, meetings to fix the Levy and to approve the Annual Accounts must be held no later than five working days prior to threshold final dates for the said functions.
- 9.3 Meetings are usually held on Mondays, commencing at 9.30 a.m., and should last no longer than 3 hours.
- 9.4 If business has not been concluded by this time, the proceedings may be extended for a reasonable further period, with the agreement of at least 75% of the Members present. Any unfinished business will be referred to the next meeting.

10. Business at Ordinary Meetings

- 10.1 Ordinary meetings of the Authority will take place in accordance with the programme of meetings. The business carried out at Ordinary meetings may include the following:

- a) elect a member to preside as Chair for the duration of the meeting, if the Chair and Vice-Chair are not present;
 - b) receive apologies for absence from Members;
 - c) receive declarations of interest;
 - d) approve the minutes of the last meeting;
 - e) considers public, Constituent Councils and Members' questions (if any);
 - f) consider and set the Authority's overall priorities, plans, policy framework and related targets;
 - g) set the annual Levy on the Constituent Councils and the Authority's Capital and Revenue budgets. These include:
 - the allocation of financial resources to different services and projects
 - proposed contingency and reserve funds and borrowing limits; and
 - the control of its capital expenditure.
 - h) consider and approve issues relating to the Authority's integrated waste management service (IWMS) contract with ELWA Limited;
 - i) approve the Programme of Meetings and agree any changes;
 - j) make any changes to the appointment of representatives to outside bodies and partnerships;
 - k) agree any changes to the Constitution and associated Rules, Schemes, Codes and Protocols relating to the way in which the Authority operates;
 - l) oversee the management of the Authority, including holding all the component parts to account as appropriate for their actions and performance;
 - m) receive and consider reports from officers as appropriate;
 - n) consider and approve appropriate statutory and non-statutory plans;
 - o) receive petitions (see paragraph 24);
 - p) consider motions;
 - q) deal with any other matters of significance, urgency or importance at the discretion of the Chair.
- 10.2 The order of business will be in accordance with the agenda for each meeting. However, at the discretion of the Chair the order may be varied at the meeting. Any matters which are exempt from publication will generally appear later on the agenda.

11. Annual General Meeting (AGM)

- 11.1 The AGM of the Authority will be held in either May, June or July of each year.
- 11.2 At each AGM, the first business shall be the appointment of a Chair and Vice-Chair for the coming year from amongst the membership. Once appointed, the newly appointed Chair shall preside at the meeting.
- 11.3 To avoid any doubt, the person presiding at the commencement of the AGM shall be the preceding year's Chair or, in the absence of the Chair, the Vice-Chair or, in the absence of both, another Member chosen by those present.
- 11.4 Following the appointment of the Chair and Vice-Chair, the AGM will consider such other business as is included on the agenda.
- 11.5 The Authority shall at its AGM, nominate from its membership, one Member from each of the Constituent Councils to answer questions on behalf of the Authority, put by other Members of the Constituent Councils in the course of council proceedings, pertaining to the discharge of the Authority's functions.

12. Extraordinary General or Special Meetings

- 12.1 An Extraordinary General (otherwise known as "special") Meeting of the Authority may be called at any time by the Chair.
- 12.2 Any two Members of the Authority or the Managing Director may also, by signed requisition, request the Chair to call an Extraordinary General Meeting.
- 12.3 If the Chair refuses to call an Extraordinary General Meeting of the Authority after a requisition for that purpose or without so refusing, does not call such a meeting within seven days of the requisition being presented to him/her, then on that refusal or the expiry of those seven days, as the case may be, any two Members of the Authority may then call an Extraordinary General Meeting.
- 12.4 The arrangements for these meetings are the same as for Ordinary Meetings.

13. Informal Member Meetings

- 13.1 From time to time, the Authority may arrange and hold Informal Meetings of all Members.
- 13.2 These meetings are typically arranged in order that consideration can be given, in an all-Member forum, to one or more major issue affecting the Authority which requires deliberation prior to formal consideration being given at an Authority meeting.
- 13.3 Informal meetings do not have any decision-making powers and the provisions of the Local Government (Access to Information) Act 1985 do not apply. In all other respects, the arrangements for these meetings are the same as for ordinary meetings.

14. Quorum

- 14.1 A quorum is the number of Members needed to enable a meeting to proceed. If a meeting is not quorate, the business will be adjourned to the next ordinary meeting or, if necessary, to an Extraordinary (special) meeting.
- 14.2 An inquorate meeting can, if there is any merit in doing so, discuss issues but strictly on an informal basis only and without making any decisions. The minutes will make brief reference to any such discussions.
- 14.3 Subject to paragraph 45 of Schedule 12 of the Local Government Act 1972, no business will be transacted at a meeting of the Authority or any committee set up by it unless at least four Members of the Authority are present, and the Members present comprise representatives of at least three of the Constituent Councils.

15. Agenda Papers

- 15.1 Unless otherwise stated in the provisions of this Constitution for particular meetings, agenda papers will be in the Managing Director's name and will indicate an appropriate contact for any queries.
- 15.2 Agendas, reports and minutes will generally be in an agreed corporate style, details of which are the responsibility of the Managing Director.
- 15.3 Notices of meetings and agendas will be circulated in advance having regard (where appropriate) to the requirements of the Local Government (Access to Information) Act 1985 or any subsequent legislation. In general, this means that the papers will be available at least five clear working days before a meeting.

16. Reports

- 16.1 Reports will provide sufficient information and background to enable members to make informed judgements and decisions, and where appropriate reasoned options, ensuring that Members are made fully aware of all the implications and alternatives, and the advantages and disadvantages associated with each. Reports will also include, where appropriate, the views of other Members, Officers, Constituent Council officers and/or experts (including outside representatives if relevant), together with the professional advice and recommendations of the appropriate lead officer.

- 16.2 Reports will be in the name of the appropriate lead officer but will include the author as the point of contact for further information or queries.
- 16.3 Late reports will generally not be allowed. If there are unavoidable, genuine circumstances, their consideration will be at the discretion of the Chair. The relevant lead officer will be required to justify the reason for special consideration in writing.
- 16.4 Background papers will be made available for public inspection in accordance with statutory requirements. This responsibility lies with the relevant lead officer.

17. Voting

- 17.1 Decision-making is determined by a majority of the Members present at the meeting.
- 17.2 Voting is generally by show of hands.
- 17.3 The Chair, or other person presiding, will have a second and casting vote where votes for and against a proposal are equal.
- 17.4 Any Member may ask for a vote to be recorded before it is taken, provided they have the support of three other Members. Individual votes will then be taken by way of a roll call and recorded in the minutes. In this situation, Members will be asked to vote "for" or "against"; alternatively, they may, if they wish, "abstain".

18. Minutes

- 18.1 Minutes will be concise but sufficiently detailed to enable each matter discussed to be clearly understood by a lay person.
- 18.2 Minutes will be circulated to Members with the agenda for the next meeting for confirmation as a correct record at that meeting.
- 18.3 Minutes of all meetings will generally be confirmed as a correct record at the next scheduled meeting. If appropriate, or if necessary, this may be done at an earlier special meeting. The minutes will be signed by the Chair, or other person presiding at the meeting, when they are confirmed.
- 18.4 Minutes will be made available for public inspection in accordance with statutory requirements.
- 18.5 The minutes will be the formal record of attendance at meetings by Members.

19. General Questions

- 19.1 Questions relating to any matter on the agenda or otherwise may be raised by Members at the meeting at the appropriate stage, subject to the discretion of the Chair who will ensure that questions are appropriate and relevant. All Members will be given an equal and fair opportunity to ask questions.
- 19.2 Wherever possible, answers will be given at the meeting by the appropriate Member or officer. In the event that it is not possible to do so, a written response will be sent to the questioner, with copies to all Members, as soon as possible.

20. Conduct/Disturbance at Meetings

- 20.1 It is the responsibility of the Chair to keep order at meetings.
- 20.2 Members are expected to behave in a professional manner and to respect the ruling of the Chair.
- 20.3 If a Member persistently misconducts him or herself by behaving irregularly, offensively or improperly, or by disregarding the Chair and knowingly or deliberately obstructing the business, the Chair, or any other Member, may move that the Member no longer be heard. If seconded, the matter will be put to the vote and determined without discussion. The Member concerned cannot vote in these circumstances.

- 20.4 If the Member concerned continues his/her misconduct, the Chair may either move that the Member leaves the meeting or that the meeting be adjourned for a period which the Chair feels will be appropriate to contain the problem. Such motions must be seconded and determined as above.
- 20.5 If a member of the public interrupts a meeting, the Chair will ask them not to do so and warn them that if the interruption continues, the person will be required to leave. If the person continues to interrupt, the Chair can order him/her to leave the meeting. If necessary, the assistance of staff will be sought to escort the person off the premises.
- 20.6 Where there is a general disturbance in any part of the room where a meeting is being held, the Chair can, at his/her discretion, order that it be cleared. If the general disturbance is considered by the Chair to be such that the meeting cannot reasonably continue, he/she shall adjourn the meeting for a certain period or until another day, whichever is felt to be most appropriate in the circumstances.

21. Members and Declaration of Interests

- 21.1 Every Member is required by the Localism Act 2011 and by their Local Code to complete their Council's Councillors' Register of Interests and those entries shall apply to ELWA as they do for each Constituent Council.
- 21.2 Having regard to statutory requirements and Members' Codes of Conduct, if a Member has a personal interest in a matter for consideration (i.e. one which affects the Member more than most other people in the area) they must declare it and say what that interest is before any meeting where the issue is to be discussed or as soon as it comes to light. However, they can still take part in the meeting and vote unless the personal interest is also a prejudicial interest (see below).
- 21.3 A Member with a prejudicial interest in any matter (i.e. where a member of the public would view the personal interest as being so significant that it is likely to prejudice the Member's decision) must declare what the interest is (if they have not already done so) and withdraw from the meeting (by leaving the room).
- 21.4 The minutes will record the declaration and, if appropriate, that the Member left the meeting. A record will also be kept in a book provided for this purpose by the Managing Director for public inspection at ELWA's offices.

22. Speaking by the Public at Meetings

- 22.1 Members of the public will not normally be allowed to speak at meetings. However, members of the public may speak on a specific issue at the discretion of the Chair.

23. Press Briefings

- 23.1 ELWA wishes to conduct its business in an open and informative manner. Where considered appropriate, press briefings will be arranged through the Managing Director and the Chair to explain particularly important or sensitive issues and to give an opportunity for questions to be asked.

24. Photography, Live Broadcasts and Tape Recordings of Proceedings

- 24.1 The Chair has discretion to allow photographs to be taken or for proceedings to be transmitted by television, video recording, radio broadcast or any other means, if this is felt to be appropriate.

25. Petitions

- 25.1 All petitions sent to the Authority which contain at least 50 signatories from separate households will be reported to the Authority.

- 25.2 Before a petition is presented to the Authority, the Managing Director will arrange an informal meeting to discuss the petition and appropriate action in response. The lead petitioners and appropriate Members will be invited to attend. The Managing Director may attend the meeting himself/herself and/or be represented by a relevant officer. The Managing Director will then prepare a report to accompany the submission of the petition to the Authority; this will set out the outcome of the informal meeting and detail any action which has been taken, or which is proposed, in response to the petition.
- 25.3 The lead signatory will be invited to speak at the Authority meeting for the purpose of introducing the petition should he/she wish - a maximum of five minutes will be allowed for this.
- 25.4 Petitions with fewer than 50 signatories will be accepted by the Managing Director but not reported to the Authority.

26. Urgent Action

- 26.1 In exceptional circumstances and where delay would be prejudicial to the interests of the Authority, the Managing Director or in their absence their deputy (as appropriate) is authorised to take action which is not otherwise delegated to them subject to:
- a) consultation with, the Monitoring Officer and Finance Director that shall be recorded in the form of a joint written report;
 - b) consultation with the Chair and the Vice-Chair supported by said written report being cleared by the Managing Director (or deputy, Monitoring Officer and Finance Director. Should either the Chair or Vice-Chair be unavailable, then consultation with the other plus one other Member shall be sufficient. In the event that the necessary decision cannot be obtained through this procedure within 24 hours, the matter may be dealt with provided that at least two Members are always consulted;
 - c) compliance with the Constitution and, in particular, relevant Rules where appropriate; and
 - d) the action taken being reported to the next appropriate meeting of the Authority.

27. Inspection of Documents by Members

- 27.1 A Member of the Authority may inspect any document that is in the possession of, or under the control of, the Authority provided that either:
- a) the Member can justify that it is reasonably necessary to perform his/her duties as a member of the Authority, or
 - b) the document contains material relating to any business to be transacted or which has been transacted at a meeting. They are not, however, entitled to inspect any document if it relates to a matter in which the Member is professionally interested or in which he/she has a direct or indirect financial interest in accordance with the statutory interpretation.
- 27.2 If the Managing Director is of the opinion that the document in question is not required to be open to inspection under the provisions of the Local Government (Access to Information) Act 1985 (exempt information not to be provided to Members), a Member will not be able to inspect the document.
- 27.3 This provision does not entitle the Managing Director to refuse a Member access to documents which they have a legal right to inspect.

28. Confidentiality

- 28.1 Where the contents of any document are expressed to be restricted from publication, Members and officers must respect such confidentiality.

29. Attendance at Meetings by Other Councillors from Constituent Councils

- 29.1 A Councillor who is a member of a Constituent Council but not appointed to ELWA may attend any meeting of the Authority, but they cannot vote at that meeting. At the Chair's discretion they may take part in the discussion and may stay for the whole meeting unless asked to leave for specific reasons that will be explained by the Chair and recorded in the minutes.
- 29.2 Agenda papers for meetings may be circulated to any Councillor at their request subject to the conditions set out in paragraph 26 and to the restrictions around reports dealing with certain human resource issues (see "Protocol - Dealing with Human Resource Issues" at Appendix B).

30. Implementing Decisions

- 30.1 Decisions of the Authority can be acted upon immediately after the meeting subject to any restriction in place at the time.

31. Requirement to Attend Meetings

- 31.1 If a Member fails to attend two consecutive meetings of the Authority, unless the failure was due to a reason approved by the Chair or Vice-Chair before the meeting that would constitute the second consecutive such meeting, the Authority may recommend to the relevant Constituent Council that the Member be replaced and not considered for re-appointment by the Council to the Authority for a period of up to two years.

32. Sealing

- 32.1 The Common Seal of the Authority shall be kept in a safe place in the custody of the Managing Director or his/her nominated postholder.
- 32.2 The Seal shall be attested by the Managing Director or his/her nominated postholder and a register kept recording details of all documents sealed.



1. Scope

1.1 These rules apply to all meetings of the Authority.

2. Additional Rights and Information

2.1 These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

3. Rights to Attend Meetings

3.1 Members of the public and press are welcome to attend all meetings, subject only to the exceptions set out later in this Article. The Authority will do all that it can to minimise such exceptions so that it can have an open debate in public on most issues.

4. Notice of Meetings

4.1 The Authority will give at least five clear days' notice of any meeting by posting details of the meeting at ELWA's offices at Harvey House, London Road, Romford (known as "the designated offices") and, if the meeting is to be held at an alternative location, at the building where the meeting is to be held. If a meeting has to be called at short notice, details will be posted at the earliest opportunity - such instances should, however, be rare and only in cases of absolute urgency.

5. Access to Agenda and Reports before Meetings

5.1 The Authority will make copies of the agenda and reports of meetings open to the public available for inspection at the designated offices at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection at the time the item is added. Where reports are prepared after the notice of the meeting has been sent out, each report will be made available to the public as soon as it is completed and has been sent to Members.

6. Supply of Copies

6.1 On request, the Authority will supply copies of:

- a) any agenda and reports which are open to public inspection;
- b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- c) any other documents open to public inspection and supplied to Members in connection with an item.

6.2 These papers will be available free of charge to any person at any meeting of the Authority to which the papers relate, or for a reasonable charge when requested at any other time.

7. Access to Minutes and Reports after Meetings

7.1 The Authority will make available copies of the following documents for six years after a meeting:

- a) the minutes of the meeting or record of decisions taken, together with reasons, excluding any part of the minutes when the meeting was not open to the public which discloses exempt or confidential information (as defined in paragraph 10 below);
- b) a summary of any proceedings not open to the public where the minutes open to inspection do not provide a reasonably fair coherent record;
- c) the agenda for the meeting; and
- d) reports related to items where the meeting was open to the public.

8. Background Papers

- 8.1 Every report will list those documents relating to the subject matter of the report, which, in the author's opinion, (a) disclose any facts or matters upon which the report, or part of it, was based and (b) have been relied upon to a material extent in preparing the report.
- 8.2 This will not include published works or those that disclose exempt or confidential information.
- 8.3 Background papers are available for public inspection for four years after the date of the meeting and copies may be requested for a reasonable charge from the Managing Director.

9. Summary of Public's Rights

- 9.1 The public has the right to attend meetings and to inspect and copy documents. Members of the public may:
- a) attend meetings and speak with the permission of the Chair or in accordance with any special procedures for the meeting concerned (e.g. lead petitioner);
 - b) inspect agendas for each of the meetings;
 - c) inspect minutes of the meetings once they have been confirmed as a correct record;
 - d) inspect a list of background papers used to compile the reports attached to each agenda; and
 - e) make copies or ask for copies of the whole or part of any such document open to inspection.
- 9.2 However, members of the public may not:
- a) have access to some documents which, by law, are exempt from publication (i.e. private and confidential reports).
 - b) stay at a meeting when private and confidential reports are being discussed - a resolution will be passed at the meeting requiring press and public to leave.
 - c) take photographs at meetings nor record or transmit the proceedings (unless the Chair chooses to allow these actions in which case this will be announced).

10. Exclusion of Access by the Public to Meetings

- 10.1 Confidential Information - The public has (legally) to be excluded from meetings whenever it is likely that confidential information will be disclosed - Confidential information means information given to the Authority by a Government Department on terms which forbid its public disclosure or information which cannot, by Court Order, be publicly disclosed.
- 10.2 Exempt Information - The public may be excluded from meetings whenever it is likely that exempt information will be disclosed - Exempt information means any of the paragraphs of Part I of Schedule 12A to the Local Government Act 1972 as detailed in Appendix A to this Part.
- 10.3 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in that Article.

11. Exclusion of Access by the Public to Reports

11.1 If the Managing Director on consultation with the Monitoring Officer/ Legal Adviser is so advised, then the Authority may exclude access by the public to reports that in his/her opinion relate to items during which, in accordance with above, the meeting is likely not to be open to the public. Such reports will be marked "Not for Publication" and the agenda will explain the category of information which is exempt from publication by law.

12. Exempt Information

12.1 The following information is exempt from publication:

- a) information relating to any individual;
- b) information which is likely to reveal the identity of an individual;
- c) information relating to the financial or business affairs of any particular person (including the authority holding that information);
- d) 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;
- e) information in respect of which a claim to legal professional privilege could be maintained in legal proceedings;
- f) information which reveals that the authority proposes:
 - to give under any enactment a notice under or by virtue of which requirements are imposed on a person
 - to make an order or direction under any enactment
- g) information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

12.2 Information which falls within paragraphs a) to g) 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.

13. Dealing with Human Resource Issues

13.1 When Members consider items about the people that are employed solely on behalf of the Authority (e.g. ELWA full-time employees), the Authority must be mindful of a number of matters:

- a) employees have rights, on an individual basis, to be treated fairly. (This includes expecting the Authority to maintain confidentiality about an individual's personal and employment details);
- b) information relating to employees is often confidential in nature and should not be available widely throughout the organisation (at Member or officer level). Only those who need to know should know;
- c) Members should have the opportunity to consider, debate and decide upon issues without managers/officers being present; and
- d) a variety of decisions on Human Resource (HR) matters, including the fair treatment of people by their employer, are subject to external scrutiny.

13.2 For these reasons:

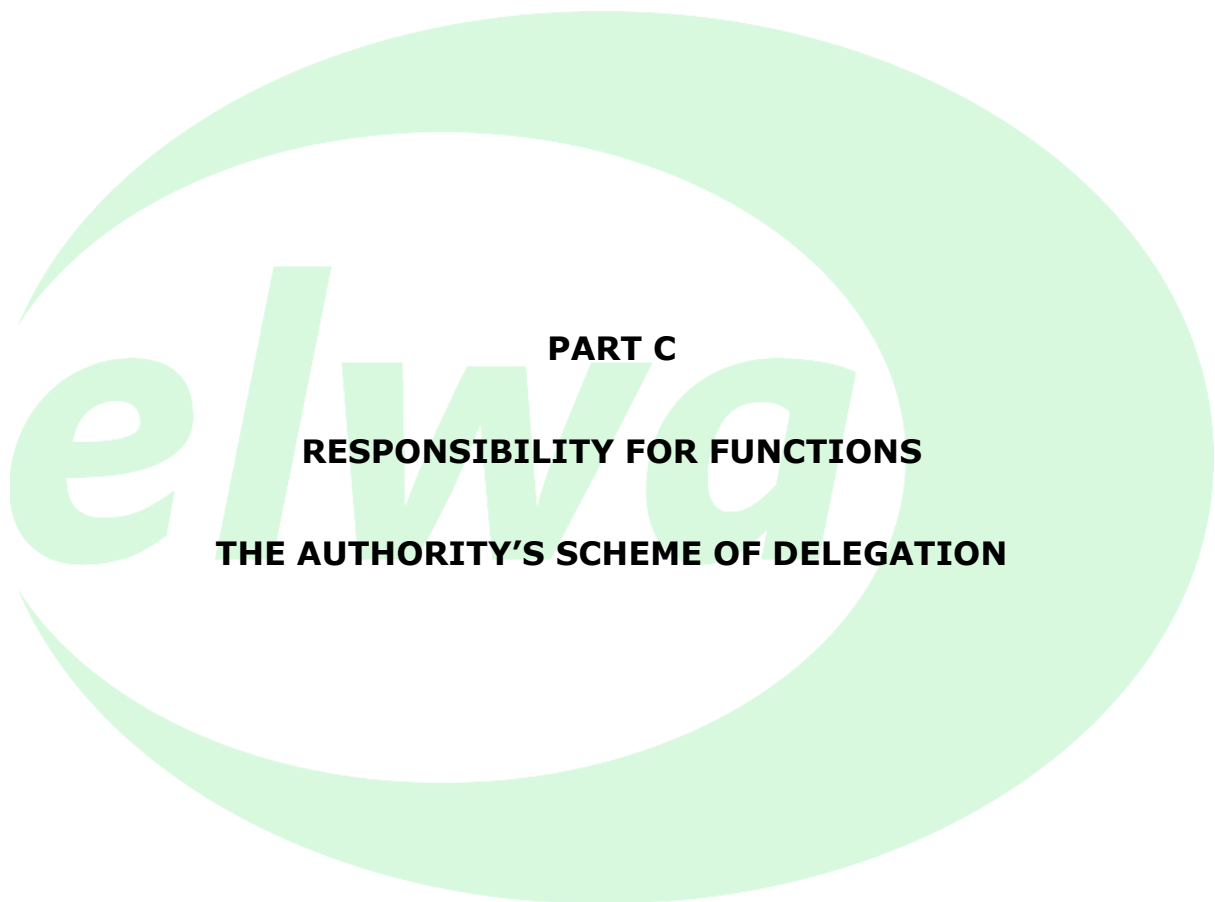
- a) written information to Members on HR management and/or personal HR matters which address employee issues in respect of an individual, should be restricted to relevant Members and appropriate officers. This information should not be included as part of the usual circulation for a report; and

- b) the meeting considering these matters should be conducted in private and those people who should not be in attendance should be asked to leave the meeting.

14. Guidelines:

- 14.1 If there is any doubt as to who should receive copies of the report and who should be allowed to remain at the meeting, the Managing Director should be consulted.
- 14.2 The Managing Director will have access to all reports and all meetings of Members about Human Resource matters.
- 14.3 The Managing Director may delegate some matters to an Officer, the relevant Constituent Council's Personnel Manager (from the employing Council) and/or Legal Officer, who will have access to appropriate reports and meetings.
- 14.4 Where there are any financial implications to be considered by the Authority, the Finance Director will have access to appropriate reports and meetings.
- 14.5 There may be meetings where it is appropriate to invite representatives of the Trades Unions and cognizance must be given to this. If there is any doubt, the Managing Director should be consulted.





PART C
RESPONSIBILITY FOR FUNCTIONS
THE AUTHORITY'S SCHEME OF DELEGATION

SCHEME OF DELEGATION

1. Statutory Basis

- 1.1 The basis for delegation within the Authority is contained within Section 101 of the Local Government Act 1972.
- 1.2 Section 101 of the 1972 Act generally allows the Authority to arrange for its functions to be carried out at a formal meeting or by an employee. Section 100G(2) requires authorities to keep a list specifying those powers which are exercisable by employees and their respective titles in each case. Section 112 requires authorities to appoint such employees as they think necessary for the proper discharge of their functions.
- 1.3 The Local Government Act 2000 (the "LGA 2000") requires Councils to be clear within their Constitution who is responsible for functions and where decision-making lies. Although ELWA is not bound by the LGA 2000, it has agreed to follow the spirit of these provisions and this Scheme describes the Delegations within which ELWA will operate.

2. Framework

- 2.1 The Authority has agreed that the following principles should be applied to all decisions:
 - a) proportionality (the action must be proportional to the desired outcome);
 - b) due consultation and the taking of professional advice from relevant officers;
 - c) respect for human rights*;
 - d) a presumption in favour of openness;
 - e) clarity of aims and desired outcomes; and
 - f) the options considered and the reasons for a particular choice will be explained when appropriate
- 2.2 Generally, all decisions will also be consistent with relevant law, Contract Rules, Financial Rules, other relevant Rules, and any other requirements set out in this Constitution.

[* Decisions taken by the Authority, a Member or an employee acting as a tribunal or in a quasi-judicial manner, or determining/considering (other than for the purposes of giving advice) the civil rights and obligations, or the criminal responsibility, of any person, will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights].

3. Purposes of the Scheme

- 3.1 The purposes of the scheme are:
 - a) to define those decisions to be taken by Members of the Authority at formal Authority meetings
 - b) to identify that all other decisions will be taken by Officers (or nominated post holders as listed), either collectively or individually, and to define these accordingly;
 - c) to define the process by which decisions are monitored to ensure transparency and accountability; and
 - d) to define the 'Proper Officer' responsibilities where referred to in legislation.

4. Matters which cannot be delegated

- 4.1 Certain functions may not, by law, be delegated. As such, they must be dealt with by the Authority at formal Authority meetings (subject to the urgency provisions in paragraph 25 of Article 1). These are listed in Section A of this document.

5. Delegation to Officers

- 5.1 All matters not reserved to Member-level meetings are delegated to the Managing Director and other Officers (or nominated post-holders).
- 5.2 The Scheme does not define how each decision should be taken, nor does it attempt to list incidental matters that are a part of the Officers' everyday management functions.
- 5.3 The delegation of an authority to an Officer includes the exercise of that authority on his/her behalf by another employee under his/her supervision. Officers are responsible for maintaining a comprehensive list of nominated post-holders, which also identifies specific areas of responsibility. These lists are open to inspection by the public.
- 5.4 Delegations to Officers are split into two parts - powers that can be exercised by (i) all Officers, and (ii) individual Officers.
- 5.5 The Managing Director will clarify any delegation to Officers if necessary.

6. Changes in Legislation

- 6.1 Any delegation or authority specified in this Scheme (including Proper Officer functions), by reference to any Act or any associated Regulations (e.g. a statutory instrument), includes references to any related re-enactment, consolidation, modification, variation or amendment.

7. Proper Officer Function

- 7.1 The concept of "Proper Officers" to perform certain tasks or carry out various formal or administrative functions differs from that of delegated powers. Delegated powers may involve the exercise of discretion or choice; the functions of a Proper Officer are generally prescribed by legislation.

8. Constitution

- 8.1 This Scheme forms part of the Authority's Constitution and should be read in conjunction with other Parts.

SECTION A - THE AUTHORITY

1. The Authority

- 1.1 Generally, the Authority may exercise all, or any, of its duties or powers, irrespective of delegation to officers.
- 1.2 The following powers and functions are reserved to the Authority, either by law and/or statutory guidance and/or by local choice (and cannot be delegated):
- a) adopting and changing the Constitution, or authorising the suspension of any of its Rules;
 - b) approving the annual budget of the Authority;
 - c) determining the annual levy on the Constituent Councils;
 - d) appointing representatives to outside bodies and partnerships;
 - e) appointing the Managing Director/Head of Paid Service, the Monitoring Officer and the Finance Director (Chief Finance Officer);
 - f) initial consideration of any policy or individual employment matters relating to Proper Officers of the Authority, where appropriate;
 - g) promoting or opposing the making of local legislation or personal bills;
 - h) appointing Members to the following positions:
 - appointing the Chair and Vice Chair of the Authority
 - appointing the 'A' Director of ELWA Limited
 - approving the appointments of any other lead roles as may be considered appropriate by the Authority
 - i) agreeing the Programme of Meetings;
 - j) determining all major issues affecting the Authority, particularly strategic, financial, policy related and corporate management matters;
 - k) agreeing procedures or arrangements relating to the way in which the Authority operates, including Financial Rules, the Scheme of Delegation, Contract Rules, the Protocol for Member-Employee Relations, Rules governing Conferences, Visits and Hospitality, Land Acquisitions and Disposals, and any other Rules;
 - l) approving the annual statement of the Authority's accounts;
 - m) setting Authority borrowing limits;
 - n) approving attendance at meetings, visits and conferences where the total cost to the Authority is likely to exceed £1,000;
 - o) determining compensation claims exceeding £5,000;
 - p) approving the acquisition and disposal of land and other significant assets, write-offs and non-recurring virements above delegated authority thresholds;
 - q) delegating functions to another local authority and accepting delegations from another local authority;
 - r) confirming the making of any other statutory Plans and Strategies and, where necessary, their submission to the appropriate Government Department for approval;

- s) considering and making decisions on relevant reports of the following (the "statutory officers"):
 - the Head of Paid Service
 - the Monitoring Officer
 - the Finance Director (Chief Finance Officer)
- t) receiving petitions (subject to the provisions of paragraph 24 of Part B, Article 1);
- u) receiving reports and recommendations for decision by the Authority from the Authority's External Auditors, the Ombudsman and Government or other Inspectorates and determining matters where required;
- v) resolving and determining any disputes of Officers in respect of any delegated authority;
- w) appointing an Authority Disciplinary Panel Sub-Committee with a Membership of the Chair and three additional Members one from each other Constituent Council, for the purpose of considering allegations of misconduct against the Statutory Officers;
- x) considering the report of the Authority Disciplinary Panel Sub-Committee with their recommendation for disciplinary action in the case of allegations of misconduct by a statutory officer. Note: Before taking a decision, the Authority shall invite representations from the Statutory Officer. Those representations shall constitute the appeals process;
- y) all other matters which, by law, must be reserved to the Authority;
- z) nominating Members from each of the Constituent Councils to answer questions on behalf of the Authority, put by other Members of the Constituent Councils in the course of relevant council proceedings, pertaining to the discharge of the Authority's functions; and
- aa) such other matters that the Authority may from time to time reserve to itself.

SECTION B - THE MANAGING DIRECTOR (AND HEAD OF PAID SERVICE)

1. The Managing Director (and Head of Paid Service)

- 1.1 The Managing Director shall have responsibility for all matters relating to the overall administrative and legal arrangements of the Authority, other than those reserved to Authority meetings, including:
- a) acting as Clerk, Secretary and Head of Paid Service to the Authority;
 - b) fulfilling the role and performing the duties of Proper Officer under the legislation and for the purposes set out in Section E below;
 - c) ensuring that there is a strategy and business plan for the Authority;
 - d) ensuring the effective governance of the Authority (in consultation with the Monitoring Officer);
 - e) commissioning and managing legal work on behalf of the Authority (including prosecutions, contracts and civil litigation);
 - f) ensuring, in consultation with the Monitoring Officer that the Constitution of ELWA is effectively implemented;
 - g) ensuring that effective support is provided to Members, as required;
 - h) chairing the Authority's Management Board;
 - i) as authorised officer on behalf of the Authority, signing, attesting or witnessing the affixation of the Authority's common seal on all contracts, land sales or other dispositions or acquisitions of land, orders, letters, licences, notices, certificates or any other documents unless authority is specifically reserved to other Officers;
 - j) acting as the 'Authority Representative' for the purposes of the IWMS Contract;
 - k) sealing documents;
 - l) investigating disciplinary matters, with the involvement of an independent person, against the Monitoring Officer and the Chief Finance Officer in conjunction with the relevant Constituent Council;
 - m) agreeing minor changes to this Constitution and any of its Parts (e.g. the correction of typographical errors, minor amendments required by new legislation and other matters of a purely administrative nature);
 - n) determining compensation claims up to £5,000; and
 - o) agreeing, in consultation with the Authority's Legal Adviser/Monitoring Officer and any other authorised legal representative, financial settlements in Court actions where no alternative is available, and the circumstances do not allow for prior consultation with Members.
- 1.2 In addition, the Managing Director shall have responsibility for all matters relating to the overall:
- a) operational arrangements of the Authority, other than those reserved to Member meetings;
 - b) human resources functions of the Authority other than those reserved to Member meetings; and
 - c) technical arrangements of the Authority, other than those reserved to Member meetings.

2. Proper Officer Functions

- 2.1 The Managing Director is appointed and shall act as Proper Officer for the Authority in relation to and for the purposes of the following provisions under the Local Government Act 1972:
- a) section 96(2) - The Officer who shall record particulars of any disclosure made under Section 94 and of any notice given under Section 96(1) of the Act;
 - b) sections 100B(7)(c), 100C(2) and 100F(2) in relation to Access to Information;
 - c) section 225(1) - The Officer with whom a document of any description is to be deposited pursuant to the Rules of either House of Parliament or to any enactment or instrument;
 - d) section 229(5) - The Officer who shall certify a photographic copy of a document in the custody of the Authority, or of a document which has been destroyed while in the custody of the Authority, or of any part of any such document;
 - e) section 234(1) - The Officer who shall sign any notice, order or other document which the local authority is authorised or required to make or issue;
 - f) schedule 12, Part I, para. 4(2)(b) - The Officer who shall sign a summons to attend an Authority meeting;
 - g) schedule 12, Part I, para. 4(3) - The Officer to whom a Member of the Authority shall give a notice in writing desiring summonses to attend meetings of the Authority to be sent to an address specified in the notice other than his/her place of residence;
 - h) schedule 14, Part II, para. 25(7) - The Officer who shall certify a resolution of the Authority under this paragraph; and
 - i) the Local Authorities (Members Interests) Regulations 1992.
- 2.2 The Managing Director shall act as the Head of Paid Service under the Local Government and Housing Act 1989 and shall be responsible for any other Proper Officer function for which no other authorities have been given.

SECTION C - THE FINANCE DIRECTOR (CHIEF FINANCE OFFICER)

1. The Finance Director (Chief Finance Officer)

- 1.1 The Finance Director shall have responsibility for all matters relating to the overall financial arrangements of the Authority, other than those reserved to Member meetings, including:
- a) to act as Chief Finance Officer to the Authority; and
 - b) to be responsible to the Authority for the proper administration of its financial affairs.
- 1.2 The Finance Director is authorised: -
- a) to prepare and present the accounts of the Authority;
 - b) to keep a general fund for receipt and discharge of liabilities, and to keep accounts and receipts for such discharges;
 - c) to borrow in accordance with the requirements of the capital budget and borrowing limits;
 - d) to issue levies on Constituent Councils of the Authority and take action required for their collection, within the terms of Clause 7 of the Waste Regulation and Disposal (Authorities) Order 1985;
 - e) to provide Audit services to the Authority;
 - f) to provide comprehensive financial advice to the Authority; and
 - g) to write off losses up to the value of £5,000.
- 1.3 The Finance Director shall be a member of the Authority's Management Board.
- 1.4 The Finance Director shall have responsibility in conjunction with the Managing Director:
- a) to prepare, present and monitor capital and revenue budgets; and
 - b) to commission appropriate insurances.
- 1.5 The Finance Director shall assist the Managing Director, when required, to discharge his/her corporate responsibility as Head of Paid Service.
- ### 2. Proper Officer Functions
- 2.1 The Finance Director shall act as the Proper Officer for the Authority for the purposes of Section 73 of the Local Government Act 1985.

SECTION D - ALL OFFICERS

1. All Officers

1.1 All Officers are authorised to exercise the following powers and duties of the Authority in respect of the services under their control:

- a) accepting tenders within the parameters of Part D of this Constitution;
- b) authorising contracts within the parameters of Part D of this Constitution;
- c) appointing employees (except for those appointments reserved to the Authority) in accordance with the directions of the Head of Paid Service and any appropriate legislation;
- d) managing employees and determining appropriate training, development and health safety and welfare for employees;
- e) collecting charges and fees;
- f) full responsibility for local health and safety issues;
- g) approving employees' travelling and other approved expenses;
- h) maintaining and securing buildings, land and premises;
- i) issuing of licences;
- j) appointing or authorising employees to implement legislation as appropriate;
- k) virements (non-recurring) up to £10,000 within approved budgets, in consultation with the Finance Director;
- l) full responsibility for observing the Authority's Financial Rules and monitoring financial performance;
- m) full responsibility for ensuring compliance with Employees' Codes of Conduct and other employment related codes and requirements;
- n) spending within approved budgets including the purchase of all equipment, goods, materials and services;
- o) employing agency, contract and consultant staff; and
- p) full responsibility for observing all other aspects and Rules contained within the Authority's Constitution.



1. Interpretation

- 1.1 "Authority" means the East London Waste Authority and shall, where the context so admits, include a committee of the Authority and a Relevant Appointed Officer where so authorised by the Authority.
- 1.2 "Chief Finance Officer" means the Finance Director whose role is defined at Part C Section C1.
- 1.3 "Commissioning Officer" means the Relevant Appointed Officer.
- 1.4 "Contract" means any contract, agreement or order for the carrying out of work, the provision of services or the supply of goods or materials intended to be legally enforceable in consideration of an offer made to the Authority by another party which the Authority has accepted. This applies whether the offer or acceptance is oral or in writing and includes any order for supplies or services or execution of works or a combination of one or more of these, and also includes an agreement for the provision of supplies, services or execution of works made by deed, but does not mean a contract of employment, acquisition, disposal, or transfer of land and contracts for the use of Counsel or other legal representation.
- 1.5 "Contractor" means an organisation that offers and subsequently enters into legal contractual relations to provide goods, works and/or services to or on behalf of the Authority for consideration.
- 1.6 "EU Procedure" means one of the procurement procedures prescribed under the Public Contracts Regulations 2015.
- 1.7 "Framework Agreement" means any agreement between the Authority and one or more contracting authorities and/or one or more contractors, the purpose of which is to establish the terms governing contracts to be awarded to contractors during a given period, in particular with regard to price, and where appropriate, the quantity envisaged.
- 1.8 "Invitation to Tender" means an invitation to prospective bidders to submit tenders for contracts for a value of £50,001 and over.
- 1.9 "Legal Adviser" means generally the London Borough of Barking & Dagenham Legal Practice.
- 1.10 "Light Touch Regime" – means the regime prescribed and covered by Part 2, Chapter 3, Section 7 of the Public Contract Regulations 2015 for social and other specific services.
- 1.11 "Managing Director" means as defined at Part C Section B.
- 1.12 "Member" means a councillor of one of the Authority's Constituent Councils, and "Member of the Authority" means a councillor who has been appointed by her/his Constituent Council to serve as a Member of the East London Waste Authority.
- 1.13 "Modern Slavery" means the Modern Slavery Act 2016 Section 54(9) Guidance definition of slavery, servitude and forced or compulsory labour; and human trafficking.
- 1.14 "Most Economically Advantageous" means the criteria used to determine whether an offer is the most economically advantageous to the Authority and shall be determined in each case by the Authority in accordance with any policy of the Authority and these Rules. The criteria will always include price and may include any one or more of the following and such other criteria as the Authority or Relevant Appointed Officer may consider fit:
- a) period for completion or delivery;
 - b) quality;
 - c) aesthetic and functional characteristics;
 - d) technical merit;
 - e) after sales service;

- f) technical assistance;
 - g) running costs;
 - h) cost effectiveness;
 - i) best value/continuous improvement;
 - j) equal opportunities; and
 - k) sustainability including Fair Trade.
- 1.15 "Net Value" means the total aggregate monetary value for the provision of supplies, services or execution of works which the Authority expects to pay or receive under the full terms of the Contract excluding any Value Added Tax.
- 1.16 "Organisation" means an individual or persons, unincorporated association company, partnership, limited liability partnership, charitable trust, incorporated association, other public or local authority, statutory body or government department.
- 1.17 "Procurement Code of Practice" means a detailed instruction or guide published by the Authority for officers engaged in procurement activities.
- 1.18 "Procurement Documents" means any document produced or referred to by the Authority to describe or determine elements of the procurement or the procedure, including the contract notice, the prior information notice where it is used as a means of calling for competition, the technical specifications, the descriptive document, proposed conditions of contract, formats for the presentation of documents by candidates and tenderers, information on generally applicable obligations and any additional documents.
- 1.19 "Relevant Appointed Officer" means the Managing Director or such other senior officer of the Authority to whom authority is delegated by either the Authority or the Managing Director for the purposes of these Contract Rules.
- 1.20 "Relevant EU Rules" means the Public Contracts Regulations 2015 or such amendments or replacement thereof from time to time in force.

2. Introduction

- 2.1 These Rules apply to all Contracts entered into or proposed to be entered into by the Authority unless these Rules provide otherwise. These Rules shall also apply where the Authority is acting on behalf of a partnership or other joint organisation. These Rules may be supplemented by a Procurement Code of Practice which will set out detailed instruction and guidance for all officers engaged in procurement activities. Any Procurement Code of Practice shall have the status of a guide for officers only and shall not be held in substitution of these Rules.
- 2.2 Any change to the Relevant EU Rules or United Kingdom legislation, which affect the procurement of services, works supplies and utilities under these Rules shall take precedence over these Rules.
- 2.3 These Rules are designed to promote efficient and effective procurement within the statutory framework whilst maintaining safeguards of probity and good governance and provide a framework for the procurement of works, goods and services.
- 2.4 Relevant Appointed Officers shall take all reasonable steps to ensure that the Authority is aware of and consulted upon Contracts of a sensitive nature.

3. Orders for Services, Supplies, Works and Utilities

- 3.1 The Relevant Appointed Officer will be responsible for compliance with these Rules when procuring and/or entering into any Contract.

4. Aggregation

- 4.1 A Contract, ordinarily treated as a single Contract, must not be divided into more than one Contract in order to reduce the value of the Contract to below any of the Net Values stated in these Rules or to otherwise circumvent the requirements of these Rules or any relevant EU Rules.
- 4.2 The aggregate value of any contract is to be calculated on the basis of the total value of the consideration estimated to be payable over the entire contract period.

5. Prejudicial and Other Interests of Members and Employees in Contracts

- 5.1 Both Members and Employees of the Authority must abide by the Member and Employee Codes of Conduct respectively, particularly in relation to their personal and prejudicial or other interests in Contracts, which have been or are to be awarded by the Authority.

6. Contracts of a Net Value of up to £5,000

- 6.1 For Contracts with a Net Value of up to £5,000 one (1) written quotation must be obtained and the Relevant Appointed Officer may use their discretion as to whether additional quotations should be obtained having regard to relevant factors that should be taken into account including but not limited to:
- a) an externally imposed time limit;
 - b) the subject matter or availability of the supplies, services, works and utilities in question.
- 6.2 The Relevant Appointed Officer must record in writing the process used to determine the number of quotations obtained and the reason for selecting Organisation(s) to quote. Such records shall be retained for a minimum of six (6) years from the date of recording.

7. Contracts of a Net Value between £5,001 and £50,000

- 7.1 For Contracts with a Net Value between £5,001 and £50,000, the following procedures shall apply to all procurements, unless otherwise specified in these Rules.
- 7.2 The Relevant Appointed Officer must arrange for not less than three (3) written quotations to be obtained from appropriate Organisations. In determining the appropriate Organisations from which quotations are to be obtained in accordance with this Rule, the Relevant Appointed Officer shall take into account the subject matter of the Contract and any other considerations, which in the Relevant Appointed Officer's opinion are appropriate. The Relevant Appointed Officer shall record the reason for selecting the particular Organisations to provide quotations. Such records shall be retained for a minimum of six (6) years from the date of recording.
- 7.3 Where, in the Relevant Appointed Officer's discretion it is not practicable for three (3) written quotations to be obtained, fewer than three (3) written quotations may be obtained with the written approval of the Managing Director. Subsequent to such consultation the Relevant Appointed Officer shall record the reason for not obtaining three (3) quotations. Such records shall be retained for a minimum of six (6) years from the date of recording.

8. Contracts of a Net Value of £50,001 up to £500,000

- 8.1 The following procedures shall apply to all procurements with a Net Value of £50,001 up to £500,000, unless otherwise specified in these Rules.
- 8.2 The Relevant Appointed Officer must arrange for contracts between £50,001 up to £500,000 to be let following a publication of an appropriate advertisement and a subsequent competitive tendering process.
- 8.3 Where the contract exceeds the goods/services or works thresholds (as appropriate) set out in the Relevant EU Rules, the opportunity must be advertised in the Official Journal of the European Union (OJEU) and tendered in compliance with the Relevant EU Rules (see Contract Rule 13).

8.4 The Relevant Appointed Officer shall consult with and take the advice of the Authority's Legal Adviser and Chief Finance Officer before embarking on any procurement of contracts mentioned in Rule 8.1 above.

9. Contracts of a Net Value of £500,001 and above

9.1 The requirements and procedures set out in Contract Rule 8 must be complied with in all instances. The Authority shall award all contracts with a Net Value above £500,000 save where it has expressly delegated authority to the Relevant Appointed Officer to award the contract.

10. Reverse Tendering/Electronic Auctions

10.1 Where the Authority or the Relevant Appointed Officer so decides, a reverse tendering/electronic auction, process may be utilised. Such process shall provide for participating organisations to compete by submitting prices, revised downwards, or submitting new values concerning certain elements of a tender for specified services, goods or works.

10.2 The Relevant Appointed Officer shall ensure that this process is advertised and conducted in accordance with the requirements of Regulation 35 of the Public Contracts Regulations 2015.

11. Purchasing from Framework Agreements

11.1 The Authority or the Relevant Appointed Officer may decide to access and call-off goods services or works from a Framework Agreement if the Authority is specifically identified or described or referred to in acceptable geographic or functional terms in the Framework Agreement and the scope of the Authority's requirements are specified in the Framework.

11.2 Advice must be sought from the Authority's Legal Adviser to confirm the Authority is signed up to or otherwise has access to a specific Framework Agreement before procuring from that Framework Agreement.

11.3 Where the terms of a Framework Agreement allow for direct call-offs without competition and the terms of such call-off are sufficiently precise, the Relevant Appointed Officer may, after consultation with Authority's Legal Adviser, call-off under the Framework Agreement without competition.

11.4 Where it is proposed to award a specific contract based on a Framework Agreement in which all the terms of the proposed contract are not laid down or where the terms of the Framework Agreement so specify, a mini-competition shall be held in accordance with the terms of the Framework Agreement. Unless otherwise provided, tenders shall be invited from all members of the relevant category of the Framework Agreement which are capable of carrying out or delivering the requirements of the specific contract.

11.5 The use of a Framework Agreement in accordance with this Contract Rule 11 will satisfy the requirements of a competitive tendering process as required under Contract Rule 8, above.

12. Setting up a Framework

12.1 Before promoting the procurement of a new or joining a pre-existing framework, the Relevant Appointed Officer must be satisfied that such an approach represents the most economically advantageous solution for a service, work, supply or utility provision and with regard to the Relevant EU Rules on the use of such arrangements.

12.2 Before procuring or entering into a framework, the Relevant Appointed Officer shall be satisfied that:

- a) the term of the arrangement shall be or is for a period of no longer than four years duration;
- b) the terms and conditions of the arrangement do not compromise the Authority's contractual requirements in Rule 31;

- c) the parties to the arrangement are recognised public bodies or providers from the private sector as approved by the Authority;
- d) full, open and proper competition in respect of the creation of the framework has taken or will take place in accordance with the relevant EU Rules and these Rules;
- e) the arrangement is within the powers of the Authority.

13. Relevant EU Rules

13.1 Where a competitive tendering process is required under Contract Rule 8 or 9 and the proposed contract exceeds the applicable threshold set out in the Relevant EU Rules, the procurement procedure shall be one of the following procedures prescribed by the Relevant EU Rules:

- a) Open procedure - where all contractors expressing an interest in the contract are invited to submit tender bids in response to an advertisement;
- b) Restricted procedure - where all interested contractors are invited to submit expressions of interest in response to an advertisement, and shortlisted contractors are then invited to submit a tender bid;
- c) Competitive Procedure with Negotiation – where all interested bidders are invited to submit expressions of interest in response to an advertisement, and shortlisted contractors are invited to negotiate. This procedure can be concluded following evaluation of the bidders’ initial tenders or can be carried out in successive stages in order to reduce the number of tenders to be negotiated provided this is indicated to bidders upfront. When the Authority intends to conclude the negotiations, it must inform the bidders and set a deadline for submission of new or revised tenders. The Authority must then assess the final tenders on the basis of the award criteria and award the contract;
- d) Competitive dialogue - where all interested contractors are invited to submit expressions of interest in response to an advertisement, and the Authority enters into dialogue with shortlisted contractors to identify a solution (or solutions) which meets the Authority’s requirements, and selected bidders are invited to submit tenders based on the solution/s resulting from the dialogue;
- e) Innovation Partnership - a procedure designed to allow the Authority to establish a long-term partnership for the development and subsequent purchase of a new, innovative product, service or works. The Commissioning Officer must obtain advice from the Authority’s Legal Adviser in relation to this procedure;
- f) Pre-qualification – A pre-qualification stage cannot be used on procurements which are below the thresholds for goods and services. Contracting Authorities may however ask questions that are relevant to the subject matter of the procurement and proportionate;
- g) Negotiated Procedure without prior publication – this procedure may be used where the specific grounds for its application apply. Use of this procedure will require a waiver under Rule 39 and advice of the Authority’s Legal Adviser needs to be obtained before proposals for its use are progressed;
- h) Below EU threshold Procurements - There are no prescribed procedures to be followed for the procurement of contracts with a value below the thresholds set out in the Relevant EU Rules. The Commissioning Officer can determine what procedure to use but shall not introduce a pre-qualification stage. Contracting Authorities may however ask questions that are relevant to the subject matter of the procurement and proportionate. Any such procurement will be subject to the application of the EU Treaty principles of transparency, non-discrimination and openness; and
- i) Social, Education, Health and Other Specific Services - Contracts for social, education, health and other specific services listed in Schedule 3 of the Public Contracts Regulations 2015 and which have a contract value of £615,278 (or such

other threshold as revised from time to time) or over shall be subject to the Light Touch Regime. The Light Touch Regime means that the procurement of these contracts is not subject to the same full regime as other above threshold service contracts but are subject to a lighter touch procedure which requires only that a contract notice or PIN be used to commence the procurement and a contract award notice published once a contract has been awarded. The Authority has flexibility to determine what type of procedure it uses but any such procedure must comply with the principles of equal treatment and transparency and provide reasonable and proportionate timescales. A Commissioning Officer may use or adapt any of the procedures set out in Contract Rule 13.1.

13.2 The Relevant Appointed Officer shall take advice from the Authority's Legal Adviser to determine if the Relevant EU Rules apply to any procurement.

13.3 Where the Relevant EU Rules apply to a procurement the Authority or the Relevant Appointed Officer shall ensure that the requirements set out in the Relevant EU Rules are followed and those Relevant EU Rules shall take precedence over these Rules in such cases.

14. Other Contracts

14.1 Counsel/Barrister

- a) Instructions to, or a Brief to Counsel shall only be prepared and issued by the Authority's Legal Adviser in respect of any matter;
- b) Before instructing or briefing Counsel, the Authority's Legal Adviser shall take all reasonable steps to obtain a quotation in the form of a written estimate as to the likely cost from Counsel's clerk. Where the Authority's Legal Adviser anticipates that the Net Value of Counsel's fees will exceed £50,000, the Authority's Legal Adviser shall take all reasonable steps to obtain estimated fee costs from three (3) different Counsels' Chambers for Counsel of comparable experience and seniority unless, in the opinion of the Authority's Legal Adviser it is not practicable or appropriate to do so; and
- c) The Authority's Legal Adviser must record in writing the number of quotations obtained and the reason for selecting those Chambers to provide quotations.

14.2 Solicitors

- a) The Authority's Legal Adviser, upon the instructions of the Authority or the Relevant Appointed Officer, may instruct external solicitors in respect of any particular matter. The procedure set out in Contract Rules 6, 7, 8 or 9 shall be followed in such cases. The Contract shall be awarded in accordance with Contract Rule 27; or
- b) A Framework Agreement may be used to instruct external solicitors providing the procedure referred to in Contract Rule 11 is followed.

14.3 Consultants

- a) Before engaging a consultant, the Relevant Appointed Officer shall follow the procedure set out in Contract Rules 6, 7, 8 or 9, depending on the value of the Contract. The Contract shall be awarded in accordance with Contract Rule 27.

15. Assignments and Novations

15.1 In circumstances where the Authority's Contractor has made an application for consent to assign or novate its rights and obligations under a contract or in the event of a Contractor's insolvency or bankruptcy an administrator or other appointed official seeks consent to assignment or novation of the rights and obligations of a Contract, the Relevant Appointed Officer may, taking all information into account and with advice from the Finance Director and the Authority's Legal Adviser:

- a) consent to assignment by the Contractor of the benefit of the Contract to another Organisation without variation but subject to payment of all properly incurred costs

and the honouring by the assignee of all and any warranties indemnities or similar as deemed appropriate, or

- b) agree to novation of the Contract without variation subject to payment of the Authority's properly incurred costs.

15.2 In circumstances where the authority wants to assign or novate a contract it shall follow the provisions in that contract

16. Tender Documentation

16.1 The number of tenderers invited to participate in a tender exercise must be in accordance with Contract Rules 6 – 9. Where the number of tenders/quotes falls below the specified amount the Relevant Appointed Officer must ensure it is sufficient to ensure genuine competition. All invitations to tender shall include the following documents and information as appropriate, noting that some external frameworks may be differently structured:

- a) conditions of contract;
- b) specification or Statement of Requirements;
- c) drawings and/or plans as applicable;
- d) the selection criteria (if appropriate);
- e) the evaluation criteria and sub-criteria for contract award;
- f) the last date, time and method by which tenders may be submitted;
- g) such other information or documents as specified in the invitation to tender or as may be required by the Relevant EU Rules that the Authority is not bound to accept the lowest or any tender;
- h) state that bidders are required to hold their tenders open and valid for acceptance by the Authority for a minimum of 90 days from the date of opening;
- i) state that the Authority is not liable for any of the cost of the bidders in preparing any tendering documentation of any Organisation participating in any tender whether or not a contract is awarded, or awarded to another Organisation; and
- j) where electronic tendering is used, detail such as the electronic address and tender reference for submission of the tender is made known.

16.2 The Relevant Appointed Officer shall take all reasonable steps to ensure that no order is placed, or no services, supplies, works or utilities are received until contract documentation has been completed or commencement has otherwise been authorised in writing by the Managing Director or Legal Adviser.

17. Failure to Sign Contract

17.1 If after acceptance of its tender an Organisation fails within a reasonable period and without reasonable justification to sign or enter into a written Contract after acceptance of its tender, the Authority may refuse to proceed with the Contract.

18. Standards and Proprietary Names

18.1 Where a relevant British standard specification or British standard Code of Practice is specified in the tender it shall require that any services, works, supplies and utilities provided or executed shall accord with that defined standard or the European equivalent.

18.2 No tender documentation shall make reference to materials, goods or any other item of a specific make, source or to a particular process, or references to trade marks, patents, origin or means of production where such reference has the effect of discriminating between any particular organisations.

19. Communications or Attempted Communications Between Tenderers and Members

19.1 No Member of the Authority shall have or allow any interview or communication or any attempted interview or communication with any Organisation or any representative of any Organisation proposing to tender or contract with the Authority at any stage of the procurement process on any subject matter except with the prior authority of the Authority. If any such interview or communication or attempted interview or communication does occur the Member must report it to the Monitoring Officer (Authority's Legal Adviser) immediately and any tender from that Organisation, they received may be disqualified if the circumstances merit such action.

20. Receipt, Opening and Recording of Tenders

20.1 All invitations to tender must state that no tender will be accepted except in a plain sealed envelope bearing the word "Tender" or in accordance with Rule 22 by electronic tender to the electronic address given followed by the subject to which it relates. Any tenders bearing any name or mark indicating the identity of the sender will not be considered. Envelopes shall remain in the custody of the Authority's Support Services Manager or other designated officer until their appointed time for opening.

20.2 Tenders shall all be opened at the same time, and where requested, but at the sole discretion of the Relevant Appointed Officer, in the presence of the Managing Director or Legal Adviser. Where these include electronic tenders, these shall be opened using appropriate information technology in the presence of the Relevant Appointed Officer. Such tenders shall be recorded as received electronically. All tenders shall be recorded.

20.3 The Authority shall maintain a record of Tenders in all cases where a tender process has been followed.

21. Electronic Tendering

21.1 All communication and information exchange relating to and during a procurement exercise must be carried out by electronic means. Where the Relevant Appointed Officer wishes to use an alternative method, this must be allowed under the Relevant EU Rules and advice must be sought from the Authority's Legal Adviser.

21.2 The Relevant Appointed Officer shall, by means of the internet, unless otherwise prescribed, offer unrestricted and full direct access free of charge to the Procurement Documents from the date of publication of the contract notice or the date on which the Invitation to Tender is sent.

22. Criteria and Tender Evaluation

22.1 The Relevant Appointed Officer shall cause tenders to be evaluated to establish the most economically advantageous tender assessed by the Authority taking account of its own interests and those of its Constituent Councils. This may be on the basis of the price or cost, using a cost effectiveness approach, such as life-cycle costing, and may include the best price-quality ratio, assessed on the basis of criteria such as qualitative, environmental and/or social aspects linked to the subject matter of the contract in question. Such criteria may include, by way of example, quality, organisation, qualifications and experience of staff assigned to performing the contract, after sales service and technical assistance and should look at the total cost to the Authority across the full contract term including its termination. This should be made explicit in both the Invitation to Tender and any advertisement. Any sub-criteria must also be documented in the Invitation to Tender. Every contractor must be informed of the weightings attached to each criterion.

22.2 Evaluation criteria and weightings must be non-discriminatory and should look at the cost of the service across the full contract term where appropriate.

22.3 Following evaluation, the Relevant Appointed Officer shall, make recommendations to the Authority or the Managing Director as to the award of the contract.

23. Post Tender Clarification

- 23.1 Unless permitted by the relevant EU Procedure, seeking post-tender clarification of a tender whether in writing or by way of a meeting is permitted only on the advice of Authority's Legal Adviser.
- 23.2 Post tender clarifications should not be used as opportunities to conduct post-tender negotiations. Post-tender negotiation means negotiations with any bidder after submission of a tender and before the award of the contract with a view to obtaining an adjustment in price, delivery or content. Such negotiations are prohibited under EU law.
- 23.3 The Relevant Appointed Officer shall take into account the requirements of the Relevant EU Regulations and these rules and consult the Authority's Legal Adviser before conducting any clarifications or refinements to any tender and related documentation.
- 23.4 Any post-tender clarifications must be conducted in line with the relevant EU Procedure and must not distort competition particularly with regard to price. They should be used only to clarify any aspect of a tender that is not clear.
- 23.5 Any clarification or discussions must be conducted by two Authority representatives and minutes of meetings should be recorded and signed by all attendees.
- 23.6 Where post-tender clarifications may result in a significant change to the specification (or contract terms) the contract must not be awarded but be re-tendered. The Relevant Appointed Officer should consult the Legal Adviser and the Authority's Legal Adviser in cases of uncertainty.

24. Adjustment of Errors

- 24.1 In all cases, tenders and the priced bills of quantities (where appropriate) supporting the most economically advantageous tender under consideration, shall be examined by the Relevant Appointed Officer. If errors are detected a tenderer may be given the opportunity to amend or correct genuine arithmetic or clerical error or omission which, in the opinion of the Relevant Appointed Officer in consultation with the Managing Director and Legal Adviser, is an obvious one and if they determine that the bidder has gained no unfair advantage from correcting the error.
- 24.2 Any amendments correcting an error shall be made in writing by the tenderer, recorded on the tender file and attached to the contract documentation.

25. Allocation and Award of Contracts to More Than One Contractor

- 25.1 In cases where it is intended that more than one contractor will be used on identical work, the following steps should be followed:
- a) the results of the tender process shall be reported to the Authority;
 - b) the additional costs of using contractors not ranked the most economically advantageous tender(s) should be identified together with the implications of giving the work solely to the highest ranked tenderer;
 - c) the Authority shall consider whether (if) the tender prices should be paid to, (ii), or (ii) the work should simply be awarded to the highest ranked tenderer;
 - d) the results of any decision made should be reported back to the Authority before any contractual commitments are made unless the Authority has delegated authority to an officer for this.

26. Standstill Period and Challenge

- 26.1 For all supplies, works and service contracts tendered under the Relevant EU Rules, a ten day 'standstill period' must be observed between the decision to award and the entering into a legally binding agreement so that other bidders have an opportunity to challenge the contract award before the contract is entered into.
- 26.2 Contracts must not be entered into until the standstill period has expired. The standstill period must not commence until all internal approvals have been finalised.

- 26.3 Tenderers that submitted a bid must be notified of the Authority's decision to award the contract. This must be done in writing by the quickest means of communication available as soon as possible after the award decision has been made, and in a form approved by the Legal Adviser.
- 26.4 The notice referred to above must include:
- a) details of the award criteria;
 - b) the reason for the decision, including characteristics and (in the case of bidders only) the relative advantages of the winning bidder;
 - c) the score(s) obtained by the unsuccessful bidder;
 - d) the score obtained by the successful bidder;
 - e) the name of the bidder to be awarded the contract; and
 - f) the date on which the standstill period ends or before which the Authority will not enter into the contract with the successful bidder.
- 26.5 A notice of the nature and containing the detail referred to in Rule 26.4 above must also be sent to all candidates i.e. those who applied to be invited to bid but who were not so invited. Such notice must also inform the candidates of the reason why they were unsuccessful but does not need to detail the relative advantages of the winning bid.
- 26.6 It is most important that any communication with the preferred bidder(s) does not lead such bidders to believe it constitutes a contract award or a conditional award.
- 26.7 The mandatory standstill period does not apply to below threshold procurements.
- 26.8 The mandatory standstill period applies for framework agreements only at the stage at which the framework agreement itself is awarded, but not during subsequent call-offs or mini-competitions within framework agreements.
- 26.9 In the event a challenge is made to the award of the contract, the Authority's Legal Adviser must be notified immediately, and advice obtained.

27. Award of Contract

- 27.1 In accordance with Rule 6, Contracts with a Net Value of up to £5,000 shall be awarded and entered into at the discretion of the Relevant Appointed Officer.
- 27.2 Those contracts with a value between £5,001 and £50,000 shall be awarded and entered into by and at the discretion of the Managing Director.
- 27.3 The Managing Director may accept a tender with a value of £50,001 and above provided it is the most economically advantageous tender and it is within the budgetary provision allowed for the Contract;
- 27.4 Only the Authority may accept a tender with a value of more than £500,000 or a tender which is not the most economically advantageous tender whatever the value of such tender may be.

28. Purported Authority

- 28.1 No officer of the Authority (Except always the Relevant Appointed Officer) shall purport to act on behalf of the Authority in respect of any Contract or proposed Contract except with the prior delegated authority or decision of the Authority. Where the need arises to act as a figure-head then the Managing Director may so act.
- 28.2 No Member shall be involved in, or directly or indirectly influence the procurement process and, in particular, the short-listing selection of invitees to tender, evaluation of tenders or terms of appointment except with the prior authority of the Authority.
- 28.3 No Member shall enter into any Contract on behalf of the Authority or purport to bind the Authority.

29. Contracts Register

- 29.1 The Relevant Appointed Officer shall ensure that Contracts are recorded on the Contracts Register.
- 29.2 It shall be the responsibility of the Managing Director to maintain and keep current a register of the Contracts, which shall contain a brief description of all Contracts entered into by the Authority.

30. Agency Arrangements and Partnerships

- 30.1 The term "partnership" is applied to a variety of contexts in both the public and private sector. This section is concerned with public sector partnerships in which the Authority participates as a constituent participant or lead authority within a separate organisation.
- 30.2 The Contract Rules recognise that these partnerships may be effectively separate legal entities with their own rules which may, on occasion, take precedence over the Authority's rules when applied to the work of the partnership.
- 30.3 When the Authority acts as an agent, any instructions or requirements issued to the Authority under the agency agreement from another legal entity take precedence over these Rules, subject to the overriding requirements of the legislation, regulations, orders and directives of the United Kingdom and European Union.
- 30.4 When a body or person acts on the Authority's behalf then it shall, where appropriate, be a term of the agreement that these Rules and the Constitution of the Authority shall prevail.
- 30.5 From time to time the Authority may enter into joint-working, partnering, or agency arrangements with other public sector bodies ("Partnerships"). In such circumstances, the decision whether to join such Partnership may be made by the Managing Director, where appropriate, in consultation with the Finance Director and the Authority's Legal Adviser, except where the cost of participating in the arrangement exceeds £50,000 in which case the matter will be decided by the Authority.
- 30.6 Subject to the prior agreement of the Authority, when the Authority participates in a Partnership which is a separate legal entity, the rules and financial regulations of the Partnership may take precedence over these Rules. In these cases, the Partnership's governing body may assume the powers and responsibilities of the Authority

31. Written Contracts

- 31.1 Every written Contract to be entered into by the Authority shall specify: -
- a) the services, works, supplies and utilities to be provided or executed;
 - b) the Net Value of the Contract;
 - c) the time within which the Contract is to be performed.
- 31.2 Every Contract shall provide that the Authority or the Managing Director may terminate the Contract and recover from the contractor any resulting loss, if the contractor has committed an offence under the Bribery Act 2010 or has given any fee or reward the receipt of which is an offence under section 117(2) of the Local Government Act 1972 or an offence under the Modern Slavery Act 2015. No such contract shall be terminated without the approval of the Authority's Legal Adviser.
- 31.3 Every Contract shall require the contractor to indemnify the Authority against any civil liability arising as a result of a breach of any statutory duty by the contractor or any of its employees, agents, sub-contractors or suppliers
- 31.4 Every Contract shall draw attention to the contractor's obligations under the following statutes where applicable:
- a) The Health and Safety at Work etc Act 1974;
 - b) The Equalities Act 2010

- c) The Data Protection Act 2018;
- d) The Computer Misuse Act 1990;
- e) Freedom of Information Act 2000 and to any amendments or re-enactments, any subsidiary legislation (such as Regulations) and to any future Acts of a similar nature.
- f) Bribery Act 2010

32. Liquidated Damages

- 32.1 Where a Contract contains a liquidated damages clause, the amount of liquidated damages shall be a genuine pre-estimate of loss that would be suffered by the Authority should any given breach occur. The right to liquidated damages may attach to certain pre-set milestones occurring under the Contract.
- 32.2 The Relevant Appointed Officer shall have the discretion as to whether a liquidated damages clause is appropriate in specific contracts taking into account all relevant factors and advice from the Authority's Legal Adviser.

33. Security

- 33.1 The Authority or the Relevant Appointed Officer may, where appropriate, require sufficient security to be determined by the Relevant Appointed Officer in consultation with the Finance Director, for the due performance of Contracts for the execution of works or for the provision of supplies or services. This security may be in the form of a performance bond, Parent Company Guarantee (PCG) or other security.
- 33.2 The security shall be released as specified in the contract, or if not so specified on (or before if being modified) the completion of the contract and any post-service obligations provided that the Relevant Appointed Officer, after consulting with the Finance Director, is satisfied that to do so will not be detrimental to the interests of the Authority.
- 33.3 Where it is determined that a bond, PCG or other form of security is required, the Relevant Appointed Officer shall ensure that arrangements are in place for the provision of the bond, or such other security required, before the contract start date.
- 33.4 Where the Authority is acting as an agent for a statutory authority and that authority is meeting the cost of the Contract or a specific part of it, the Authority shall comply with the requirements of that authority with regard to the taking of security for due performance of the Contract or part.

34. Variations and Extensions

- 34.1 Subject to compliance with the prevailing and relevant EU Rules and compliance with the Financial Rules of the Authority, the Relevant Appointed Officer may authorise the following extensions and variations to an existing contract up to a maximum Net Value of £50,000:
- a) an extension for a specified period which is provided for within the terms of the contract (but subject to satisfactory performance);
 - b) the extension is covered by one of the permitted modifications to contracts set out in the Relevant EU Rules;
 - c) any other variation, and, if relevant, a consequential change in price, determined in accordance with the contract terms, provided the change in contract price is not substantial i.e. is below the relevant EU thresholds and does not exceed 10% of the initial contract value for goods or service contracts or 15% for works contracts.
- 34.2 In any other circumstances not covered by 34.1 above, the Managing Director may vary or extend a contract providing that to do so is consistent with financial controls and is not a breach of these Rules or EU or UK legislation. Advice must be sought from the Authority's Legal Adviser in these circumstances.
- 34.3 In addition, the Managing Director may authorise variations to a contract where either:

- a) delay would incur substantial cost penalties to the Authority,
- b) or the proposed variations are unavoidable and/or essential for the contract to proceed or continue, and the additional cost of such variations does not exceed 25% of the value of the contract, up to a maximum of £50,000 (fifty thousand pounds). Variations above this level may be authorised by the Managing Director, where the Managing Director considers that circumstances require such authorisation, as long as such variations are reported to the Authority at the earliest opportunity.

34.4 In all circumstances, the decision to vary or extend must be recorded in writing with full explanation given of the basis of such variation or extension. Any Deed of Variation or Novation is to be retained with the original contract documentation.

34.5 In all circumstances where variations and extensions to Contracts are being considered, the Authority's Legal Adviser must first be consulted.

34.6 No Contract shall be varied or extended where the Authority's Legal Adviser advises that such variation or extension will result in a breach of UK or EU law.

35. Final Account

35.1 As may be required by the Relevant Appointed Officer, on completion of the Contract, the Contract shall provide that the Contractor shall provide on request a detailed Final Account in respect of the work done or supplies or services provided together with all receipted vouchers, invoices, time sheets and other documents as may be reasonably required.

36. Assignment

36.1 The Contractor shall either be prohibited from directly or indirectly transferring, assigning or sub-letting any portion of the Contract or doing so without the prior written consent of the Authority.

37. Default

37.1 The Relevant Appointed Officer shall ensure that every Contract shall provide that, in the event of default by the Contractor, whether in whole or in part, the Authority may without prejudice to any other remedy for breach of contract:

- a) terminate the Contract;
- b) purchase other supplies or services from a third party to make good the default;
- c) recover from the Contractor any loss, expense and/or additional expenses incurred as a result of such breach.

38. Termination of Contracts

38.1 If in the opinion of the Relevant Appointed Officer a Contractor is not performing satisfactorily on any contract or for any other reason appears to be unable to meet the terms of the Contract, the Relevant Appointed Officer shall consider whether the Contract should be terminated. In all cases the decision to terminate must be approved by the Managing Director or, the Authority, and in each case, with the advice of the Authority's Legal Adviser and the Finance Director.

39. Waiver of Rules

39.1 The Authority may authorise a waiver from compliance with any of these Rules. Every such waiver shall be reported in the minutes of the Authority meetings specifying the reason and justifying the waiver and recorded in the appropriate register.

39.2 No waiver shall be granted which purports to or has the effect of waiving the requirements of UK and EU Law or the EU treaty principles of transparency, equality and non-discrimination.



1. Corporate Framework

1.1 In approving the Financial Rules, the Authority has sought to provide a strong corporate framework for conducting the financial affairs of the Authority, incorporating appropriate controls and providing those responsible for delivering services with financial responsibility and flexibility. All financial and accounting procedures of the Authority will take place in accordance with these Financial Rules.

2. Definitions

2.1 For the purposes of the Financial Rules, the following words shall have the following meanings:

Budget	means a plan for the Revenue and Capital expenditure and income relating to activities of the Authority.
Capital Programme	means the Capital Budget approved by the Authority for the forthcoming Financial year together with the indicative programme of Capital Schemes for the subsequent four financial years.
Capital Strategy	means the set of policies that determine the Authority's priorities and approach to Capital Investment.
Officers	Means the Managing Director or any officer acting within the Scheme of Delegation
Financial year	means the Authority's accounting period which runs from 1st April to 31st March
Authority	means the East London Waste Authority, or a Committee with appropriate decision-making powers.
Statement of Accounts	The statutory report of the Final Accounts for each financial year as defined in the Accounts and Audit Regulations 2015
Medium Term Financial Strategy	means the Revenue Budget approved for the Council for the forthcoming Financial Year together with indicative figures for the subsequent four financial years.

3. Rights of External Bodies

3.1 The Finance Director will be the first contact within the Authority for the External Auditor who has rights of access to all documents and information necessary for audit purposes.

3.2 The Authority may, from time to time, be subject to audit, inspection or investigation of its financial systems by other external bodies such as HM Revenue and Customs who have statutory rights of access to financial records. The Finance Director will be the principal contact within the Authority on such matters.

4. Main Responsibilities of the Finance Director

4.1 The Finance Director is the Officer responsible for the proper administration of the Authority's financial affairs under Section 73 of the Local Government Act 1985, the Accounts and Audit Regulations 2015, Section 114 of the Local Government Finance Act 1988 and Section 27 of the Local Government Act 2003.

4.2 The Finance Director has a duty under Section 114(2) of the Local Government Finance Act 1988 to make a report if it appears that the Authority is about to or has already carried out either:

- a) a decision which involves or would involve the Authority in incurring expenditure which is unlawful; or
- b) a course of action which if pursued would be unlawful and likely to cause a loss or deficiency to the Authority.

- 4.3 The Finance Director has a duty under Section 114(3) of the Local Government Finance Act 1988 to make a report (in consultation with the Managing Director and the Monitoring Officer) to every Member where it appears that the expenditure incurred or likely to be incurred in a financial year exceeds resources available to meet the expenditure. It is the duty of Officers to notify the Finance Director of any situations that might:
- a) be considered unlawful; and/or
 - b) exceed available resources in light of the above responsibilities.
- 4.4 In discharging this responsibility, the Finance Director will ensure that arrangements for financial and accounting matters and the security of financial assets are efficient and effective.
- 4.5 The Finance Director can require Officers to provide any timely and relevant information that to enable him/her to carry out his or her functions and to give proper advice.
- 4.6 All financial systems, procedures, records and controls and changes to them must be agreed in advance with the Finance Director, who may issue formal instructions or guidance from time to time.

5. Financial Advice

- 5.1 The Finance Director will advise the Authority on any matter containing financial implications. Such advice may be included in the reports of other Officers.
- 5.2 Officers will ensure that the Finance Director has the opportunity to comment on all proposals containing financial implications at the earliest practical stage before the dispatch of a report and in any event no less than ten Working Days before the dispatch of a report.
- 5.3 Officers carrying out functions under delegated powers must ensure that they seek and receive such financial and legal advice as may be necessary on the consequences of a course of action before taking a decision on such action.
- 5.4 The Finance Director is responsible for advising Officers where relevant on the financial implications of guidance and relevant legislation issued by appropriate bodies as it applies.
- 5.5 The Finance Director is responsible for advising Officers on relevant taxation issues and liaising, negotiating and where necessary taking appropriate action to promote and protect the Authority's financial position.

6. Accounting

- 6.1 The Finance Director will determine the format of and maintain the Authority's principal accounting records and will be the Authority's adviser on all accounting and financial matters. Officers are responsible for making sure that financial records are maintained in a manner determined in advance by the Finance Director.
- 6.2 The Finance Director will ensure that the Authority's accounting records are kept in accordance with appropriate accounting standards and mandatory guidance and that the Statement of Accounts is prepared in line with the CIPFA "Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice".
- 6.3 The Finance Director will ensure that the Authority's Annual Statement of Accounts is prepared and made available in accordance with the statutory timetable.
- 6.4 The Finance Director shall issue procedures and a timetable for the closure of the accounts in accordance with good accounting practice.
- 6.5 Officers are responsible for making sure that the timetable referred to in 6.4 above is complied with.
- 6.6 The Authority is responsible for approving the draft Annual Statement of Accounts by the statutory date following the end of the financial year on 31st March.

7. Providing Information and Financial Returns to Statutory External Bodies

7.1 The Finance Director will make arrangements for completing the Authority's tax returns and other statutory financial returns and providing relevant information to external bodies on the financial activities of the Authority as a whole.

8. Internal Audit and Control

8.1 The Accounts and Audit Regulations 2015 require the Authority to maintain an adequate and effective internal audit. The Finance Director will commission on behalf of the Authority a suitable internal audit of its accounting records and control systems.

8.2 The Finance Director or their representative shall have access to all documents and records in the possession of the Authority and shall be afforded all facilities and co-operation by Members; Officers and members of their staff, who shall provide whatever information and explanation are deemed necessary. This will include liaising with the Chief Finance Officers within the Constituent Councils in respect of all documents and records in the possession of the Councils that relate to the Authority's business.

9. Medium Term Financial Strategy

9.1 The Finance Director, in conjunction with the Managing Director, will propose a Medium Term Financial Strategy to a meeting of the Authority, including budget priorities and forecasts for the forthcoming and future financial years.

9.2 The Authority will make arrangements to consult on the proposed Revenue and Capital Budget Strategy. This will include obtaining the views of the Constituent Councils.

10. Annual Revenue and Capital Budget

10.1 The Finance Director, in consultation with Officers will prepare a detailed proposed Budget of Revenue and Capital expenditure and income for the forthcoming financial year.

10.2 The Finance Director, in conjunction with Officers, will:

- a) present to the Authority for decision a statement of the projected Revenue and Capital Outturn for the current financial year compared with the approved Budget. This, if agreed by the Authority, will be the revised Budget for the rest of the current financial year;
- b) monitor and report upon the adequacy of the Authority's reserves under the terms of Section 27 of the Local Government Act 2003; and
- c) present to the Authority for decision a proposed Revenue and Capital Budget for the next Financial year.

10.3 The Authority will:

- a) consider the Revenue and Capital Budgets that are proposed for the Authority's services;
- b) consider the results of the consultation with the Constituent Councils as described in 9.2 above;
- c) consider funding for the Constituent Councils for services provided by them on behalf of the Authority, the need for Central Reserves and Contingencies, the Level of Balances and the grants available from the Government;
- d) consider and make recommendations to the Constituent Councils on the method of apportionment of the Authority's levy on the Constituent Councils; and

- e) after taking the above matters into account, approve the Revenue and Capital Budget for the forthcoming financial year and determine the levy on the Constituent Councils. The Authority must give its decision not later than 15 February preceding the financial year in respect of which the levy is to be issued.

11. Capital Programme

- 11.1 Further to Financial Rule 10 as set out above, the Authority will approve a Capital Programme taking account of guidance on the Capital Budget for the next financial year of the Capital Strategy of the Authority, capital financing and expenditure authorisations available and the revenue implications involved.
- 11.2 Officers will implement and keep under review the Authority's agreed Capital Programme for services under their control covering schemes in progress, schemes commencing in the current and forthcoming financial years and the revenue implications of those schemes.
- 11.3 The Authority may approve the inclusion of any new scheme or delete or amend any scheme in the Capital Programme providing that it accords with the Budget and can be funded from resources available to the Authority, including those funded from grants.

12. Amendment of Approved Budgets

- 12.1 Subject to 12.2 below, the approved Revenue Budget may be amended by:
 - a) the Authority authorising transfers to or from the contingencies (including reserves and balances);
 - b) the Finance Director authorising budget transfers (virements) to or from any contingency for changes in pay and prices;
 - c) the Officers in accordance with delegated powers (see Part C - Scheme of Delegation).
- 12.2 In making additions to the approved Revenue Budget, the Authority, Finance Director and Officers must:
 - a) have regard to the Medium Term Financial Strategy approved by the Authority; and
 - b) be satisfied that an amendment to the Revenue Budget can be offset by additional income, contingencies (including reserves and balances) or savings elsewhere within the Budget.
- 12.3 Any proposed changes to Revenue Budgets under Financial Rule 12.2 as set out above should be subject to the advice of the Finance Director.

13. Spending of Revenue Budgets

- 13.1 A Revenue Budget approved by the Authority may be spent without further reference to the Authority.
- 13.2 No power is delegated to any Officers to spend above the Approved Revenue Budget for their service unless or until the Authority has approved in advance the spending or virement has been approved.
- 13.3 Officers may not transfer any Revenue Budget between Budget Heads but may vire budgets within individual budget heads within their control for any lawful purpose relating to the areas for which they are responsible providing that:
 - a) the transfer is within a budget head sum approved by the Authority; and
 - b) the reason for the transfer accords with the policies and strategies of the Authority; and
 - c) no commitment to a higher overall level of expenditure in future financial years is entered into; and
 - d) the amount in question does not exceed £100,000 at any one occasion; and

- e) the transfer is between account codes within the same Budget Head; and
- f) no other service or Officer is affected.

13.4 Any transfer of Revenue Budget not falling within the criteria detailed in Financial Rules 13.3 as set out above will require the prior approval of the Authority.

13.5 Where the above criteria 13.3 (a-e) apply in relation to Budget Transfers between Budgets controlled by two or more Officers the approval of the Finance Director will not be required provided that both Officers concerned agree the transfer. In the event that the respective Budget holders do not agree the transfer, the approval of the Authority will be required.

13.6 Any proposed changes to Revenue Budgets should be fully discussed with the Finance Director.

14. Approval to Apply the Budgets within the Capital Programme

14.1 Subject to 14.2 below, the approval of the Authority will be required before expenditure is incurred for each individual Scheme included in the Capital Programme. The Authority will be provided with:

- a) an estimate of the cost of the Scheme;
- b) an estimate of any consequential expenditure or income, whether capital or revenue; and
- c) if the Scheme is part of a larger Scheme, an estimate of the cost and any other information as may be necessary to permit full consideration of the proposal.

14.2 Capital Schemes which are included in the Capital Programme may be progressed by the relevant Officer before receiving the approval of the Authority, provided that expenditure on each Scheme in any one financial year does not exceed £10,000.

14.3 No power is delegated to any Officer to incur expenditure on any Scheme or provision not included in the Capital Programme or to spend above the approved amount unless or until approval has been given by the Authority.

14.4 Subject to Rule 14.5 below, the Authority may agree to transfer budgets to other schemes within the Capital Programme.

14.5 In making amendments to the approved Capital Programme, the Authority must:

- a) have regard to the Budget approved by the Authority, and resolutions of the Authority;
- b) be satisfied that an amendment to the Capital Programme can be offset by available income, Government grants, reserves, or reductions elsewhere within the Capital Programme; and
- c) be satisfied that any revenue budget consequences of the amendment can be offset by additional income, contingencies (including reserves and balances) or savings elsewhere within the Budget; and
- d) only include additional schemes in the Capital Programme approved by the Authority to the extent that they can be funded from additional Government grants, or grants or contributions from other external bodies.

14.6 Any proposed changes to the Capital Programme under Financial Rules 14.3, 14.4 and 14.5 as set out above should be subject to the advice of the Finance Director.

15. Treatment of Unspent Budgets

15.1 The Finance Director must apply to the Authority in order to earmark any unspent resources or savings for a planned purpose in a future financial year. Any unspent resources at the end of the financial year can be carried forward to the following financial year provided it is earmarked for a specified purpose.

15.2 The Authority may agree the use of any under spending in any one financial year to be used in the following financial year for a purpose consistent with the Authority's Medium Term Financial Strategy, subject to the advice of the Finance Director as to the overall financial position of the Authority.

16. Action on Overspent Capital and Revenue Budgets

16.1 Where it appears that an approved Revenue Budget may or will overspend by £50,000 or 5% of the Gross Budget for the service concerned (whichever is the smaller) or an approved Capital Scheme will overspend by any amount, then the Managing Director will notify the Finance Director and the Authority and will immediately take steps to investigate the reason and to rectify the situation.

16.2 Where it appears that no action by Officers can prevent an overspend of the total budget for the service, the Managing Director will make a report to the Authority to this effect within three months (or as soon as practicable thereafter if the Authority does not meet within three months) from the first notification of the overspend.

17. Review of Performance

17.1 The Authority will ensure that the approved Budget is implemented and will receive reports from the Managing Director and/or Officers to enable it to do so.

17.2 The Managing Director and Officers will be responsible for the performance of services under their control against financial and non-financial performance targets including performance against the Budget and will undertake an ongoing review of performance against these targets.

17.3 The Managing Director and Officers will ensure that they have access to such financial or non-financial information as they may reasonably require to undertake their service responsibilities and will consult the Finance Director accordingly.

17.4 The Finance Director will support and advise the Managing Director and Officers in ensuring that financial management information is adequate for management purposes.

17.5 The Managing Director and Officers, with the assistance of the Finance Director, will be responsible for monitoring the overall spending of their service areas and reporting to the Authority on any significant variances.

18. Reporting of Performance

18.1 The Managing Director, with the Finance Director, will prepare and present to each meeting of the Authority a report detailing actual and forecast performance against the targets set in Financial Rule 17.2 above.

18.2 Expenditure in these reports should include all known financial commitments entered into by the Authority, which specifically includes goods and services awaiting a supplier's invoice.

18.3 The Finance Director will be responsible for monitoring the overall spending of the Authority.

19. Review of Financial Limits

19.1 The financial limits in these Financial Rules will be reviewed periodically by the Finance Director with due consultation. The prior approval of the Authority will be required for any amendments.

20. Payment of Invoices, VAT Payments, Wages, Salaries, Pensions and Allowances

- 20.1 Invoices for payment will be properly completed, certified and paid in accordance with procedures and guidance issued by the Finance Director. The Finance Director will make available up-to date guidance on the proper treatment and accounting for VAT which includes a timetable for preparation and submission of the claim that ensures VAT payments are fully and promptly recovered from HM Revenue and Customs. It is the duty of Officers to comply with these procedures and time-scales and to notify the Finance Director if there are or may be any problems.
- 20.2 The Managing Director will make arrangements for payment of wages, salaries, pensions and allowances and Officers will provide any information that is required in carrying out this function.
- 20.3 It is the responsibility of the Managing Director to ensure that proper procedures in respect of financial implications have been established and are operating effectively. The Officers' Scheme of Delegation should identify staff authorised to act on the Managing Directors behalf, or on behalf of the Authority, in respect of payments, income collection and placing orders, together with the limits of their authority.
- 20.4 The Finance Director will maintain records of all persons authorised to initiate financial transactions on behalf of the Authority.
- 20.5 It is the duty of the Managing Director to give required details for a new signatory to the Finance Director and to promptly notify any changes.

21. Collection of Income

- 21.1 The Managing Director will seek prompt collection of all monies due to the Authority in accordance with arrangements approved by the Finance Director.

22. Review of Charges

- 22.1 The Managing Director will review charges for goods and services no less often than once a year in consultation with the Finance Director and, except where authority has been delegated, will submit proposals to the Authority for approval, save that no approval will be required from the Authority where charges are changed as the result of a budget proposal or changes are broadly in accordance with inflation as set out as part of the Authority's annual budget process.

23. Custody of Assets

- 23.1 The Managing Director and officers will be responsible for the safe custody of all Authority assets under their control.
- 23.2 The Managing Director will ensure that a physical check which adequately documents all assets with a total estimated value over £2,000 is undertaken at least annually, and will provide the Finance Director as soon as is reasonably practicable with details of any anomalies.
- 23.3 The Managing Director will provide such information as may be required by the Finance Director as to the value of stock holdings at the end of the Financial year.
- 23.4 The Managing Director will be responsible for maintaining an inventory of furniture, plant, other equipment, tools and other individual items of over £2,000 and all computer equipment, in a form approved by the Finance Director.
- 23.5 The Managing Director, in consultation with the Finance Director, is authorised to dispose of surplus, damaged or scrap stocks, materials or equipment on the best possible terms provided that where the estimated realisable value exceeds £2,000 either quotations will be invited, or the Authority will be consulted on an alternative method of disposal.

24. Write - Offs

- 24.1 The Authority is responsible for approving procedures for writing off losses.

- 24.2 The Finance Director, in consultation with the Managing Director, may write off losses up to the value of £5,000 for any one item in respect of:
- a) losses arising when property of the Authority is lost, stolen, damaged or destroyed and the loss is not recoverable from insurance or other sources;
 - b) losses upon disposal of stock at a price less than the book value at the time of disposal; and
 - c) money due to the Authority which has become irrecoverable or is thought no longer cost effective to recover,

provided that in each case proper steps have been taken to mitigate the loss and to prevent a recurrence.

- 24.3 The Finance Director will keep records of all such write-offs in a form approved in advance by the Finance Director.

- 24.4 Any write-offs exceeding £5,000 must be approved in advance by the Authority.

25. Banking and Cash Handling

- 25.1 The Finance Director will be responsible for all arrangements relating to the operation of the Authority's bank accounts.

- 25.2 The Managing Director will ensure that the collection and banking of monies is undertaken in accordance with any instructions issued by the Finance Director.

- 25.3 Petty Cash imprest accounts will be operated in accordance with instructions issued by the Finance Director.

- 25.4 The Managing Director and Officers must inform the Finance Director when individual items of income amounting to £50,000 or more are expected to be received as he/she needs to know about this to enable him/her to carry out this function.

26. Insurance and Risk Management

- 26.1 The Finance Director in conjunction with the Managing Director is responsible for preparing the Authority's Corporate Risk Management Policy, promoting it throughout the Authority and advising the Authority on appropriate insurance cover. The Authority is responsible for approving the Corporate Risk Management policy. The Managing Director is responsible for promoting and implementing this policy.

- 26.2 The Managing Director and Officers will keep under review all risks within the areas under their control. They must make every effort to reduce the risks.

- 26.3 The Managing Director and Officers will notify the Finance Director annually in accordance with the Corporate Risk Management Policy and any guidelines issued by him/her, of all risks and assets valued at over £10,000 indicating their cost or value, and of any material changes in these risks or assets as they arise. The Finance Director will then make appropriate arrangements for insurance cover, payments and administration.

- 26.4 The Managing Director and Officers will notify the Finance Director immediately of any event which may give rise to an insurance claim and will provide estimates and any other information required for the settlement of the claim.

- 26.5 The Managing Director and Officers should notify the Finance Director of any acquisitions, enhancements or disposals over £10,000.

27. Treasury Management

- 27.1 The Authority has adopted the key principles and key recommendations of CIPFA's Treasury Management in Public Services Code of Practice 2017 (the Code), as described in Sections 4 and 5 respectively of that Code.

- 27.2 Accordingly, the Authority will adopt and maintain, as the cornerstones for effective treasury management:

- a) a Treasury Management Policy Statement, stating the policies, objectives and approach to risk management of its treasury management activities. A copy of the Authority's Treasury Management Policy Statement follows at paragraph 28;
- b) suitable Treasury Management Practices setting out the manner in which the Authority will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities; and
- c) the content of the policy statement and Treasury Management Practices and policies will follow the recommendations contained in Sections 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of this organisation. Such amendments will not result in the organisation materially deviating from the Code's key principles.

- 27.3 The Authority will receive reports on its Treasury Management Policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, a mid-year review and an annual report after its close, in the form prescribed in its TMPs.
- 27.4 The Authority delegates responsibility for the implementation and regular monitoring of its Treasury Management Policies and practices to the Finance Director, and for the execution and administration of treasury management decisions to the Finance Director who will act in accordance with the Authority's policy statement and Treasury Management Practices and, if he/she is a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.
- 27.5 The Authority nominates the Management Board to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.

28. Treasury Management Policy Statement

- 28.1 The Authority defines the policies and objectives of its treasury management activities as the:
- a) management of the organisation's cash flows, its banking, money market and capital market transactions;
 - b) effective control of the risks associated with those activities; and
 - c) pursuit of optimum performance consistent with those risks.
- 28.2 The Authority regards the successful identification, monitoring and control of risk to be the prime criteria by which the effectiveness of its treasury management activities will be measured. Accordingly, the analysis and reporting of treasury management activities will focus on their risk implications for the organisation.
- 28.3 The Authority acknowledges that effective treasury management will provide support towards the achievement of its business and service objectives. It is therefore committed to the principles of achieving best value in treasury management, and to employing suitable performance measurement techniques, within the context of effective risk management.

29. Pension Fund

- 29.1 The Finance Director has a duty to ensure that satisfactory pension arrangements are made for employees of the Authority. This duty will include the selection of a third-party provider to manage and administer the fund.
- 29.2 The decision on the pension provider will be made in accordance with the Authority's Contract Rules.

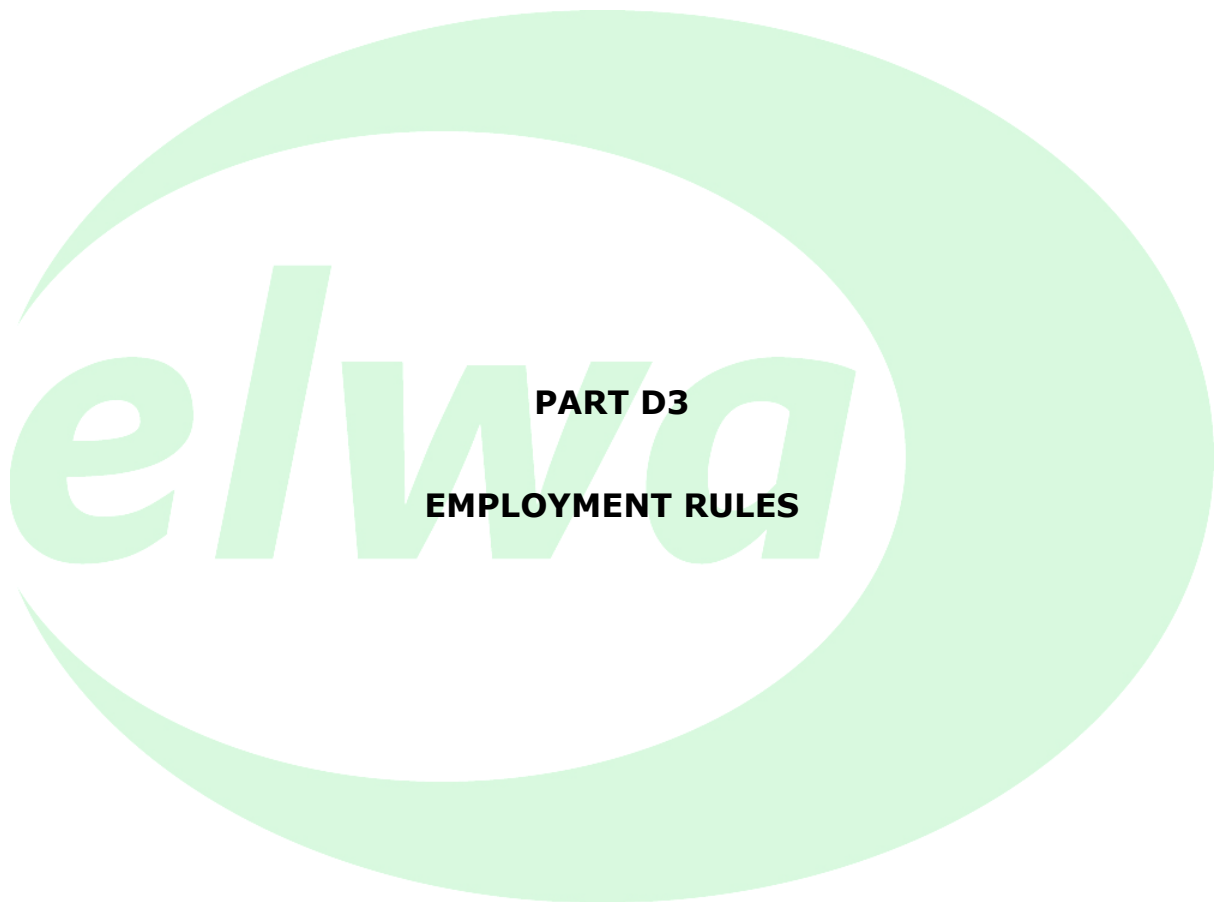
30. Financial Irregularities

- 30.1 The Finance Director is responsible for the development and maintenance of an Anti-Fraud and Corruption Strategy. The Authority is responsible for approving it. Officers are responsible for promoting and implementing the Anti-Fraud and Corruption Strategy.

- 30.2 The Finance Director and the Authority's legal adviser shall be notified immediately of any suspected irregularity relating to Authority funds, including cash, stores, property and any material weakness which has been identified in any system or control. In all cases involving an employee, the Authority's Legal Adviser should also be notified immediately.
- 30.3 The Managing Director, in consultation with the Finance Director, will take such action as they deem appropriate.
- 30.4 The Managing Director shall consult the Finance Director and the Authority's legal adviser in advance for all cases that are going to be or may be formally reported to the Police. They will advise relevant Member(s) of these cases.
- 30.5 Any action taken will not override the disciplinary procedures of the Constituent Councils or the corporate Whistle blowing procedure.

31. Partnerships and External Funding

- 31.1 The Authority is responsible for approving the frameworks when the Authority enters partnerships arrangements. The Authority is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 31.2 The Authority may delegate executive functions, including those relating to partnerships, to Officers. These are set out in the Scheme of Delegation to Officers that is in Part C of the Constitution.
- 31.3 A named person or persons will represent the authority on partnership and external bodies. A named Officer should wherever possible be appointed to be the Lead Officer in relation to any partnership.
- 31.4 The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct with regard to administration in partnerships that apply throughout the authority. He/she must also consider the overall corporate governance arrangements and legal issues when arranging partnerships with external bodies.
- 31.5 The Finance Director must ensure that the accounting arrangements that are to be adopted relating to partnerships and joint ventures are satisfactory and must ensure that the financial risks have been fully appraised before contracts and other relationships are entered into with external bodies.
- 31.6 Officers are responsible for ensuring that any negotiations are in accordance with the Contract Rules in relation to contracts with external bodies.



1. Personnel, Payroll and Pensions

- 1.1 The Managing Director in consultation with the Finance Director, shall make proper and appropriate arrangements for personnel advice and support, payroll and pension services.
- 1.2 The staffing structure of the Authority is shown elsewhere in the Constitution.
- 1.3 Also refer to protocol on dealing with Human Resource Issues at Part E: Code of Conduct for Employees.

2. Appointment of the Head of Paid Service, the Monitoring Officer & the Chief Finance Officer

- 2.1 The Authority shall make appointments to the positions of Head of Paid Service, Monitoring Officer and Chief Finance Officer.

3. Recruitment, Selection and Appointment of Other Officers

- 3.1 The Head of Paid Service (the Managing Director) will be responsible for all other appointments including making any necessary arrangements in respect of job evaluations and specifications, the placing of advertisements, recruitments and selection policies etc.

4. Disciplinary Action and Dismissal

- 4.1 The holders of the statutory offices of Head of Paid Service, the Monitoring Officer and the Chief Finance Officer (Statutory Officer(s)) are legally protected in their roles due to their statutory position.
- 4.2 They may only be dismissed by a decision of the Authority.
- 4.3 In the event of alleged misconduct, the Authority will establish an Authority Disciplinary Panel with a Membership of the Chair and three other Members one from each Constituent Council. The Disciplinary Panel shall have the power to suspend a Statutory Officer from duties on full pay and conditions for no more than two months unless extended by the Authority.
- 4.4 The Disciplinary Panel will commission and utilise an Independent Investigator, as would be used by the Constituent Councils for investigation of their Statutory Officers, from a list held by the Joint National Conditions Joint Secretaries for the purpose of evidence collection and investigation, to be presented by the Independent Investigator to the Panel as a report. The report should also be supplied on a confidential basis to the Statutory Officer. When determining the report of an Independent Investigator, the membership of the Panel shall be extended to include at least two Independent Persons appointed by two of the Constituent Councils under the Localism Act 2011.
- 4.5 In the event that the Disciplinary Panel shall consider disciplinary action should be taken they shall present their recommendations to the Authority which, before making a decision, shall permit the Statutory Officer to make representations.
- 4.6 No other disciplinary action may be taken in respect of any of those Statutory Officers.
- 4.7 The Managing Director is responsible for ensuring appropriate employment policies are in place.

5. Dealing with Human Resource Issues

- 5.1 When Members consider items about the people that are employed solely on behalf of the Authority (e.g. ELWA full-time employees), the Authority must be mindful of a number of matters:
 - a) employees have rights, on an individual basis, to be treated fairly. (This includes expecting the Authority to maintain confidentiality about an individual's personal and employment details);

- b) information relating to employees is often confidential in nature and should not be available widely throughout the organisation (at Member or officer level). Only those who need to know should know;
- c) members should have the opportunity to consider, debate and decide upon issues without managers/officers being present; and
- d) a variety of decisions on Human Resource (HR) matters, including the fair treatment of people by their employer, are subject to external scrutiny.

5.2 For these reasons:

- a) written information to Members on HR management and/or personal HR matters which address employee issues in respect of an individual, should be restricted to relevant Members and appropriate officers. This information should not be included as part of the usual circulation for a report;
- b) the meeting considering these matters should be conducted in private and those people who should not be in attendance should be asked to leave the meeting.

6. Guidelines

- 6.1 If there is any doubt as to who should receive copies of the report and who should be allowed to remain at the meeting, the Managing Director should be consulted.
- 6.2 The Managing Director will have access to all reports and all meetings of Members about Human Resource matters.
- 6.3 The Managing Director may delegate some matters to an Officer, the relevant Personnel Manager (from the employing Council) and/or Legal Officer, who will have access to appropriate reports and meetings.
- 6.4 Where there are any financial implications to be considered by the Authority, the Finance Director will have access to appropriate reports and meetings.
- 6.5 There may be meetings where it is appropriate to invite representatives of trade unions. If there is any doubt, the Managing Director should be consulted.



PART D4

CONFERENCES, VISITS AND HOSPITALITY RULES

(MEMBERS AND OFFICERS)

1. Introduction

- 1.1 The way that Members are expected to behave is set out in the Constituent Councils' agreed Codes of Conduct. The key principles behind these Codes include the need to act with integrity, and, in particular, not to do anything which could call into question the validity of motives for an action. The public's perception of the way that Members and staff act is very important, and these rules should ensure appropriate, reasonable and accountable actions when Members and staff are involved in certain events. It is particularly important that actions are transparent and therefore the rules do require certain registers and records to be kept for possible inspection or scrutiny.
- 1.2 Any claims for reimbursement by Members of expenses or for allowances are submitted to the respective Constituent Councils and must be in accordance with the individual schemes operated by the Councils.
- 1.3 The Managing Director is responsible for maintaining the ELWA Officer Code of Conduct.

2. Meetings, Visits and Conferences

- 2.1 The rules apply to the following meetings, conferences and visits involving attendance by Members and/or staff:
- conferences relating to a particular profession or service usually held outside the ELWA area;
 - visits outside the ELWA area to explore policy or service initiatives, or to develop partnership relations; and
 - discretionary meetings and conferences usually held within or near the ELWA area to address specific issues, or to return hospitality received.

In the rest of the rules, any of these will be referred to as "the event".

- 2.2 If the total cost is likely to exceed £3,000, the event must be approved by the Authority - in advance where possible. Conferences of the Chartered Institution of Wastes Management should be considered as approved events, but subject to normal reporting requirements.
- 2.3 Where a programme of events is involved the approval of the Authority should be obtained at the beginning of the year.
- 2.4 In exceptional cases where timescales prevent prior approval, the Managing Director has authority, in consultation with the Authority's Legal Adviser, to approve the event but must submit a report to the Authority at the earliest opportunity.
- 2.5 The relevance of the event and the expected benefits of attendance must be explained in the report. The names of those planning to attend should also be given with appropriate justification.
- 2.6 Numbers attending must be kept to a minimum and attendance limited to those who have a relevant interest.
- 2.7 If a Member or staff wish to attend any event in a private capacity, that capacity should be made clear from the beginning to all involved. If the potential exists for a conflict of interest between private involvement and official duties, the Managing Director should be notified before the event takes place.
- 2.8 Attendance at events by spouses and partners is generally not allowed as this can create the wrong impression, particularly when attendance and allowances are being claimed. However, it is recognised that there may, rarely, be exceptional occasions when such attendance is appropriate or where special circumstances apply, and such circumstances must be agreed by the Authority.
- 2.9 When reasonable grounds for special attendance by spouses/partners do exist, the Managing Director should maintain a record of this, together with details of any additional costs.

2.10 Additional costs will be recovered from the individuals concerned as soon as possible. The calculation is not always easy, but the objective should be to demonstrate that spouses or partners have not been paid for or subsidised by the Authority. Where any doubt exists, the matter should be discussed with the Finance Director.

2.11 The Managing Director shall also keep a separate register of the details of attendance on visits abroad where any part of the event is funded by the Authority. Any reciprocal arrangements are recorded in the same register.

3. Expenses

3.1 Incidental expenses should be kept to a minimum.

3.2 Official meetings between Members, Members and staff, or staff must take place in appropriate Authority/Council premises, (i.e. administrative accommodation), unless unavoidable (for example, at the invitation of an independent third party).

4. Working Lunches and Out of Hours Meetings

4.1 Discretionary meetings between Members and/or staff should be arranged, where possible, during normal working hours. Out of hours and lunch hour meetings should be exceptional.

4.2 Food should only be provided where no reasonable alternative is available. When food is provided or funded by the Authority, the Relevant Appointed Officer should authorise it and record the justification. The Authority should not be seen to be unnecessarily subsidising meals. The amount and standard of provision should be kept to a reasonable level.

5. Accommodation

5.1 An event should be organised to minimise the extent of overnight stay.

5.2 Where practical, accommodation should not exceed a three-star rating (or its equivalent when foreign travel is involved). Anything in excess should be justified in writing by the Relevant Appointed Officer and agreed with the Managing Director and the Managing Director; with the Finance Director. However, in determining accommodation a reasonable balance between convenience and value for money should be exercised, taking into account factors, for example inclusiveness of catering, time saved travelling to required meetings, parking and any specific factors such as availability, bulk discount and any group needs. (for example, where alternative accommodation is not available or additional travel costs would be incurred). Hotel accommodation should be booked in advance and wherever possible paid directly by the Authority.

6. Travel Arrangements

6.1 The choice of travel should be made with a view to keeping the cost of the visit as low as possible. People should share vehicles and travel together where practical. However, cheaper methods of transport should not be considered if this results in an additional overnight stay and greater overall cost.

6.2 First class or club class travel is not normally provided for Members or staff, but in exceptional circumstances the Managing Director may approve it. In the case of either Members or staff, specific justification must be documented.

7. Allowances

7.1 Subsistence should be seen as a reimbursement rather than as an allowance. Expenditure should be documented with supporting receipts where possible. Where possible, one individual should be nominated to keep all receipts relating to a particular event.

7.2 Where meals and accommodation are paid for by the Authority or others, subsistence cannot additionally be claimed.

7.3 In cases where staff organise petty cash advances for a group event, they should inform accompanying Members and staff at the beginning.

7.4 Travel claims should only be submitted by those Members or staff who provided the transport or paid for the tickets.

8. Employee Overtime

8.1 Overtime will only be paid for approved duties, and only for time reasonably spent outside of normal office hours. For example, travelling to and from the venue, or for work linked to the event. Alternatively, time off in lieu, rather than overtime, may be granted.

9. Financial Issues

9.1 The funding of events should be finalised as far as possible in advance. This should allow most bills to be paid in advance and minimise the amount of cash that needs to be carried.

9.2 When a cash advance is sought, the intended use should be clearly documented. Both receipts and unspent cash must be returned at the end of the visit with a list of all expenditure.

10. Review Arrangements

10.1 At the end of each event requiring Authority authorisation, a further report should be made to the Authority giving:

- a) a brief summary of the event and the benefits of attendance;
- b) the full costs (including a comparison with the original estimates); and
- c) where relevant, the value of attending in the future.

11. Hospitality and Gifts Received

11.1 If gifts are offered to Members or staff in a personal capacity, they should not be accepted if they have anything more than a token value (for example pens, calendars and diaries). Any significant gifts received in an official capacity should be reported to the Monitoring Officer with a recommendation for their disposal and recorded in a gifts and hospitality register. If considered appropriate, the Monitoring Officer will advise that the matter be reported to the Authority for consideration.

11.2 Decisions on whether to accept hospitality should be made by the following tests of reasonableness:

- a) the scale and type of hospitality should not bring into question the motive of the person or organisation offering it. If it gives the appearance that it might be intended to influence judgement, or could be viewed as such, the hospitality should not be accepted;
- b) the proposed hospitality should be limited to Members or staff who have a relevant interest; and
- c) the hospitality should be directly linked to Authority business and/or the well-being of the local community.

11.3 All hospitality and gifts received by Members and staff must be recorded in a register held by the Monitoring Officer, which is available for inspection to the public.

11.4 The Monitoring Officer must be advised in writing of anything received by Members over the value of £25.

11.5 Where hospitality received includes meals and accommodation, subsistence must not be claimed.

12. Hospitality and Gifts Given

12.1 The approval of the Authority should be sought before any gifts are purchased with a value over £100. The value and purpose should be clear. The recipient should be clearly associated with Authority business.

- 12.2 The provision of hospitality to visitors should follow similar tests of reasonableness to those discussed in 11.2 above. All participants should have a link to the event. Whenever possible, Constituent Council facilities should be used.
- 12.3 The level of hospitality provided should be on a scale relevant to the normal conduct of Authority business. Existing subsistence allowances offer a reasonable guide in respect of hospitality funded by the Authority. It is accepted that there might be a need for some flexibility in respect of schemes funded by international bodies where the nature of the scheme presumes a reciprocal level of funding for "networking" and other forms of international co-operation. For these activities the level of hospitality given should be similar to that normally received but remain at a reasonable level.
- 12.4 A financial ceiling for such expenditure should be agreed in advance by the Authority.
- 12.5 All hospitality given by Members and staff must be recorded in a register held by the Managing Director and signed by the Finance Director, which is available for public inspection.

13. Fees Received

- 13.1 Where Members or staff receive a fee for speaking or otherwise assisting at an event as a representative of the Authority, it should be credited to an Authority budget. The Finance Director should decide which budget is most appropriate.

14. Records and Registers

- 14.1 It is essential that records and registers are kept up to date and accessible for inspection or scrutiny if necessary.
- 14.2 The Managing Director is responsible for ensuring that all records/authorisations/justifications etc. relating to events are kept on one file and that staff are aware of this and where to find the hospitality registers.



PART D5

LAND ACQUISITIONS AND DISPOSAL RULES

1. Background

- 1.1 The acquisition and disposal of land by local authorities is controlled by statute, and was the subject of reports by the Audit Commission (1980) and the Commission for Local Administration (1995). These reports highlighted the various pressures that can influence local authorities, and their Members and employees, in dealing with land, and set out guidelines to encourage best practice.
- 1.2 The guidelines placed emphasis on adopting procedures that are transparent and consistent and therefore fair and proper. These Rules embody those guidelines.

2. Application

- 2.1 The Rules apply to all relevant land acquisitions and disposals except where any provision is waived by the Authority, or by urgent action. The reason for any such waiver shall be set out in the appropriate minutes of the Committee.
- 2.2 References to land in the Rules include any property constructed on land. The terms "acquisition" and "disposal" apply to any relevant interest in land, including freehold, leasehold, easements, options, etc.
- 2.3 All proposals for change of use of Authority land must in the first instance be submitted for valuation and development opportunity advice, prior to submission to the Authority for any land use decision. The seeking of this advice is the responsibility of the Managing Director who will appoint an independent surveyor as valuer to act on the Authority's behalf.

3. Control by Members

- 3.1 The former Audit Commission recommended the appointment of a land management committee, and that no land disposal should take place except on the recommendation of the committee after due consideration of reports from the Authority's valuer, legal adviser and Finance Director. However, in view of the limited land holdings of the Authority all land management decisions will be dealt with at Authority meetings.
- 3.2 Land is a valuable resource, which by its management or disposal may achieve a variety of corporate objectives. The use of the land must, therefore, be determined corporately.
- 3.3 Decisions as to disposal and acquisition are to be taken in accordance with the Scheme of Delegation. The provision of finance for land acquisitions is subject to the Authority's Capital Programme procedures.

4. Employee Responsibilities

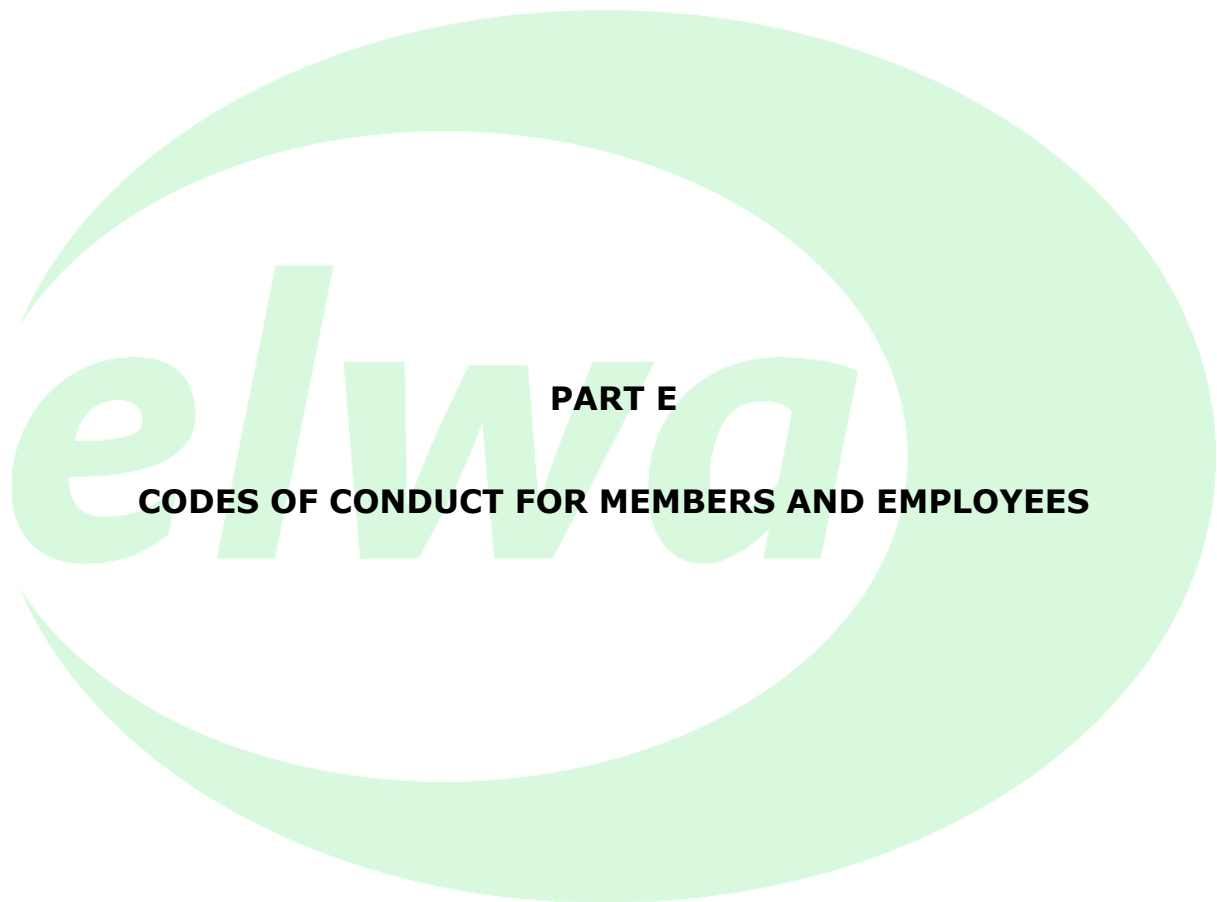
- 4.1 The Managing Director is responsible for seeking professional advice to the Authority on valuation and land matters, and for supplying or procuring valuation services to implement land sales or purchases. These services may include surveying, security, ground investigations, valuation and negotiation. No other officer shall initiate these activities, nor make any contact with another party during active negotiations, in relation to a land transaction.
- 4.2 The Commission for Local Administration advises that where the Authority's Valuer considers that a proposed disposal is not in the best interests of the Authority having regard to the state of the market, the condition of the property and its future potential, the effects of disposal on retained property, or for any other reason, the Valuer should make this clear in a report giving the reasons in full.
- 4.3 The Managing Director is responsible for compliance with statutory requirements in land transactions and for securing the most advantageous price, commensurate with achieving corporate objectives, in any transaction.

5. Statutory Responsibilities

- 5.1 On disposal of land, the Authority may not sell at a consideration less than the best that can reasonably be obtained, except for short leasehold disposals, or with the general or specific Government consent.

- 5.2 The price payable by the Authority on the acquisition of land is not so closely prescribed by statute. However, the Authority is bound by its overall fiduciary duties, and would be acting unlawfully if it did not have clear and supportable reasons for purchases above market value.
- 5.3 The Managing Director is responsible, on advice from the Authority's appointed legal adviser where appropriate, for ensuring that the Authority's statutory obligations regarding the price to be paid or received for land transactions are met, and for ensuring the validity of any valuation advice received from private sector contractors.
- 5.4 Terms for a transaction shall not be finalised unless supported by a current written recommendation from an appropriately qualified valuation surveyor. The recommendation relied upon and any relevant supporting information shall be deposited and retained by the Managing Director.





ELWA MEMBERS' CODE OF CONDUCT

1. Introduction

- 1.1 ELWA is not required to have a statutory Code of Conduct under the Localism Act 2011 as it is not a 'relevant authority' as defined by the Localism Act 2011.
- 1.2 The four Constituent Councils do have their own Members' Code of Conducts as required under the Localism Act which imposes a duty on all Councils to adopt a Code of Conduct for their Members. Their Codes must include the Nolan Principles as set out in the Localism Act Section 28(1)(a), that is:
 - a) SELFLESSNESS: Holders of public office should act solely in terms of the public interest.
 - b) INTEGRITY: Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
 - c) OBJECTIVITY: Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
 - d) ACCOUNTABILITY: Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
 - e) OPENNESS: Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
 - f) HONESTY: Holders of public office should be truthful.
 - g) LEADERSHIP: Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.
- 1.3 The Members of the four Constituent Councils, who are appointed to serve as Members of ELWA, are bound by their respective Council Codes when acting in their official capacity on ELWA. All councillors are required, on accepting office as a local councillor, to declare that they will be guided by their Code.
- 1.4 Any breach or alleged breach by a Member of the Code of Conduct arising from activities in that Member's capacity as a Member of ELWA will be referred by the Managing Director to that Member's council for action in accordance with its Code of Conduct.
- 1.5 Full copies of each Constituent Council's Members' Code of Conduct are available from the respective Council's websites.

EMPLOYEES' CODE OF CONDUCT

1. Introduction

- 1.1 The public is entitled to expect the highest standards of conduct from all Statutory Officers and other employees of the Authority.
- 1.2 This Code aims to describe what is and is not acceptable behaviour so that standards are maintained.
- 1.3 This Code applies to all those who work for the Authority, including those engaged in the Authority's business as Officers and secondees providing support or part of a strategic partnership agreement, interim and agency arrangement; on a voluntary basis; or via another organisation to provide services on behalf of the Authority, and for the purposes of interpretation 'employees' shall mean, for the purposes of this Code only, all those persons referred to in this clause.
- 1.4 In particular, all employees are required to adhere to the seven 'principles of public life' identified by the Nolan Committee and endorsed by the Committee on Standards in Public Life:
 - a) **SELFLESSNESS:** Holders of public office should act solely in terms of the public interest.
 - b) **INTEGRITY:** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
 - c) **OBJECTIVITY:** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
 - d) **ACCOUNTABILITY:** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
 - e) **OPENNESS:** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
 - f) **HONESTY:** Holders of public office should be truthful.
 - g) **LEADERSHIP:** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.
- 1.5 Adherence to the Code and its provisions is a condition of employment and any breach of the Code may result in action being taken under the Authority's Disciplinary Procedure.
- 1.6 This Code is not an exhaustive list as it is impossible to provide a definitive list of what is or is not acceptable behaviour.

2. General standards

- 2.1 Employees are expected to give a high quality and cost-effective standard of service to the public and, where it is part of their duties, to provide appropriate advice to the Authority and fellow employees with impartiality.
- 2.2 Employees are also required to act in accordance with the Authority's scheme of delegation, legislation, the constitution and all relevant codes, protocols, standing orders, policies and procedures.
- 2.3 Employees are expected to undertake all mandatory and other training provided relevant to their roles and responsibilities.

2.4 The following sections of this code describe how the above principles can be demonstrated by the Authority's employees or people working on behalf of the Authority during their day-to-day work, and how they can be enforced by management.

2.5 If there are any doubts or queries about what is acceptable conduct, or about anything else in this Code, employees should raise them with their manager.

3. Protocol for reporting concerns

3.1 Employees and other workers are expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate manager, any significant shortcomings in the provision of an agreed service, or any impropriety, fraud or breach of procedure.

NOTES:

a) The "appropriate level of manager" may vary depending on the particular situation and could be any of the following people: the concerned person's line manager, Managing Director, Finance Director or the Monitoring Officer.

b) Where necessary, employees may by-pass their own management structure.

3.2 The Authority has a Whistleblowing Policy which explains how to report matters of concern, who to and how they will be dealt with. This includes protecting the identity of employees who report concerns. The Authority's Whistleblowing Officer is the Finance Director (see Part E, Annex D).

3.3 Any employee who, in the public interest, reports an impropriety, breach or suspected breach of the Code, may do so without fear of consequence.

3.4 Equally however, employees are reminded that allegations or accusations which are deemed to be malicious may be subject to investigation under the Authority's Disciplinary Procedures.

4. Attendance and timekeeping

4.1 Employees are expected to adhere to their contractual hours. They are required to know and comply with start and finish times (or adhere to flexible working arrangements, including home working) and operate time recording as required. Absence without leave (AWOL) is a disciplinary offence.

4.2 If employees are unable to attend work for any reason, they must adhere to the procedure for reporting absence as detailed in the Sickness Absence Policy (see "Sickness Absence and Reporting Arrangements"). Employees on sickness absence must not undertake any other work, or carry out activities that could hinder their return to work, without prior authorisation from their Head of Service.

4.3 Employees are expected to adhere to the requirements of the Sickness Absence Policy and to attend occupational health appointments as required.

5. Appearance and presentation

5.1 The manner in which employees present themselves at work directly affects the Authority's image, colleagues and the service. Employees' appearance, including personal hygiene, should reflect this responsibility and emphasise their respect for the people they work with and the service they are providing; Working or attending the Authority's premises whilst under the influence of drugs (unless prescribed medication) or alcohol is a serious disciplinary offence.

6. Integrity

6.1 Employees are expected to conduct themselves in a manner that reflects well on the Authority at all times. Unreasonable language, acts of violence, threatening behaviour or verbal abuse to colleagues, managers, service users, the public or Authority Members will not be tolerated.

6.2 Employees must not act against the Authority's interests by withholding information, giving false information, or destroying, damaging or altering any records or documents without prior authorisation.

7. Disclosure of information

7.1 The law requires that certain types of information must be available to Authority Members, auditors, Government departments, service users and the public: employees must be clear about which information may be disclosed, in which circumstances obtaining advice when and where necessary and must act accordingly.

7.2 Employees must not use any information obtained in the course of their employment for personal gain or benefit, nor pass this on to others who might use it in such a way. Any particular information received by an employee from an Authority Member which is personal to that Authority Member and does not belong to the Authority must not be divulged by the employee without the prior approval of that Authority Member, except where such disclosure is required or sanctioned by law.

7.3 The Data Protection Act 2018 places a legal requirement on all employees to refrain from disclosing, or making use of for their private advantage, or the advantage of any third party, any information held on a computer and not available to the public which they may acquire during the course of their employment with the Authority.

7.4 Employees should check, with their manager, what sort of information can and cannot be given openly and without specific authority.

8. Confidentiality

8.1 Employees must treat all information about employees, customers and service users with the utmost confidentiality and in accordance with the Data Protection Act 2018. This information must not be passed to anyone who is not authorised to receive it unless proper authority has been sought and granted.

8.2 Employees must take all reasonable steps to protect and safeguard confidential documents, particularly if they need to be taken outside the usual workplace.

8.3 Employees must not communicate directly with the media about their work, or matters concerning the Authority, unless specifically authorised to do so in line with the Authority's "Social Media Policy" and "Rules for staff on the use of social media sites".

8.4 Employees must seek the agreement of the Managing Director before any information concerning tendering/procurement or best value exercises is released.

8.5 Employees must adhere to any confidentiality clause in their contracts of employment and also in the IWMS contract between ELWA and ELWA Ltd. An extract of this is attached at Annex A.

9. Use of ELWA property and facilities

9.1 ELWA property should only be used for ELWA business and according to instructions. It must not be misused in any way that could undermine public confidence.

9.2 Employees should only remove ELWA property from ELWA premises if they are authorised to do so in accordance with any local procedure in operation, e.g. seeking prior permission, logging items out, signing for them.

9.3 ELWA property must be safeguarded while it is in our employees' care, with any theft, loss or damage reported immediately.

9.4 Employees must adhere to the Information Governance Policies and Procedures and other policies covering the standards expected of computer users. Some examples of misuse are:

- a) installing or downloading unauthorised software, including screensavers;
- b) attaching any item or equipment without authorisation from ICT;
- c) surfing the internet for prolonged periods of time for non-work-related items; and

d) accessing internet sites which could bring the Authority into disrepute – this could lead to both disciplinary and criminal action.

9.5 Employees must not make frequent or lengthy private telephone calls using either the Authority or private telephones. It is recognised that sometimes it is necessary to make occasional private telephone calls at work, but it is expected that this should normally be in exceptional situations.

10. Bribery Act 2010

10.1 It is a serious criminal offence for employees corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity. If such an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

11. Criminal convictions, cautions and misconduct outside work

11.1 All (external and internal) applicants for jobs within the Authority must declare any criminal convictions and cautions where this is a requirement for the post they are applying for. The Authority's recruitment policies set out further details.

11.2 If an individual is arrested or convicted of a criminal offence or given a caution while employed at the Authority this may or may not have a bearing on their employment status, depending on the nature and circumstances of the incident and the type of work they do.

11.3 Employees must notify their manager or Human Resources of any legal action being taken against them, regardless of whether the alleged act took place during or outside working hours.

12. Recruitment and other employment issues

12.1 All selection, appointments and promotions throughout the Authority's service are to be made purely on clear and justifiable job-related criteria. In order to avoid any possible accusation of bias, employees who are related to, or have a close personal relationship outside work with, an applicant, must not take part in the process.

12.2 Similarly, employees must not be involved in decisions relating to discipline or pay adjustments for any other employee who is a friend, partner or relative.

12.3 Employees must not canvass the support of colleagues for the appointment of a candidate and should resist any attempt by others to canvass themselves.

13. Hospitality

13.1 Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the Authority at a particular event.

13.2 Offers to attend purely social or sporting functions must be accepted only when they are for the benefit of the Authority or in connection with a civic or courtesy visit.

13.3 All gifts and hospitality offered, whether accepted or not, with a value of £25 or more must be recorded in a register of gifts and hospitality. A register is maintained by the ELWA Support Services Manager.

13.4 When hospitality has to be declined, those making the offer must be courteously but firmly informed of the procedures and standards operating within the Authority.

13.5 Employees must not solicit or accept personal gifts, other than ones of a token value such as pens and diaries. Any firm or individual who wishes to make a gesture of goodwill to the Authority or its officers should be redirected to any of the Constituent Councils' Charity Funds.

13.6 When receiving authorised gifts or hospitality employees must be particularly sensitive to timing in relation to any decisions which the Authority may be taking in connection with those providing the gift or hospitality. Hospitality which may compromise an officer's impartiality or have the perception of doing so must be declined.

13.7 Acceptance of hospitality at conferences and courses is acceptable where (i) it is clear that the hospitality is corporate rather than personal, (ii) the employee's manager gives consent in advance, and (iii) the employee's manager is satisfied that any purchasing decisions are not compromised.

13.8 Where authorised visits are required to inspect equipment, meet with prospective service providers etc, officers must ensure that the Authority meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions. Such cost does not include items of minimal value such as refreshments or where it would be reasonable to accept hospitality or assistance with travel at the discretion of the Managing Director.

13.9 Guidance notes on Gifts and Hospitality are attached at Annex B.

14. Sponsorship

14.1 Where an outside organisation wishes to sponsor an Authority activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

14.2 Where the Authority wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct or indirect way without there being full advance disclosure to an appropriate manager of any such interest.

14.3 Similarly, where the Authority, through sponsorship, grant aid, financial or other means, gives support in the community, employees must ensure that impartial advice is given and that there is no conflict of interest.

15. Political neutrality

15.1 Employees serve the Authority as a whole. It follows that employees must serve all the Authority's Members and not just those of any particular Political Group, and must ensure that the individual rights of all the Constituent Council Members are respected.

15.2 Employees may be required to advise Political Groups. They must do so in ways which do not compromise their political neutrality. Should information be communicated to an employee by a Political Group on the understanding it is in confidence, it must be kept private and should not be communicated to other Political Groups.

15.3 Employees must follow every lawful expressed policy of the Authority and must not allow their own personal or political opinions to interfere with their work.

15.4 Employees must not use their workplace to promote/further personal political issues and must not demonstrate their personal political allegiances in carrying out their duties, nor display any party-political literature in or on ELWA premises or equipment, ELWA vehicles etc.

15.5 Employees must not raise personal matters concerning their employment directly with the Authority Members or make claims or allegations about other employees directly with the Authority Members.

15.6 As employees of a public authority certain post-holders will be subject to the political restrictions imposed by the Local Government and Housing Act 1989. Such post holders are politically restricted, which means that the individuals holding those posts cannot have any active political role. Politically restricted employees are prohibited from:

- a) standing for office as local councillors, MPs, MEPs, Members of the Welsh Assembly or Members of the Scottish Parliament;
- b) canvassing on behalf of a political party or a person who is, or seeks to be, a candidate; and
- c) speaking to the public at large or publishing any written or artistic work that could give the impression that they are advocating support for a political party.

15.7 Such employees will be informed on appointment by the Authority if they occupy a politically restricted post, as will constituent councils' officers.

16. Other employment

16.1 Employees are required to obtain written consent from their manager before undertaking additional work with other employers. Employees may not:

- a) undertake such work if it conflicts with the Authority's interests;
- b) use the Authority equipment, property or contacts in any such work;
- c) do any private work during your working hours with the Authority;
- d) undertake any private commitments or activities which may bring the Authority into disrepute;
- e) opt out from the Working Time Regulations 1998, unless this is agreed with an appropriate manager and Human Resources.

16.2 Any goods or services of value which are produced as a result of an individual's employment with the Authority will remain the property of ELWA.

17. Conflict of interest

17.1 Employees should not be involved in any work matter in which they may be able to influence the outcome or decision and where they, or their family, friends or close associates, could gain financial or other material benefits. To do so would be a conflict of interest and may result in action being taken under the Authority's Disciplinary Procedure.

17.2 As soon as it becomes apparent that there is, or could potentially be, a conflict of interest, employees must advise their manager in writing and have no further involvement in the matter. In the event that the manager agrees that there is, or could potentially be, a conflict of interest he/she must reallocate the task and notify the Monitoring Officer for record keeping purposes.

17.3 Any employee who is at all uncertain should seek advice from the Monitoring Officer.

18. Register of interests

18.1 Senior Officers (i.e. Statutory Officers and Heads of Service) are required to provide written notification, via a Register of Interests form, of any personal and financial interests which could bring them into conflict with the Authority's interests. This should be submitted to the Monitoring Officer annually or within 28 days of becoming aware of any new personal or financial interest or change to any personal or financial interest. The Monitoring Officer maintains a register for this purpose.

18.2 Other employees may also be required, at the request of their manager, to complete a Register of Interest form in line with the requirements set out above.

18.3 Employees must declare to the Managing Director any non-financial interests that they consider could bring about conflict with the Authority's interests, for example involvement with any organisation or pressure group which may seek to influence the Authority's policies; etc.

18.4 Private work which might involve any dealings with the Authority must be disclosed and can only be done with the express consent of the Managing Director.

18.5 Employees must not engage in any other business or take up any other appointment without the express consent of the Managing Director.

18.6 Employees must declare to the Managing Director membership of the Freemasons or any other organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct.

19. Relationships

- 19.1 Mutual respect between colleagues is essential to good governance. Close personal familiarity between colleagues can damage working relationships and prove embarrassing to others.
- 19.2 In view of this, close personal relationships within the workplace must be declared to an appropriate manager where there may be a potential conflict of interests.
- 19.3 The Authority has a separate protocol for the Authority Member/employee relations within this Constitution. Employees who have, or expect to have, contact with the Authority's Councillors should read and understand this protocol.

20. Procurement

- 20.1 Managers/procuring officers must follow the Authority's Contract Rules at all times when considering tendering and throughout the procurement process. It is the manager/procuring officer's responsibility to ensure they understand the Authority's Contract Rules and take advice if required on the process to follow before commencing procurement.

21. Contractors

- 21.1 Orders and contracts must be awarded on merit in accordance with the Authority's Financial and Contracts Rules and no special favour must be shown to businesses run by, for example, former colleagues, friends, partners or relatives in the tendering process. No part of the local community must be discriminated against.
- 21.2 Employees who engage or supervise contractors or suppliers, or have any other official relationship with contractors or suppliers, and have previously had or currently have a relationship in a private or domestic capacity with the contractors or suppliers, must declare that relationship at the earliest opportunity to their manager in line with the 'Conflict of Interest' requirements.

22. Separation of roles during tendering

- 22.1 Employees involved in the tendering process and who deal with contractors or suppliers must be clear about the separation of client and contractor roles within the Authority.
- 22.2 Those employed in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 22.3 Employees who are privy to confidential matters on tenders or costs for either internal or external contractors must not disclose those matters to any unauthorised party or organisation.
- 22.4 Employees contemplating a management buyout must, as soon as a definite intent has been formed, inform the appropriate manager and withdraw from the contract awarding processes.

23. Equality Issues

- 23.1 All employees have a duty to ensure that policies relating to equality issues, as agreed by the Authority, are complied with in addition to the requirements of the law. All members of the local community, service users and colleagues have a right to be treated with respect, fairness and equality. The Authority's Equal Opportunities Policy and Procedure provides further information.
- 23.2 In particular, employees are reminded that discrimination against or harassment of an employee, a prospective employee, a client or member of the public, on any of the grounds set out in the Authority's Equal Opportunities in Employment Policy, will incur action under the Authority's Disciplinary Procedure.

24. Health and Safety

24.1 Employees have a responsibility to comply with Health and Safety guidelines as outlined in their Contracts of Employment. This applies to both the workplace and on operational 3rd party sites.

25. Constitution

25.1 Employees should abide by the Constitution.

26. Monitoring Officer

26.1 Employees must understand and support the role of the Monitoring Officer.

27. Chief Finance Officer (Section 73)

27.1 Employees must understand and support the role of ELWA's Finance Director.

28. Travel and subsistence expenses

28.1 If employees attend relevant conferences or events, they should claim reasonable costs for accommodation, travel, food and refreshments in accordance with financial rules and guidelines. An extract from LBD guidelines are attached at Annex C.

29. Use of Financial Resources

29.1 Employees must ensure that public funds entrusted to them are used in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid any risk of legal challenge to the Authority.

29.2 Employees must abide by Financial Rules and appropriate financial procedures.

30. Whistleblowing

30.1 The Authority will take seriously any complaint or concern raised by employees, the public and/or clients. In keeping with the Code, serious or sensitive concerns about wrongdoing as described in Annex D may be raised by adhering to the Authority's policy on Whistleblowing.

31. Breach of the Code

31.1 Any breach of this Code may be regarded as a disciplinary offence and will be dealt with under the Authority's Disciplinary Policy and Procedure.

PROTOCOL FOR MEMBER / OFFICER & EMPLOYEE RELATIONS

1. Introduction

- 1.1 The aim of this protocol is to describe the relationships, roles and behaviours which should exist between elected Members and all those who work for the Authority in a modern, well run Joint Authority. The protocol provides guidance on how the complementary but very different roles of Members, officers (as employees) should work. Equalities, natural justice and reasonableness are strong underlying intentions throughout.
- 1.2 This protocol is not intended to be definitive and should be read alongside other relevant documents such as the relevant Constituent Council's Code of Conduct for Members, the Code of Conduct for Employees, conditions of service, the whistle blowing procedures and the Council's Scheme of Delegation.
- 1.3 This Protocol is adopted ELWA policy and applies to all Members and, where relevant, statutory co-opted members, and to all those who work for the Authority. It is also intended that the Protocol should apply to any consultants, contractors, secondees or agency personnel working on behalf of the Authority and it is the responsibility of the employing manager to ensure that this protocol is brought to the attention of such individuals at the beginning of their employment or other engagement.

2. The Distinctive Roles of Members, Statutory Officers and Employees

- 2.1 The primary role of both Members, Statutory Officers (officers) and employees is to carry out the waste disposal function of a statutory joint waste authority and serve the local communities of the Constituent Councils to the best of their abilities.
- 2.2 To do this most effectively, Members, officers and employees need to work together in a manner which combines their essential skills, knowledge and experience in a way which produces the best outcomes for individuals and communities and which is fair, sustainable and responsive.
- 2.3 It is important that both Members, officers and employees respect their distinctive roles in order for relations to be clear and appropriate.

Members:

- a) Members are elected democratically and speak for local people in the Authority's area.
- b) It is their role to:
 - represent the local community and ensure that its best interests are considered during policy making;
 - set the Authority's strategic direction, the policy framework, corporate goals, overall priorities and targets;
 - develop policy with professional advice from officers and employees;
 - monitor the implementation and effect of their decisions; and
 - add a political dimension when appropriate.

Statutory Officers

- a) Statutory Officers (officers) hold specific designated statutory roles of
 - Head of the Paid Service (Managing Director)
 - Finance Director (Chief Finance Officer)
 - Monitoring Officer
- b) These posts are formal appointments by the Authority, the Managing Director is an employer and the Director of Finance and the Monitoring Officer are employees of their Constituent Councils.

Employees:

- a) Employees are employed by the Authority to undertake an organisational role. It is their job to:
- deliver services to the community according to the policies and requirements set by the Authority;
 - draft policy proposals which accord with the overall framework set by Members;
 - give impartial, professional advice in the course of policy development; and
 - support the organisation.
- 2.4 Put simply, Members are responsible for determining policy and the Authority's strategic direction; officers and employees are responsible and accountable for suggesting and implementing policy and delivering services.
- 2.5 Given these roles, officers and employees are employed to work within and pursue Authority policies and priorities, unaffected by personal inclinations.
- 2.6 Officers and employees are accountable to their managers and, ultimately, the Managing Director. They work to the instructions of their manager, and not to individual Members - whatever office a Member might hold. Members should not interfere with matters that are properly the responsibility of officers and employees.
- 2.7 It follows that Members should not get involved in any operational situations. If a Member considers that something is seriously of concern, they should report the matter to the relevant manager and leave it with him or her to address the issues as necessary. Members should not engage with staff on the ground regarding what they perceive to be a problem, nor must they inflame any such problem by engaging with any members of the public who may be in the vicinity at the time.
- 2.8 The ELWA Constitution Scheme of Delegation explains in more detail where specific responsibilities lie.

3. What Members Can Expect of Officers and Employees

- 3.1 Members can expect officers and employees:
- a) to do their job effectively and efficiently;
 - b) to strive to provide services which offer best value;
 - c) to behave in a manner which accords with the standards set by the Authority;
 - d) to be helpful, respectful and courteous to Members;
 - e) to assist Members in carrying out their role in connection with Authority business (officers and employees cannot, however, assist with party political or campaigning activity, or with private business);
 - f) to deal with Members' enquiries fairly and efficiently, in accordance with agreed protocols and timescales;
 - g) to be open and honest with Members. To tell the whole story, giving any bad news as well as the good;
 - h) to keep Members well informed;
 - i) to work with all Members equally and fairly;
 - j) to act lawfully;
 - k) to give advice or recommendations based on reasoned options;
 - l) to ensure that Members have all the information necessary to make informed judgements in a timely fashion and presented in a way which is easy to understand in accordance with Plain English guidance wherever practicable;

- m) to maintain confidentiality when appropriate to do so;
- n) not to canvass Members or otherwise seek to gain favour from them for personal or career advantage;
- o) to have regard to social hours and generally to be sensible about contacting Members at potentially inconvenient times, unless in an emergency or otherwise agreed; and
- p) not to raise personal issues related to their employment with Members.

4. What Officers and Employees Can Expect of Members

4.1 Officers and Employees can expect Members:

- a) to accept that officers and employees are accountable to their Manager;
- b) not to become involved in the day to day management of the Authority;
- c) to fully consider advice and recommendations for the purpose of making informed judgements;
- d) not to ask officers or employees to breach Authority policy or procedures, or to act unlawfully, or outside the terms of their job;
- e) not to exert influence or pressure, or request special treatment, because they are a Member;
- f) not to request unauthorised access to resources or information held by the Authority;
- g) not to attempt to intervene in case management nor attempt to delve into the personal details of individuals and families;
- h) to accept that officers and employees act independently of political bias;
- i) to treat officers and employees in a reasonable manner and with respect;
- j) to be open and honest with officers and employees;
- k) to act lawfully;
- l) to maintain confidentiality when appropriate to do so; and
- m) to respect that officers and employees have private lives and not to contact them outside normal working hours or at home (unless the employee is officially working from home), except in an emergency, or if otherwise agreed.

5. Political Neutrality and Impartiality of Officers and Employees

5.1 The National Code of Conduct for local government officers and employees' states:

"Employees [including officers] serve the Authority as a whole. They must serve all Members and not just those of the controlling group and must ensure that the individual rights of all Members are respected".

5.2 Members should understand that officers and employees will generally operate in a politically neutral capacity. By law, some posts are specifically designated as "politically restricted", meaning that they cannot be filled by employees who are linked to a political party or group, either through direct involvement or by, for example, canvassing on their behalf. These are mainly posts at a senior level within the organisation or where the post-holders are regularly involved, as part of their work, in advising Members.

5.3 Members should not discuss party politics with officers or employees nor must they assume that there is an allegiance to a particular party. Members should not place officers or employees in an embarrassing situation where, for example, they feel they have to agree with a particular political line, whether this be nationally or locally based, although officers and employees must follow the overall objectives of the Council and must not work against them.

5.4 Within the framework of a formal meeting, officers and employees should have a general awareness of the Authority's agreed policy direction.

5.5 It is not improper that officers and employees may sometimes wish to seek political guidance in framing policy proposals. However, when they write reports or give advice, they have a duty to give professional advice and to make Members aware of all the options available.

6. Political Groups and Officers

6.1 Officers and employees will respect the confidentiality of any party group discussions at which they are present and not relay any such discussion to another group.

6.2 All requests for an officer or employee to attend a party group meeting should be made through the Managing Director, who will judge who is the most appropriate to attend. This avoids any danger of an individual officer or employee being identified with the party concerned. They will be at senior level.

6.3 Officers and employees must not attend political group meetings in a private capacity without the express permission of the Managing Director.

6.4 Employees may also be asked to give support in other ways such as briefing Chairs or spokespersons prior to a formal meeting.

6.5 In all these instances it is important that Members, officers and employees understand the following:

- a) officer and employee support cannot extend beyond providing information and advice in relation to Authority business – officers and employees cannot be involved in party business. Where possible, this rule can be assisted if officers and employees are not present when party business is being discussed – thought should be given to the way in which the business for the meeting in question is structured;
- b) party group meetings cannot make Authority decisions and any conclusions reached cannot be interpreted as such or acted upon; and
- c) where officers and employees provide information and advice to a political group this cannot act as a substitute for providing all necessary detail to a formal meeting.

6.6 Any cases of particular difficulty or uncertainty in relation to employee advice to party groups should be raised with the Managing Director who shall consult the relevant Chief Executive(s) of the Constituent Council.

7. Members' Enquiries

7.1 Contact between Members and employees should be via the Managing Director, other than for day to day factual enquiries and matters relating to meetings.

7.2 Members should always contact the Managing Director, or the Authority's Monitoring Officer, regarding anything very serious or sensitive.

7.3 Care must be taken to ensure that a complaint, as opposed to an enquiry, on behalf of a resident is put through the official complaints' procedure.

7.4 Details of an appropriate contact employee should be given in all written communications with Members.

7.5 Members are required to ensure that the Support Services Manager is provided at all times with an address for the delivery of any hard copy correspondence. As far as possible, however, written communications will be through email. Electronic communications with Members will only be via recognised council email addresses.

7.6 Where an enquiry imposes a disproportionate burden on officers' or employees' work, this should be explained and discussed with the Member concerned and senior management should agree an alternative deadline and/or response.

7.7 This Members' enquiry procedure supplements and does not replace Members' statutory and common law rights to information.

7.8 Meetings which take place between Members, officers and employees in relation to enquiries are effectively private meetings to discuss Authority-related business. Members should not therefore invite external visitors such as party officials or workers, commercial representatives or local residents to such meetings without the prior agreement of the employee.

8. Roles on Outside Organisations and Groups

8.1 It is natural that some Members, officers and employees will be members - in their own right - of organisations or groups (political, voluntary or otherwise), within the community. Some Members, officers and employees may work for such bodies.

8.2 It is essential that Members, officers and employees do not use their Authority position to obtain preferential treatment for the organisation or group concerned in a way that a non-Member or non-employee could not. To do so would be totally improper. In particular it would make it very awkward for staff who might find it difficult to suggest that a Member should use the proper channels when they are clearly not carrying out ward work.

8.3 If a Member or employee has a role on an outside organisation or group, whether it be in a personal capacity or as a result of a position held on the Constituent Council or the Authority, it is important to be aware that this could create a conflict of interest. A Member can act in the interest of the external body but must recognise the need not to take part in any Authority decisions that affect the organisation or group - whether they be nominated by the Constituent Council or the Authority or not - or take part in any work associated with the organisation or group which could place them in a situation whereby they might be asked to make a judgement on an Authority action.

8.4 Members, officers and employees should remove themselves from any potential conflict of interest. Where there is doubt, it is always wise to err on the side of caution.

9. Familiarity, Friendships and Relationships

9.1 Close personal familiarity, in the office or at meetings, between individual Members, officers and employees should be avoided as this can damage working relationships and prove embarrassing to colleagues on both sides. In particular, it could bring into question an officers or employee's ability to deal impartially with other Members, and vice-versa.

9.2 However, it is recognised that personal, family or business relationships or friendships will exist between some Members, officers and employees. Some of these relationships will be disclosable pecuniary interests and must be recorded in the Authority's Register of Interests. Other relationships which fall outside of those requirements should be notified to the Managing Director.

9.3 Persons engaged in such friendships or relationships should take special care not to seek, or be seen, to influence their positions through their respective friend or partner. Name dropping to seek advantage is totally unacceptable. People should also go out of their way to ensure that colleagues are not placed in an awkward or embarrassing situation as a result of a friendship or relationship.

9.4 Certain informal gestures in a formal work setting may be innocently made but could be perceived by the recipient to be unwelcome or embarrassing. Such gestures should always be avoided. Similarly, jokes or pranks should be avoided.

9.5 A Member involved in a relationship or otherwise associated with an officer or employee should declare an interest if, on any occasion, they are involved in decision-making directly related to the officer or employee concerned, or the service in which they work. Where appropriate, they should seek to avoid being a participant of a related meeting.

9.6 Members must be careful never to become engaged in any matter related to an individual's employment (except through formal meetings when these are relevant). Any employee attempting to raise such issues with Members should be advised to take the matter up with their manager and/or their trade union representative, and the Member should take no part in any discussion.

9.7 Members should not invite or encourage officers or employees to partake in unofficial social activities, irrespective of whether this is outside normal working hours. This could be perceived by the recipient to be unwelcome and may result in them feeling obliged to become involved.

10. Social Media

10.1 Members, officers and employees interacting via social media must ensure that their actions cannot be construed in any way to bring the Authority into disrepute or undermine the political neutrality of officers and employees. Officers and employees should not, therefore, respond to any comments or feeds posted by Members which have a political connotation or relate to Authority business.

10.2 The Authority's "Social Media Policy" and "Rules for staff on the use of social media sites" should be followed at all times. Any breach of these rules may result in disciplinary action / sanctions being taken.

11. Appointment or Dismissal of Employees

11.1 Members should take no part in the appointment or dismissal of an employee nor should they seek to influence in any way the appointment or dismissal of a particular person to a post, other than where this is explicitly provided for in the Constitution (e.g. in relation to certain statutory chief officer posts).

12. Officers and Employees' Personal Life

12.1 Officers and employees may live in the Constituent Councils' areas and may wish to attend local events or public meetings in a personal capacity - for example, a Ward Surgery. Members should respect this and not regard the individual concerned as an officer or employee at such times.

12.2 Anything raised or discussed by an employee (in confidence or otherwise) as a resident at such events should be so respected by the Member and not discussed in the workplace.

12.3 At public meetings and the like, an officer or an employee, as a resident, may wish to voice concerns about certain services or facilities in the area, or to ask questions or make suggestions. This is natural and acceptable to a certain degree. However, that person should not maliciously undermine the Authority by adverse or negative comments. At all times, officers and employees must observe the standards set out in the Code of Conduct for Employees. Also, any officers and employees who hold politically restricted posts are generally prohibited from speaking publicly with the apparent intention of affecting support for a political party.

12.4 The area in which an officer or employee lives should have no bearing on their employment and Members should not, at any time, show favour to those who live in their Council or those who originated from the area.

12.5 Officers and Employees should not publicly demonstrate support for a political party in carrying out their duties.

13. Members and the Use of Authority Services as a Resident of a Council

13.1 There will be many times when Members use Authority services as a resident. In all instances, the employee providing the service will maintain full confidentiality where this is appropriate and will treat the Member concerned in the same way as any other customer. The Member will not seek or expect any preferential treatment.

14. Conduct at Meetings and Events

- 14.1 Members, officers and employees should observe the degree of formality in behaviour that is appropriate to the event.
- 14.2 A formal approach should generally be applied in open meetings although the use of first name terms is acceptable if there is a consensus. The important issue is that the audience should be able to identify who is speaking or being addressed.
- 14.3 Such formality between Members, officers and employees is not usually necessary at social events. However, any event attended as a result of the Member or employee's role with the Authority should have regard to the fact that close personal familiarity might embarrass others or damage external relationships, and therefore should be avoided. Where there is doubt, a more formal approach is potentially less damaging than a casual one.
- 14.4 Members, officers and employees should not undermine each other at meetings or in any public forum, as this would be likely to damage working relationships as well as the public image of the Authority.

15. Documents and Information - Accessibility and Confidentiality

- 15.1 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.
- 15.2 Members are entitled on a "need to know" basis to receive documents and information on request where it is clear that the Member concerned requires the documentation or information because of their position within the Authority or by virtue of their membership of a committee or sub-committee.
- 15.3 Access to personal data (information about a living individual) is governed by the Data Protection Act 2018. Personal data can be released to Members in specific circumstances, such as when they are acting on behalf of a resident. In such cases, the Authority does not generally have to obtain the consent of the individual to disclose their personal information to a Member, as long as:
- a) the Member represents the ward in which the individual lives;
 - b) the Member makes it clear that they are representing the individual in any request for their personal information with the Authority; and
 - c) the information is necessary to respond to the individual's complaint/enquiry.
- 15.4 There is no general right of access for Members to personal data held by the Authority.

16. When Things Go Wrong: Dispute Resolution

- 16.1 The Authority's experience is that Members and officers work well together. However, it is still necessary to have a clear process to deal with matters when they are not going well.
- 16.2 The key principle for dispute resolution is that both Members and officers are committed to informal, non-adversarial solutions. Where a dispute arises, the first step should be for both parties to seek to resolve any differences informally between themselves or, where necessary, with the assistance of a manager.
- 16.3 When an informal resolution is not possible, the processes referred to below will apply.

Complaints by Members about officers and employees

- 16.4 All formal complaints should be marked "private and confidential" and made to the individuals referred to in the following paragraphs, who will determine how best to deal with the matter. The recipient of the complaint may consult with others, as considered appropriate, such as the Finance Director (Chief Finance Officer) regarding any matters of financial control or fraud or the London Borough of Barking and Dagenham Director of Law and Governance (as lead officer for Human Resources issues) where procedural advice is necessary. Complaints should be made as below:
- a) a complaint by a Member against an employee should be made to the Managing Director;
 - b) a complaint by a Member against the Managing Director should be made to the Chief Finance Officer and copied to the Monitoring Officer;
 - c) a complaint by a Member against the Monitoring Officer should be made to the Managing Director;
 - d) a complaint by a Member against the Chief Finance Officer should be made to the Managing Director and copied to the Monitoring Officer; and
 - e) a complaint by a Member against an employee (at any level) and another Member should be made to the Monitoring Officer.
- 16.5 Members have a right to know if action has been taken to correct a matter, but they must not either:
- a) insist, or suggest to insist, that an employee is disciplined; or
 - b) influence the level of any disciplinary action which might be taken against an employee.
- 16.6 The matter will be investigated and the Member will be informed of its progress and outcome but has no entitlement to detailed information about any disciplinary hearing or its conduct.
- 16.7 The decision to take formal action against an officer and the action taken is the sole responsibility of management. A Member's evidence will be considered but the Member must:
- a) respect the confidentiality of the investigation and disciplinary process;
 - b) not seek to improperly influence the action taken against an employee;
 - c) accept the management decision.
- 16.8 Where a Member has had reason to question, criticise or complain about the actions of a particular employee, once the issue has been dealt with through appropriate mechanisms, irrespective of the outcome, professional behaviour is expected from both parties - there must be no grudge to bear on either side. To do so openly or behind the scenes will only fuel continued unrest and is not in the Authority's interests. Any such difficulties should be referred by the employee to the Managing Director.

Complaints by Employees

- 16.9 Any complaints by an employee about a Member or a former Member should be discussed confidentially in the first instance with the Managing Director who, in turn, will discuss with the Monitoring Officer the best course of action. However, where a breach of the Members' Code of Conduct is alleged, the complaint must be in writing using the form available at https://www.lbbd.gov.uk/sites/default/files/attachments/Member-complaint-form-October-2018_1.docx and must be sent to the Monitoring Officer, marked "private and confidential".

Complaints by Members about Members

16.10 A complaint in relation by a Member about another Member should be made in writing marked "private and confidential" to the Monitoring Officer. If the complaint alleges a breach of the Members' Code of Conduct the complainant should use the form available for this purpose.

17. Breaches of the Protocol

17.1 Relevant Sections offer advice as to how to deal with any difficulties around or breaches of this Protocol. It is hoped that these routes will successfully and quickly resolve any issues.

17.2 A breach of the Protocol by a Member may be reported to the Monitoring Officer, who will decide how the matter should be dealt with. Where a breach of the Protocol constitutes a breach of the Member's Constituent Council's Members' Code of Conduct, the Monitoring Officer will refer the matter to the relevant Constituent Council's Monitoring Officer to investigate the matter.

17.3 The Monitoring Officer will acknowledge receipt of the complaint within five working days and give an indication of how it is proposed to deal with it.

17.4 In instances of a breach of the Protocol by an employee, the matter will be dealt with through the Authority's disciplinary or other relevant employee related procedures.

Annexes	
A	Confidentiality
B	Gifts and Hospitality Guidance notes
C	Expenses and claims
D	Whistleblowing Procedure
Other documents	
Document	Location of Hard copy
Employment policies	Contract of employment
Employment policies – other	Administration Office
Constitution and Financial Rules	Administration Office
Register of Interest (gifts / hospitality	Administration Office
Equality and Diversity	Contract of employment

ANNEX A – CONFIDENTIALITY – EXTRACT FROM IWMS CONTRACT (23.12.2002)

Information and Confidentiality

- 65.1 Subject to the Authority's statutory responsibilities and Clause 44 (Information to be Submitted to Third Parties) the Parties shall keep confidential all matters relating to this Contract and Project Documents and shall use all reasonable endeavours to prevent their employees and agents from making any disclosure to any person of any matter relating to the Contract.
- 65.2 This Clause 65 shall not apply to:
- a) any disclosure of information that is reasonably required by persons engaged in the performance of their obligations under the Contract;
 - b) any matter which a Party can demonstrate is already generally available and in the public domain otherwise than as a result of a breach of this Clause;
 - c) any disclosure (but then only on a need to know basis to the extent reasonably necessary to allow an informed determination to be made) to enable a determination to be made pursuant to the DRP;
 - d) any disclosure which is required by any Law (including any order of a court of competent jurisdiction) or the rules of any stock exchange or governmental or regulatory authority having the force of law;
 - e) any disclosure of information which is already lawfully in the possession of the receiving Party, prior to its disclosure by the disclosing Party;
 - f) any disclosure of information to the Funders or the Funders' professional advisers or insurance advisers or, where it is proposed that a person should or may provide funds (whether directly or indirectly and whether by loan, equity participation or otherwise) to the Contractor or the Funders (including those institutions involved in syndication) to that person or their advisers but only to the extent reasonably necessary to enable a decision to be taken on the proposal;
 - g) any disclosure by the Authority of information relating to the design, construction, operation and maintenance of the Project and such other information as may be reasonably required for the purpose of conducting a due diligence exercise to:
 - h) any proposed Incoming Contractor, its advisers and lenders, should the Authority decide to re-tender the Contract;
 - i) any person in connection with Clause 29 (Best Value); or
 - j) any registration or recording of the Consents and property registration required;
 - k) any disclosure of information by the Authority to any other department, office or agency of the Government;
 - l) any disclosure by the Authority of any document or part thereof related to the Contract to which it is a party and which the Contractor (acting reasonably) has agreed with the Authority contains no Commercially Sensitive Information; and
 - m) any disclosure for the purpose of:
 - n) the examination and certification of the Authority's or the Contractor's accounts; or
 - o) any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources.
- 65.3 Where disclosure is permitted under this Clause 65 (other than pursuant to Clause 65.2 above) the recipient of the information shall be placed under a binding obligation of confidentiality the same (mutatis mutandis) as that contained in this Contract.
- 65.4 For the purposes of the Audit Commission Act 1998, the Contractor acknowledges and agrees and shall procure that each Sub-contractor acknowledges and agrees that the

Authority's auditors may examine such documents as such auditors are permitted by law to demand without consent in the exercise of and in compliance with their statutory powers which are owned, held or otherwise within the control of the Contractor and any Sub-contractor and may require the Contractor and any Sub-contractor to produce such oral or written explanations as he/she considers necessary. For the avoidance of doubt, it is hereby declared that the carrying out of an examination under the Audit Commission Act 1998 and all relevant Legislation thereto in relation to the Contractor is not a function exercisable under this Contract.

- 65.5 The provisions and obligations set out in this Clause 65 shall survive and remain in force upon and following the termination of this Contract for a period of five (5) years.
- 65.6 The Contractor shall not make use of the Contract or any information issued or provided by or on behalf of the Authority in connection with the Contract otherwise than for the purpose of the Contract, except with the prior written consent of the Authority which it may withhold at its absolute discretion.
- 65.7 Where the Contractor, in carrying out its obligations under this Contract, is provided with information from or by a third party, the Contractor shall not disclose or make use of any such information otherwise than for the purpose for which it was provided, unless the Contractor has sought the prior written consent of that third party, and has obtained the prior written consent of the Authority.
- 65.8 On or before the Expiry Date, the Contractor shall ensure that all documents or computer records in its possession, custody or control, which contain information relating to Staff and users of the Waste Management Facilities including any documents in the possession, custody or control of a Sub-contractor, are delivered up to the Authority, and the Authority shall be entitled to make such reasonable checks and enquiries as are necessary to ensure that all records have been so delivered up.

ANNEX B – GIFTS & HOSPITALITY GUIDANCE

1. Introduction

- 1.1 It is not uncommon for suppliers to offer "thank you" gifts to staff by way of a gift or hospitality. As public employees we have to be very careful about how we respond to such offers, while, of course, not wanting to be discourteous.
- 1.2 The Authority's rule is that where gifts are offered to staff in their Authority role they should not be accepted if they have anything more than a token value (for example, bottles of wine, boxes of chocolates, flowers, pens, calendars, diaries, etc.) Money of any value must never be accepted.
- 1.3 More significant gifts should be refused where practicable to do so and where refusal would not offend. Where this is not possible the gift may be kept provided the value is considered to be worth less than £25, but a record must be entered in the gifts and hospitality register kept within each department.
- 1.4 Any gifts considered to be worth over £25 must be reported, in writing, to the Managing Director or Monitoring Officer, with a recommendation for their disposal in a manner which is not to the sole advantage of the person who received the gift. Again, details must be recorded in the gifts and hospitality register.
- 1.5 Similarly, care must be taken with any hospitality which may be offered, particularly from customers or contractors. You should always consider the following tests of reasonableness:
 - a) the hospitality should be directly linked to Authority business and/or the well-being of the community;
 - b) the receipt of the proposed hospitality should be limited to those who have a relevant interest; and
 - c) the scale and type of hospitality should not bring into question the motive of the person or organisation offering it. If there is any doubt at all about the motive, or if the hospitality could be viewed as intending to influence judgement, the hospitality must not be accepted.
- 1.6 Tickets for major sporting events or the opera/ballet and so on are examples of hospitality which should never be accepted as this kind of activity has no relevance to Authority business. Meals are slightly different in that Authority business could be conducted during a meal, but be extremely careful if this type of offer comes your way as this could easily be perceived as a company or individual seeking to influence a situation or obtain preferential treatment.
- 1.7 Like gifts, any hospitality accepted must be recorded in the appropriate register.
- 1.8 Whilst during the festive season offers of gifts or hospitality may be more likely, please note that these rules apply all year round.
- 1.9 Regular monitoring of the register does take place. Also please note that these rules are in line with the Employees' Code of Conduct and the Authority's Conferences, Visits and Hospitality Rules. Anyone found to be in breach of these could be subject to action under the disciplinary procedures.

ANNEX C – EXPENSES & CLAIMS PAYMENT MATTERS – GUIDANCE

1. Staff Expenses

- 1.1 If employees incur additional expense in the course of their work, in respect of travel, meals or overnight accommodation, this should be reimbursed. You must provide appropriate evidence of this expenditure in order to receive full reimbursement. If receipts are not produced a claim can be made through the member of staff's salary, however the amount will be subject to National Insurance deductions.

2. Travel Expenses

- 2.1 If you required to travel to a place other than your normal place of work in the course of work (including undertaking training activities), you are entitled to receive reimbursement for any additional costs. If you are in receipt of a car allowance and choose to use your car for this journey that will be reimbursed using that system (also see Car Users) If you do not receive this allowance or choose not to use your car, the cost of second class public transport should be reimbursed to you for the journey. As mentioned above, tickets should always be retained.

3. Subsistence Allowance

- 3.1 If you are required to work (including undertaking training activities) in a place other than your normal place of work, which is outside of the Borough, you are entitled to receive a subsistence allowance. Receipts for subsistence should always be retained, there are however maximum levels of un-receipted allowance are as detailed below:

Breakfast - £4.92

Lunch - £6.77

Afternoon Tea - £2.67

Evening meal - £10.00

- 3.2 Managers will need to assess what allowances you should receive in accordance with the times that you are required to be at the different, out of Borough, place.

4. Overnight Accommodation

- 4.1 Where you are required to stay overnight, hotel accommodation should be booked in advance and wherever possible paid directly by the Authority. In most circumstances, 3-star standard accommodation will be considered acceptable unless agreed otherwise with the Managing Director, or if the Managing Director, with the Director of Finance. However, in determining accommodation a reasonable balance between convenience and value for money should be exercised, taking into account factors such as inclusiveness of catering, time saved travelling to required meetings, parking and any specific factors such as availability bulk discount and team needs.
- 4.2 If you are required to make overnight stays in the course of you work (including undertaking training activities), you will be reimbursed out of pocket expenses, including travelling expenses, the cost of the overnight accommodation and subsistence allowances (as detailed above if not included in the overall cost of accommodation). These expenses should be approved in advance. As previously you should retain all receipts and tickets. If the cost of the accommodation includes meals, then subsistence allowance should not be claimed for the meals unless there are dietary reasons for not taking up the catering offer.

5. Forms

- 5.1 Expenses can be claimed by logging into the Authority's HR 'sharepoint' system (currently Oracle) and selecting Expense Reports/Create Expense Report.

6. Car Users

6.1 Some employees will be required to use their car to assist in the efficient performance of their duties, if this is the case they will be entitled to receive an allowance for using their car. The Human Resource Manager can authorise the attachment of a car allowance to a post where appropriate. There are two types of allowance, the details of which are as follows:

a) Essential Car User Allowance

- Essential car users are those whose duties are of such a nature that it is essential for them to have a car at their disposal whenever required.
- Essential car users receive a monthly lump sum allowance and a payment for the miles they undertake in the course of performing their duties.
- The lump sum and payment per mile varies according to the engine capacity of the car, and is changed in accordance with the National pay increases.
- The lump sum is payable in full to all essential users regardless of their hours of work. This is a non-taxable element of pay and will be reported on your P11D.
- Where a car is not in use as a result of a mechanical defect or the absence of the employee through illness or maternity leave (providing the employee has stated their intention to return to work) the monthly lump sum should remain being paid in full for the month the car stopped being used, and for the following 3 months. For the next 3 months, if the car remains to be unused, payments should be made at 50% of the monthly lump sum payment.
- Essential car users should submit a claim form for the mileage undertaken every month, even if they do not undertake any mileage they must still submit the form in order to activate the monthly lump sum.
- Mileage can only be claimed from the employee's place of work to the required destination.
- Employees must ensure that their car insurance has been arranged to provide cover for journeys undertaken in the course of performing their duties.

b) Casual Car User Allowance

- Casual car users are those for whom it is desirable that a car should be available when required.
- Casual car users receive a payment for the miles they undertake in the course of performing their duties.
- The payment per mile varies according to the engine capacity of the car, and is changed in accordance with the National pay increases.
- Casual car users should only claim for their mileage when they have made relevant journeys, if this is regularly, claims should be made on a monthly basis.
- Mileage can only be claimed from the employee's place of work to the required destination.

6.2 Alternative arrangements may be put in place where it is agreed that an employee may use a motorcycle/scooter or a bicycle; similar principles to those above will apply.

6.3 The LBBB Payroll service is currently in the process of reviewing several Payroll procedures, with particular attention to the way Car Mileage Claims are processed.

- 6.4 The LBBD Payroll service operates a time limit on the date of claim submission in relation to the mileage having been undertaken of 3 calendar months. This will mean that any mileage undertaken more than 3 months prior to the date of the claim will not be included in the payment of the claim.
- 6.5 The Finance Director has further advised that Managers should be aware that when they authorise car mileage, they are confident that as, with any other payment, they have assurance that they are authorising a claim that is properly due and payable - that the claims accurately reflect journeys undertaken and that the employee is entitled to the payment. This assurance might be obtained by sample checking of mileage claimed, knowledge of the employees' movements and evidence that she/he is entitled to either essential or casual car allowance evidenced by the appropriate documents. Car mileage, as with any other council payment, will be subject to review by internal audit. But it is managers' responsibility to ensure that they are properly authorising claims.

7. Where is further advice available from?

[Car Allowance Rates and NI Dispensation](#)

[The Payroll Service](#)



elwa

ANNEX D – WHISTLEBLOWING PROCEDURE

1. Information for employees and people who have dealings with the Authority

- 1.1 The purpose of this procedure is to enable you to raise your concerns with the Authority in confidence without any fear of reprisal. We can learn a lot from what you tell us. Your information is important to us and we are looking to ensure that the highest standards of conduct and services are maintained. We therefore ask that you do not take your concerns outside the Authority other than as stated at the end of this document. All outside enquiries about any investigation relating to your concern must be referred to the Finance Director. When raising your concern, you must declare any personal interest you have in the matter.
- 1.2 This procedure will help employees to:
- discuss in confidence with a Senior Officer, any concerns you may have regarding a serious malpractice in the Authority;
 - seek reassurance that any proven malpractice will be stopped; and
 - be safe in the knowledge that you will not be victimised.

2. What is Whistleblowing?

- 2.1 All of us at one time or another have concerns about what is happening at work or within a particular organisation. Usually these concerns are easily resolved. However, when they are about serious malpractice like financial irregularities, dangerous working conditions, discrimination or fraud, it can be difficult to know what to do.
- 2.2 You may be worried about raising such issues or may want to keep concerns to yourself, perhaps feeling that it is none of your business or that it is only a suspicion. You may feel that raising your concern would be disloyal to colleagues, managers or the organisation. You may decide to say something but find that you have spoken to the wrong person or raised the issue in the wrong way.
- 2.3 The Authority has therefore a procedure to enable you to raise your concerns about serious malpractice at an early stage. We want you to say something when it is a concern rather than wait for proof.
- 2.4 It is impossible to give an exhaustive list of the activities that constitute misconduct or malpractice but, broadly speaking, we would expect you to report the following:
- criminal offences;
 - failure to comply with legal obligations or miscarriages of justice;
 - actions which endanger the health or safety of staff or the public;
 - actions which cause damage to the environment; and
 - actions which are intended to conceal any of the above.

If in doubt – raise it!

- 2.5 This procedure is a central part of the Authority's programme to improve the delivery of services to the public, and it provides us with an opportunity to address a potentially serious problem before it is too late. We will do everything possible to protect your confidentiality if required.
- 2.6 This procedure should not be confused with the Authority's Complaints Procedure which should be used where a customer has a specific complaint about the quality of service delivery, or the Grievance Procedure which should be used when an employee is aggrieved about their own employment situation.

3. As an employee, how do I raise my concerns?

3.1 Where you have a concern, we hope you will be able to raise it with your manager within the Authority or with the relevant Waste Manager, Chief Finance Officers, Chief Auditors or Chief Personnel Officers in your employing Constituent Council (Switchboard contact numbers are shown below). This may be done verbally or in writing.

3.2 If you feel unable to follow that route, because they are in some way involved, your concern may be discussed in confidence with, or addressed to, either of the following ELWA Chief Officers (both are based in Lynton House, Ilford).

Chief Auditor of both the London Borough of Redbridge and ELWA:
Tel: 0800 633 5267 (24 hr answerphone)

Finance Director of both the London Borough of Redbridge and ELWA:
Tel: 020 8708 3588

Or email us at whistleblow@redbridge.gov.uk.

4. As a member of the public, how do I raise my concerns?

4.1 Where you have a concern, we hope that you will be able to raise it at the relevant ELWA location. This may be done verbally or in writing. If you feel unable to do that because they are in some way involved, your concern may be discussed in confidence with, or addressed to, either of the following Chief Officers:

Chief Auditor of the London Borough of Redbridge and ELWA:
Tel: 0800 633 5267 (24 hr answerphone)

Finance Director of both the London Borough of Redbridge and ELWA:
Tel: 020 8708 3588

Or email us at whistleblow@redbridge.gov.uk.

5. Whistleblowing procedures

5.1 Separate to this (ELWA) Whistleblowing procedure, our Constituent Councils and our Contractor have their own Whistleblowing procedures. Copies of these can be obtained as follows:

London Borough of Barking and Dagenham Tel: 020 8215 3000
www.lbdd.gov.uk

London Borough of Havering Tel: 01708 432946
www.havering.gov.uk

London Borough of Newham Tel: 020 8430 2000
www.newham.gov.uk

London Borough of Redbridge Tel: 020 8554 5000
www.redbridge.gov.uk

Main Contractors - Renewi UK Services Ltd Tel: 01708 634540
www.renewiplc.com

6. What happens next?

6.1 Having alerted to us your concern, it is our responsibility to investigate the issue. The initial stage will be to discuss the issue with you, and then assess what further action may be taken. If you advise that you want feedback on the action we have taken, we will contact you in due course; however, if you wish to remain anonymous you can telephone us at a later date.

6.2 Where the issue cannot be resolved quickly, i.e. it requires more detailed consideration either because of the complexity of the concern or the possibility of other proceedings, an investigation will be carried out under the direction of the Managing Director, Finance Director or the Chief Auditor for ELWA.

7. What assurances can be given to you?

7.1 All concerns raised under this procedure, regardless of their nature, will be treated seriously and sensitively by highly trained and experienced officers. Where practicable immediate steps will be taken to remedy the situation. However, the final outcome may take longer depending upon the issue that is raised.

7.2 We shall make every effort to keep your identity confidential if you wish this to be the case. If this is not possible, for example if you are required to give evidence or a formal statement (e.g. a court case or disciplinary hearing), you will be told and we will discuss this with you.

The earlier and more open the expression of a concern, the easier it will be for senior management to take action.

7.3 The Authority will not tolerate harassment or victimisation of anyone raising a concern under the procedure in good faith, regardless of whether or not it proves well-founded. If anyone tries to discourage you from coming forward to express a concern, we will treat this as a disciplinary offence. In the same way, we will deal severely with anyone who criticises or victimises you after a concern has been expressed. The Employment Rights Act 1996 as amended protects a worker with the right not to be victimised or dismissed because he/she has made a protected disclosure regarding 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 he/she is 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.

7.4 The Authority will monitor the effectiveness of the procedure and carry out an annual review.

8. What can I do to help?

8.1 The purpose of this procedure is to enable you to raise your concerns with the Authority in confidence without any fear of reprisal. We can learn a lot from what you tell us. Your information is important to us and we are looking to ensure that the highest standards of conduct and services are maintained. We therefore ask that you do not take your concerns outside the Authority other than as stated at the end of this document. All outside enquiries about any investigation relating to your concern must be referred to the Chief Auditor or Finance Director. When raising your concern, you must declare any personal interest you have in the matter.

9. What happens if an unfounded malicious concern is raised?

9.1 Individuals are encouraged to come forward in good faith with genuine concerns in the knowledge that they will be taken seriously. If individuals raise malicious unfounded concerns, attempt to make mischief, or attempt to make a personal gain, this will also be taken seriously and may constitute a disciplinary offence or require some other form of penalty appropriate to the circumstances.

10. What happens after the concern has been investigated?

10.1 You will be informed, where requested and subject to legal constraints, of the outcome of the action taken to resolve your concern.

10.2 Where action is not taken you will be given an explanation.

10.3 There will be an expectation on the managers of ELWA to minimise the risk of re-occurrence wherever possible.

11. If I am unhappy with the way in which the issue has been investigated?

11.1 If you are not satisfied with the outcome of an investigation, we would prefer that you raised this with us, explaining why this is the case. Your concern will be looked at again if there is good reason to do so.

11.2 The Authority would prefer that a serious concern is raised responsibly rather than not at all. Despite our assurances, you may feel that it is more appropriate to raise your concern with an external organisation, such as a regulator. It is, of course, open for you to do so provided you have sufficient evidence to support your concern.

11.3 We strongly advise that before reporting your concern externally, you seek advice from one of the following:

a) As an employee: Public Concern at Work, a registered charity which advises on serious malpractice within the workplace, can be contacted on 020 3117 2520.

b) As an employee: Your trade union.

11.4 While we cannot guarantee that we will respond to your concern in the way you might wish, we will try to handle the matter fairly and properly. By using this procedure, you will help us to achieve this.

12. Other relevant documents

12.1 This is Document 3 of the Anti-Fraud and Corruption Strategy. Other documents within the Anti-Fraud and Corruption Strategy are:

Document 1: Statement and Principles (Reference PN.01)

Document 2: Guidance for Staff (Reference GN.01)

Document 3: This document 'Whistleblowing Procedure' (Reference PN.02)

Document 4: Whistleblowing Procedure – Information for Managers (Reference GN.02)

Document 5: Fraud Response Plan (Reference PN.03)

Document 6: Extracts from the Integrated Waste Management Contract (Ref. GN.03)

Document 7: Copies of the Policy of Renewi (formerly Shanks Waste Management) (Reference GN.04)

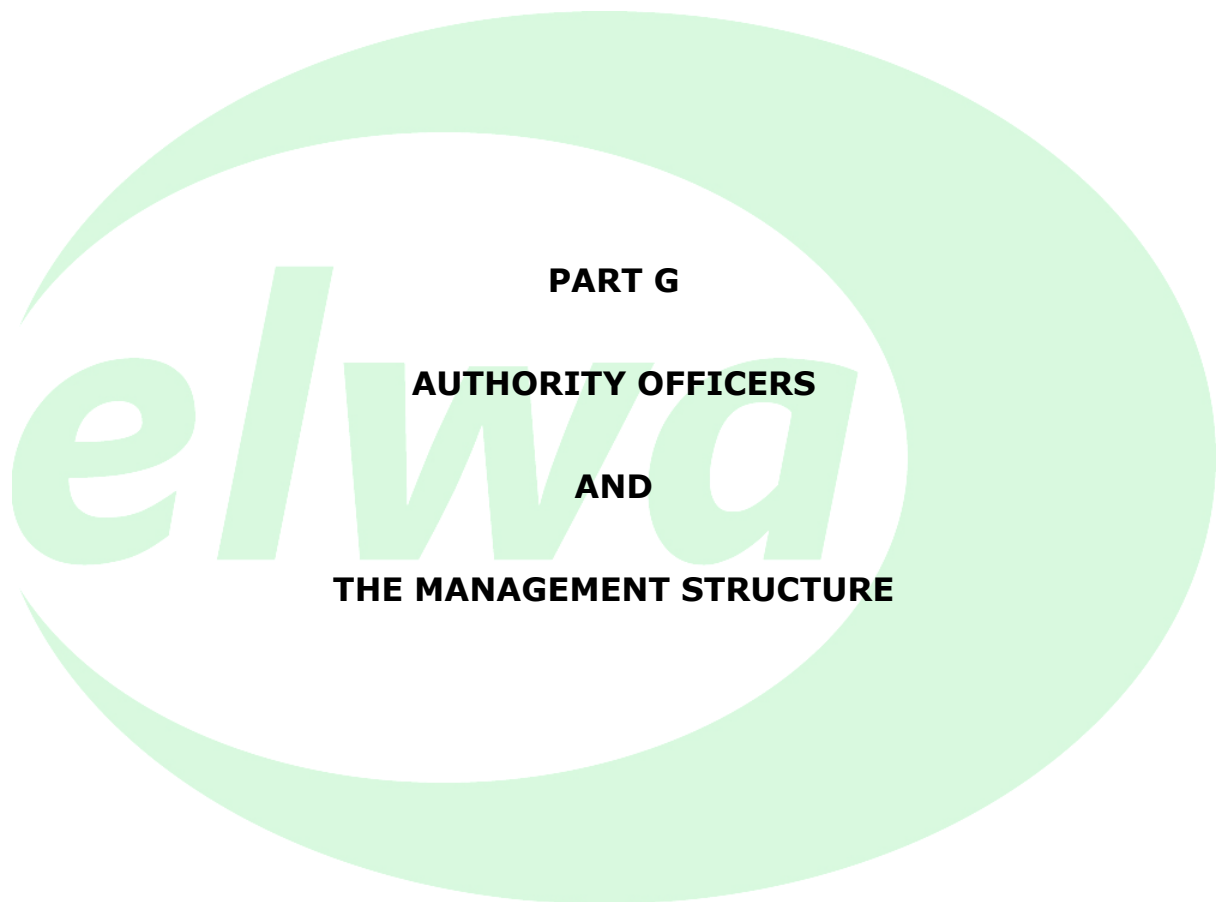


MEMBERS' ALLOWANCE SCHEME

1. Members' Allowances Scheme

- 1.1 Under the Local Authorities (Members' Allowances) Regulations 1991, ELWA is classified as a "secondary authority" and, as such, is not allowed to pay basic, special responsibility or attendance allowances to Members of the Authority. These allowances may be paid however by Councils that appoints representatives to "secondary authorities".
- 1.2 Each of ELWA's four constituent Councils has implemented a Members' Allowances Scheme (or similar). Under these schemes, Councillors that are appointed as Members of the Authority may receive a Special Responsibility Allowance for their role on the Authority, but such a decision is entirely at the discretion of the respective Council. Any payments made under these arrangements cannot be reclaimed from the Authority.
- 1.3 Sections 174 and 175 of the Local Government Act 1972 do allow the Authority to pay travelling and subsistence allowances and attendance allowances for conferences and 'outside' meetings in connection with approved duties. For administrative purposes however, Members are required to submit any such claims through their respective Councils, in accordance with the Members' Allowances Scheme for their Council. Payments made by the Councils in this respect can be reclaimed from the Authority.





THE MANAGEMENT STRUCTURE

1. Terminology

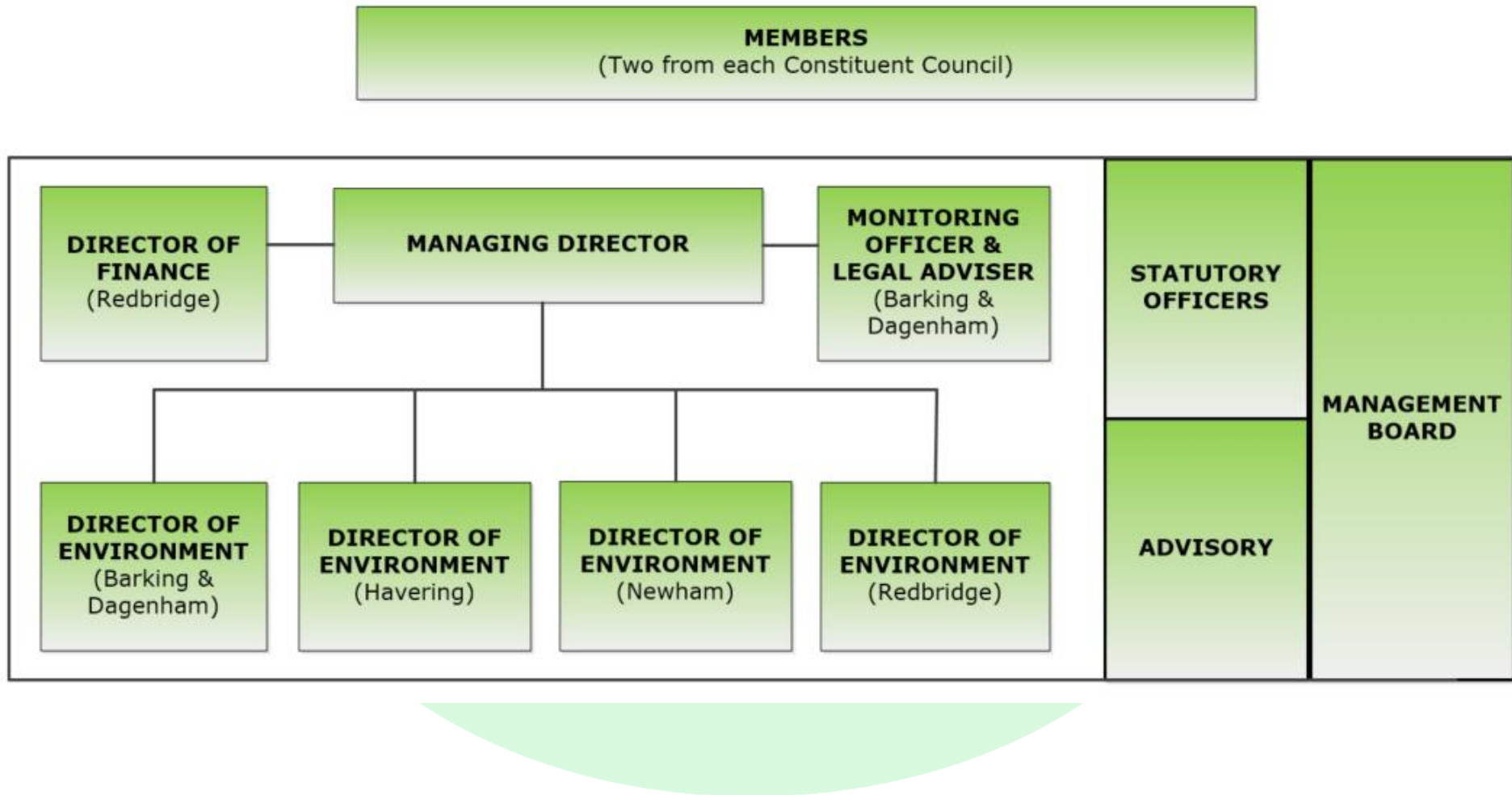
- 1.1 The use of the word 'employees' means all staff engaged by or on behalf of the Authority to carry out its functions. As well as those employed on a long term, full-time basis this also includes those engaged under short term, agency or similar arrangements.

2. Introduction

- 2.1 The Authority's 'Officers' are responsible for the various functions and services that the Authority either delivers or arranges delivery of.
- 2.2 The Authority's Managing Director has overall responsibility for the management of the organisation. The Managing Director has the lead executive role in the management, administration and delivery of the Authority's services as well as providing strategic direction to the Authority, drawing on advice from the ELWA Management Board, and is also responsible for managing the relationship with the Authority's Integrated Waste Management Service (IWMS) Contractor, ELWA Limited and the Operator, Renewi UK Services Limited (formerly Shanks Waste Management Ltd).



ORGANISATION CHART



MANAGEMENT STRUCTURE

1. Statutory Officers

1.1 The Authority shall have the following Officers:

Post	Main Areas of Responsibility
Managing Director (and Head of Paid Service)	Overall corporate management, legal, technical (including waste policy), and operational (including personnel support) responsibility within the Authority
Finance Director (and Chief Finance Officer)	Financial and audit responsibility
Monitoring Officer (and Legal Adviser)	Compliance with statutory and constitutional requirements

2. Statutory Officers

Managing Director (Head of Paid Service)

2.1 The Managing Director shall be the Authority's Head of Paid Service. The Head of Paid Service is a statutory position with a specific responsibility for:

- a) determining and publicising a description of the overall structure of the Authority which shows the management structure and the deployment of employees; and
- b) reporting to the Authority on the manner in which the discharge of the Authority's functions is co-ordinated, the number and grade of employees required for the discharge of functions, and the organisation of employees.
- c) The Managing Director shall have the duties, powers, responsibilities and perform the functions as described in the Scheme of Delegation in Part C of this Constitution and in the job description for the position.

The Monitoring Officer

2.2 The Authority has appointed its Legal Adviser as Monitoring Officer. The Monitoring Officer is a statutory position. The duties and responsibilities of the Monitoring Officer shall be those required by law and those set out in Part H of this Constitution and include the following:

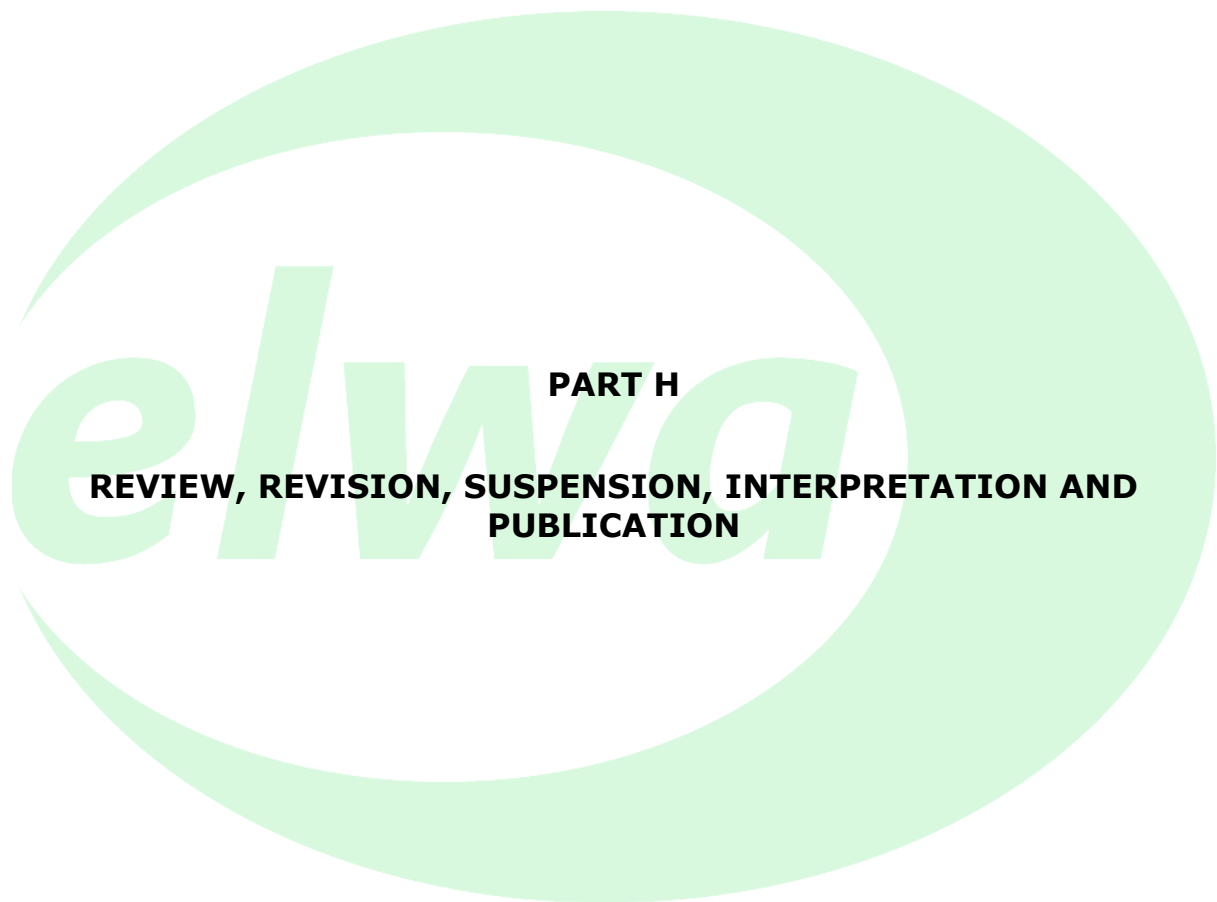
- a) Maintaining the Constitution - The Monitoring Officer has to maintain an up to date version of the Constitution and ensure that it is widely available for consultation by Members, employees and the public.
- b) Ensuring lawfulness and fairness of decision making - After consulting with the Head of Paid Service and Chief Finance Officer (assuming it is reasonably practical and appropriate to do so), the Monitoring Officer must report to the Authority if he/she considers that any proposal, decision or omission is unlawful, or if any decision or omission is maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- c) Register of Interests - The Monitoring Officer is responsible for establishing and maintaining a register of interests of Members of the Authority.
- d) Proper Officer for access to information - The Monitoring Officer ensures that Authority decisions, together with the reasons for those decisions and relevant reports and background papers, are made publicly available as soon as possible.

- e) Providing advice - The Monitoring Officer provides advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity, budget and policy framework issues.
- f) Whistle blowing - The Monitoring Officer is responsible for whistle blowing and investigations into ethical matters in relation to Members having due regard to Codes of Conduct and any other requirements or duties imposed on Members.

Finance Director (Chief Finance Officer)

2.3 The Finance Director shall be the Authority's Chief Finance Officer pursuant to S73 of the Local Government Act 1985. The Chief Finance Officer is also a statutory position with specific responsibility for:

- a) Ensuring lawfulness and financial prudence of decision making - After consulting with the Head of Paid Service and the Monitoring Officer (assuming it is reasonably practical and appropriate to do so), the Chief Finance Officer must report to the Authority and the Authority's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Authority is about to enter an item of account unlawfully.
- b) The administration of financial affairs - The Chief Finance Officer is responsible for the administration of the financial affairs of the Authority.
- c) Contributing to corporate management - The Chief Finance Officer contributes to the corporate management of the Authority, in particular through the provision of professional financial advice.
- d) Providing advice - The Chief Finance Officer provides advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity, budget and policy framework issues to all Members, and supports and advises Members and employees in their respective roles.
- e) Giving financial information - The Chief Finance Officer provides financial information to the media, members of the public and the community as and when necessary.



REVIEW, REVISION, SUSPENSION, INTERPRETATION AND PUBLICATION

1. Monitoring and Reviewing the Constitution

- 1.1 The Authority's Monitoring Officer is responsible for monitoring and reviewing the operation of the Constitution to ensure that its aims and principles are given full effect.
- 1.2 A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution and to make recommendations to the Authority on ways in which it could be amended in order to achieve its purpose. In order to do this, the Monitoring Officer may:
 - a) undertake an audit trail of a sample of decisions;
 - b) record and analyse issues raised with him/her by Members, employees, the public and other relevant stakeholders;
 - c) compare practices in the authority with those in other comparable authorities, or national examples of best practice.

2. Changes

- 2.1 Significant changes to the Constitution will only be approved by the Authority after consideration of the proposal by the Monitoring Officer.
- 2.2 Subject to any minor administrative amendments or changes required by new legislation, for which the Managing Director has delegated authority to implement, the Constitution will be reconsidered after the first year of its introduction and then every year to see if any changes are required in the light of experience.

3. Suspension

- 3.1 Limit to suspension - The provisions of this Constitution may not be suspended except by the Authority in exceptional circumstances and if lawful to do so.
- 3.2 Procedure to suspend - A motion to suspend any part of the Constitution may not be moved without notice.

4. Interpretation

- 4.1 Any reference to a statute, statutory instrument, regulation or directive shall be deemed to automatically include a reference to any subsequent amendment, modification or re-enactment in respect of them.
- 4.2 The ruling of the Chair of the Authority as to the construction or application of this Constitution or as to any proceedings of the Authority shall not be challenged at any meeting of the Authority. Such interpretation will have regard to the purposes of this Constitution and to the law.

5. Publication

- 5.1 The Monitoring Officer is responsible for making arrangements to:
 - a) make available an electronic copy of this Constitution to each Member of the Authority on their appointment; and
 - b) ensure that copies are available for inspection at the Authority's offices and other appropriate locations, including the Authority's web-site (www.eastlondonwaste.gov.uk). Copies can be purchased by members of the local press and the public on payment of a reasonable fee.

(Minor revisions and corrections September 2019)