

**HALTON BOROUGH COUNCIL**



*Municipal Building,  
Kingsway,  
Widnes.  
WA8 7QF*

*10 April 2012*

**TO: MEMBERS OF THE HALTON  
BOROUGH COUNCIL**

*You are hereby summoned to attend an Ordinary Meeting of the Halton Borough Council to be held in the Council Chamber, Runcorn Town Hall on Wednesday, 18 April 2012 commencing at 6.30 p.m. for the purpose of considering and passing such resolution(s) as may be deemed necessary or desirable in respect of the matters mentioned in the Agenda.*

A handwritten signature in black ink, appearing to read 'David W. R.', is positioned above the title 'Chief Executive'.

*Chief Executive*

**-AGENDA-**

<b>Item No.</b>		<b>Page No.</b>
<b>1.</b>	<b>MINUTE'S SILENCE</b> The Council will stand for a Minute's silence as a mark of respect for the sad passing of Councillor Dave Leadbetter.	
<b>2.</b>	<b>COUNCIL MINUTES</b>	<b>SEE MINUTE BOOK</b>
<b>3.</b>	<b>APOLOGIES FOR ABSENCE</b>	
<b>4.</b>	<b>THE MAYOR'S ANNOUNCEMENTS</b>	
<b>5.</b>	<b>DECLARATIONS OF INTEREST</b>	
<b>6.</b>	<b>LEADER'S REPORT</b>	
<b>7.</b>	<b>MINUTES OF THE EXECUTIVE BOARD</b>	<b>SEE MINUTE BOOK</b>
	a) 9 February 2012	
	b) 1 March 2012	
	c) 15 March 2012	
	d) 29 March 2012	
<b>8.</b>	<b>MINUTES OF THE EXECUTIVE BOARD SUB COMMITTEE</b>	<b>SEE MINUTE BOOK</b>
	a) 9 February 2012	
	b) 1 March 2012	
	c) 15 March 2012	
	d) 29 March 2012	
<b>9.</b>	<b>MINUTES OF THE MERSEY GATEWAY EXECUTIVE BOARD</b>	<b>SEE MINUTE BOOK</b>
	a) 15 March 2012	
<b>10.</b>	<b>MINUTES OF THE SHADOW HEALTH AND WELLBEING BOARD</b>	<b>SEE MINUTE BOOK</b>
	a) 5 December 2011	
	b) 22 February 2012	
	c) 21 March 2012	

**11. QUESTIONS ASKED UNDER STANDING ORDER 8**

**12. MATTERS REQUIRING A DECISION OF THE COUNCIL**

- |   |                |
|---|----------------|
| a) Directorate Plans (Minute EXB 101 refers)<br>Executive Board considered the attached report:-<br><br>RECOMMENDED: That<br><br>1) the Draft Directorate Plans be approved; and<br><br>2) the Chief Executive be authorised, in consultation with the Leader, to make any final amendments and adjustments that may be required.   | <b>1 - 4</b>   |
| b) Capital Programme- School's Capital Grant Allocation - KEY DECISION (Minute EXB 106 refers)<br><br>Executive Board considered the attached report:-<br><br>RECOMMENDED: That<br><br>1) the capital funding available for 2012/13 be noted;<br><br>2) the proposals to be funded from Capital Maintenance be agreed and the position in respect of Basic Need be noted;<br><br>3) Council approve the Capital Programme 2012/13; and<br><br>4) a further report be submitted to Executive Board to detail how the Basic Need capital funding would be spent in 2012/13. | <b>5 - 16</b>  |
| c) The Localism Act 2011 - The Amended Standards Regime (Minute EXB 115 refers)<br><br>Executive Board considered the attached report:<br><br>RECOMMENDED: That Council adopt the proposals for revised Standards arrangements as set out in Appendix 2 attached to the report.   | <b>17 - 46</b> |
| d) Bridgewater Community Healthcare NHS Trust (Minute EXB 119 refers)   | <b>47 - 52</b> |

Executive Board considered the attached report:-

RECOMMENDED: That Council

- 1) support
  - a) the proposal by Bridgewater Community Healthcare NHS Trust to become a Foundation Trust;
  - b) the membership arrangements proposed by Bridgewater Community Healthcare NHS Trust;
  - c) the public membership constituencies proposed by Bridgewater Community Healthcare NHS Trust;
  - d) the staff membership proposals proposed by Bridgewater Community Healthcare NHS Trust; and
  - e) the Governor's structure and numbers proposed by Bridgewater Community Healthcare NHS Trust;
- 2) nominate the Portfolio holder for Health and Adults as the Halton Governor Representative, should Bridgewater Community Healthcare NHS Trust achieve Foundation Trust status; and
- 3) encourage Halton residents to take up the opportunity to become members of the proposed Bridgewater Community Healthcare NHS Foundation Trust.
- e) Liverpool Community Healthcare NHS Trust (Minute EXB 120 refers)

**53 - 58**

Executive Board considered the attached report:-

RECOMMENDED: That Council

- 1) support
  - a) the proposal submitted by Liverpool Community Healthcare NHS Trust to become a Foundation Trust;
  - b) the membership arrangements proposed by Liverpool Community Healthcare NHS Trust;
  - c) the public memberships constituencies proposed by Liverpool Community Healthcare NHS Trust should give due regard to a dedicated Halton constituency;
  - d) the staff membership proposals proposed by Liverpool Community Healthcare NHS Trust;
  - e) the Governors structure proposed by Liverpool Community Healthcare NHS Trust. However, in respect of the composition of Governors, Halton Borough Council recommend that they be allocated one dedicated Elected Member to represent Halton on the Governing Body;
  - f) the plans for governance proposed by Liverpool Community Healthcare NHS Trust; and
- 2) Halton residents be encouraged to take up the opportunity to become members of the proposed Liverpool Community Healthcare NHS Foundation Trust.

- f) Annual Review of the Constitution 2012 (Minute EXB 125 refers)

**59 - 64**

The Executive Board considered the attached report:-

RECOMMENDED: That Council approve the updates to the Constitution as detailed in the Appendix attached to the report.

- g) Calendar of Meetings 2012/13 (Minute EXB 126 refers)  
The Executive Board considered the attached report:-

**65 - 68**

RECOMMENDED: That Council approve the Calendar of Meetings for the 2012/13 Municipal Year.

- h) Arrangements for the Appointment of Mayor and Deputy Mayor for 2012/13 (Minute MYR 4 refers)

The Mayoral Committee considered a Part II item making recommendations for the appointment of Mayor and Deputy Mayor for the 2012/13 Municipal Year:-

Council is requested to note these recommendations as follows. Formal confirmation will be sought at the annual meeting.

- 1) Councillor T McInerney be appointed as the Mayor; and
- 2) Councillor M Ratcliffe be appointed as the Deputy Mayor.

**13. MINUTES OF THE POLICY AND PERFORMANCE BOARDS AND THE BUSINESS EFFICIENCY BOARD**

**SEE MINUTE BOOK**

- a) Children, Young People and Families - yellow pages
- b) Employment, Learning, Skills and Community - cream pages
- c) Health - blue pages
- d) Safer - pink pages
- e) Environment and Urban Renewal - green pages
- f) Corporate Services - salmon pages
- g) Business Efficiency Board - white pages

**14. COMMITTEE MINUTES**

**SEE MINUTE BOOK**

- a) Development Control - pink pages
- b) Standards - white pages
- c) Regulatory - blue pages
- d) Appeals Panel - white pages
- e) Mayoral Committee - white pages

**REPORT TO:** Executive Board  
**DATE:** 9<sup>th</sup> February 2012  
**REPORTING OFFICER:** Strategic Director Policy & Resources  
**SUBJECT:** Directorate Plans 2012-2015  
**WARDS:** Borough wide

**1. PURPOSE OF THE REPORT**

- 1.1. To progress the adoption of Directorate Plans for the period 2012-15 as a basis for action and performance monitoring

**2. RECOMMENDED: That**

- 1) the draft Directorate Plans for the three Directorates be received; and**  
**2) the Chief Executive be authorised, in consultation with the Leader, to make any final amendments and adjustments that may be required.**

**3. SUPPORTING INFORMATION**

- 3.1 Each Directorate of the Council is required to develop a medium term business plan or Directorate Plan, in parallel with the budget, that is subject to annual review and refresh. Draft Service Objectives and Performance Indicators and targets have been developed by each Department and this information is included within Appendices to the Directorate Plan. These departmental objectives and measures will form the basis of the quarterly performance monitoring received by the Board during the future year.
- 3.2 Elected Members are engaged in the development of Directorate Plans primarily through individual Policy and Performance Boards. This engagement allows members to enter into a dialogue with Directorates concerning key themes and the development of specific improvement activities and targets for the coming year. Elected Members agreed at the November Policy and Performance Boards key priorities for development or improvement in 2012-15, for the various functional areas reporting to each Policy & Performance Board. These have now been reflected in draft plans available, which were considered at the January Policy and Performance Boards; with further comments made now included in the draft Directorate Plans.
- 3.3 The draft Directorate Plans are presented for approval, at the same time as the draft budget. This will ensure that decisions on Business Planning are linked to resource allocation. All Directorate plans will be considered by full Council at the 7th March 2012 meeting.

- 3.4 Information for each of the Directorates is contained within the following appendices which are available to view on the Members' shared area via the Intranet or by using the following link:-

<http://hbcweb.halton-borough.gov.uk/membersarea/>

Appendix 1 - Children and Enterprise

Appendix 2 - Communities

Appendix 3 - Policy and Resources

(A hard copy of these documents can be made available on request through Committee Services).

- 3.6 It should be noted that plans can only be finalised once budget decisions have been confirmed in March and that some target information may need to be reviewed as a result of final outturn data becoming available post March 2012.

#### **4.0 POLICY IMPLICATIONS**

- 4.1 Directorate Plans form a key part of the Council's policy framework and reflect known and anticipated legislative changes.
- 4.2 Elected member engagement is consistent with the new "Best value guidance", announced in September 2011, to consult with the representatives of a wide range of local persons.

#### **5.0 OTHER IMPLICATIONS**

- 5.1 Directorate Plans will identify resource implications. Following approval of the budget by the Council in March, 2012/13 budgetary statements will be inserted into Directorate Plans.

#### **6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

- 6.1 The business planning process is the means by which we ensure that the six corporate priorities are built into our business plans and priorities, and thence cascaded down into team plans and individual action plans.
- 6.2 From 2012/13 it is proposed that with the introduction of the new performance framework Departmental Reports now be available to members via the intranet. Also priority based reports for each respective Policy & Performance Board be introduced, containing details stated within the Appendices of the Directorate Business plans



## **7.0 RISK ANALYSIS**

- 7.1 The development of a Directorate Plan will allow the authority to both align its activities to the delivery of organisation and partnership priorities and to provide information to stakeholders as to the work of the Directorate over the coming year.

## **8.0 EQUALITY AND DIVERSITY ISSUES**

- 8.1 All Service Plans will be subject to an equality impact assessment and high priority implications will be summarised within the plans.

## **9.0 REASONS FOR DECISION**

- 9.1 To inform Executive Board on the process undertaken in developing Directorate Plans 2012-15 and thereby set the Executive Board's seal on policy and prioritisation decisions, embodied in plans for 2012-15.

## **10.0 ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

- 10.1 Draft versions of all three Directorate Plans were considered by Policy and Performance Boards and approved by the Strategic Directors, before being submitted to Executive Board.

## **11.0 IMPLEMENTATION DATE**

- 11.1 The Directorate Plans form the basis for action and performance monitoring from April 2012 and in the medium term – next three years.

## **12.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

- 12.1 There are no relevant background documents to this report.

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**REPORT TO:** Executive Board

**DATE:** 1st March 2012

**REPORTING OFFICER:** Strategic Director – Children and Enterprise

**SUBJECT:** Capital Programme – 2012/2013

**PORTFOLIO:** Children Young People and Families

**WARDS:** Boroughwide

### 1.0 PURPOSE OF THE REPORT

1.1 This report provides a summary of the schools capital programmes for 2012/13 for Children & Enterprise Directorate.

### 2.0 RECOMMENDATION:

- 1) To note the capital funding available for 2012/13.
- 2) To agree the proposals to be funded from Capital Maintenance and to note the position in respect of Basic Need.
- 3) To recommend submission to Full Council for approval of the Capital Programme 2012/13.
- 4) To agree that a further report be submitted to Executive Board to detail how the Basic Need capital funding will be spent in 2012/13.

### 3.0 SUPPORTING INFORMATION

3.1 In December 2011 the Department for Education announced the schools capital grant allocations for 2012/13 as outlined below.

<b>TYPE OF FUNDING</b>	<b>AMOUNT OF FUNDING (2012/13)</b>
Basic Need	£963,081
Capital Maintenance - LA maintained schools	£1,631,436
Capital Maintenance – VA maintained schools	£834,844
Devolved Formula Capital – LA maintained schools	£320,597
Devolved Formula Capital – VA maintained schools	£163,782

3.2 The types of capital funding that were announced by the Department for Education are as follows:

- 3.3 Basic Need capital funding is allocated to relative need for new places based on forecast data provided by LAs. The Basic Need funding is provided to local authorities to provide school places where needed in their area, in all categories of taxpayer-funded schools.
- 3.4 Capital Maintenance funding is allocated to ensure school buildings are properly maintained.
- 3.5 The Capital Maintenance – LA schools element is maintenance capital to local authorities to support the needs of the schools that they maintain and for Sure Start childrens centres in their area.
- 3.6 The Capital Maintenance -VA schools element is allocated to Chester Diocese, Shrewsbury Diocese and Liverpool Archdiocese to fund condition and suitability projects at VA schools.
- 3.7 Devolved Formula Capital – funding allocated directly to schools for their own use to address school building and ICT needs.
- 3.8 In addition to the schools capital grant funding outlined above a further £431,330 (to be confirmed) is allocated from CERA revenue funding as the local authority's contribution towards capital repair works in schools meaning total funding available for LA maintained schools is £2,062,766.
- 3.9 The Basic Need capital funding is allocated to the LA according to relative need for new places based on forecast data to address basic need pressures. At this stage it is not envisaged there are any Basic Need issues arising that are not already being addressed. A further detailed report will be submitted later in the year recommending proposals to be funded from this allocation. However the works at St Bedes Catholic Junior School (estimated cost £450,000) will be the first priority as works to increase capacity at St Bedes Catholic Infant School were approved in 2011/12.

#### **4.0 Overview of Schools Capital Programme 2012/13.**

- 4.1 It is proposed the Capital Maintenance and the CERA revenue allocation fund the following works. See Appendix 1.
  1. Property Services carry out an annual detailed survey of all schools which identify the key capital repairs requirements. This information is then captured on Property Services data base and from this a priority schedule of work is produced for all elements – building, mechanical and electrical.
  2. The detailed capital repairs programme for 2012/13 is identified in Appendix 2. The costs shown against each project are currently provisional. An allowance has also been made to cover the payment of retentions for works carried out from 2011/12 capital repairs programme. Based on these estimated costs it is likely that all projects can be funded in 2012/13.

3. A contingency fund is also retained from this fund. This is used to cover the costs of emergency and health and safety works that arise during the year of a capital nature as well as payment of retentions for major projects carried out in previous year.
4. Control of Asbestos Regulations 2006 – in 2009/10 the updating of all school asbestos surveys was carried out. In order to ensure a robust asbestos management system is in place it is necessary for each survey to be updated annually which will form part of the asbestos management plan for school buildings. An allowance has also been included for carrying out of remedial works arising from updating the asbestos surveys.
5. School Access Initiative projects – previously LAs received separate capital funding to address access issues within school buildings and the school curriculum. In order to continue with this work it is proposed to allocate funding which schools will be invited to bid for in April 2012 with bids assessed against agreed criteria.
6. Schools Modernisation projects – this is funding to enable schools to address suitability issues by modernising accommodation that will improve the delivery of teaching and learning. Community schools & childrens centres will be invited to bid for this funding with bids assessed against agreed criteria. Schools and childrens centres will be required to make a contribution towards the cost of works.
7. AutoCAD plans have been produced detailing the layout and schedule of accommodation for all school buildings and will enable their use by schools in relation to asset management. It will be necessary to maintain up to date plans for all schools where building improvement works have been carried out.
8. A rolling programme to address fire compartmentation in consortia type school buildings as a preventative measure against the risk of fire.

## **5.0 POLICY IMPLICATIONS**

- 5.1 The capital repairs element and the schools modernisation projects in the Capital Programme will allow the Council to continue to meet its requirement to enhance the learning environment through capital projects allocated in accordance with the priorities identified in the Asset Management Plan.

## **6.0 OTHER IMPLICATIONS**

- 6.1 The capital repairs programme will contribute to Halton's Carbon Management Programme by producing more energy efficient buildings.

## **7.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

- 7.1 Children and Young People in Halton. The Capital Programme will address condition and suitability issues within school buildings and will improve the learning environment for children and young people.

## **8.0 RISK ANALYSIS**

- 8.1 It is current practice for schools to contribute towards the cost of works. This consultation with schools has yet to take place therefore if schools are not willing to contribute these projects will not be carried out in 2012/13.
- 8.3 In the event that schools are unable to contribute towards the cost of the works when completed, an element of the contingency budget can be used for this purpose. The school would then be required to make their contribution in the next financial year.

## **9.0 EQUALITY AND DIVERSITY ISSUES**

- 9.1 The Access Initiative Programme provided funding to authorities to improve the accessibility of mainstream schools for pupils with disabilities and the wider community. Consideration to access issues is given in all building projects. The capacity of schools to meet the needs of children with more complex needs and disabilities will be developed further through building works at schools.

## **10.0 REASON FOR DECISION**

- 10.1 To deliver and implement the capital programmes.

## **11.0 ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

- 11.1 Not applicable.

## **12.0 IMPLEMENTATION DATE**

- 12.1 Capital Programmes to be implemented with effect from 1 April 2012.

**13.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

<b>Document</b>	<b>Place of Inspection</b>	<b>Contact Officer</b>
<b>Schools Capital Announcement – DCSF 13/12/2011</b>	<b>Children &amp; Enterprise</b>	<b>Phil Dove</b>

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**2012/13 Allocations**

<b>Budget</b>	<b>Allocation</b>
CERA Revenue Funding	£ 431,330
Capital Maintenance LA Maintained Schools	£ 1,631,436
<b>Total</b>	<b>£ 2,062,766</b>

<b>Budget</b>	<b>Allocation</b>
Basic Need	£ 963,081
<b>Total</b>	<b>£ 963,081</b>

**Planned Expenditure: CERA Revenue & Capital Maintenance**

<b>Description</b>	<b>Estimated Costs</b>	<b>Notes</b>
Asset Management Data	£ 20,000	Update CAD (Computer Aided Designs)
Fire Compartmentation	£ 20,000	Continuation of compartmentation works & survey of school buildings
Capital Repairs	£ 1,330,889	See Appendix 2 for details
Contingency	£ 81,877	Funding to cover costs of retentions from previous years projects, emergency capital and health and safety work.
Asbestos Management	£ 10,000	Updating surveys & remedial works
Access Initiative Projects	£ 100,000	Adaptations to school buildings
Schools modernisation projects	£ 500,000	To address suitability issues
<b>Total</b>	<b>£ 2,062,766</b>	

**Planned Expenditure: Basic Need**

<b>Description</b>	<b>Estimated Costs</b>	<b>Notes</b>
Basic Need Projects	£ 963,081	St Bedes Junior School. Other projects to be agreed.
<b>Estimated Total</b>	<b>£ 963,081</b>	

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## Appendix 2 - Capital Repairs Programme

School	Work	Amount (inc fees & contingency)
Astmoor Primary School	Gas supply	£17,250
Daresbury Primary School	Roofing	£11,518
Daresbury Primary School	Windows	£22,727
Farnworth CE Controlled Primary School	Boilers	£59,800
Farnworth CE Controlled Primary School	Pipes/rads (phase 2/2)	£116,150
Farnworth CE Controlled Primary School	Sub mains, DB's, final circuits (phase 2/3)	£78,200
Gorsewood Primary School	Sub mains, DB's, final circuits (phase 2/3)	£59,470
Hallwood Park Primary School and Nursery	Windows	£44,275
Moorfield Primary School	Sub mains, DB's, final circuits (phase 2&3)	£103,500
Moorfield Primary School	Windows	£40,000
Pewithall Primary School	Sub mains, DB's, final circuits (phase 2/2)	£82,800
Simms Cross Primary School	Sub mains, DB's, final circuits (phase 2/2)	£51,175
Westfield Primary School	Roofing	£12,650
Windmill Hill Primary School	Electrical	£9,000
West Bank Primary School	Windows	£50,000
Bankfield School	Heating	£55,200
Bankfield School	Sub mains, DB's, final circuits (phase 2/4)	£115,000
The Bridge School	Pipes/rads	£50,000
The Bridge School	Sub mains, DB's, final circuits	£17,250
Ashley	Sub mains, DB's, final circuits	£43,505
Brookfield	Boilers	£80,500
Chesnut Lodge	Electrical/heating	£104,237
Cavendish	Boilers	£57,500
Cavendish	Hot water	£21,182
	<b>Total for 12-13</b>	<b>£1,302,889</b>
Retention from 2011-12	various	£28,000
	<b>Grand Total</b>	<b>£1,330,889</b>





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**REPORT TO:** Executive Board

**DATE:** 29 March 2012

**REPORTING OFFICER:** Operational Director Legal & Democratic Services

**SUBJECT:** The Localism Act 2011 –  
The Amended Standards Regime

**PORTFOLIO:** Leader

**WARDS:** Borough wide

### **1.0 PURPOSE OF REPORT**

**1.1** To present revised Standards arrangements for consideration and approval by Executive Board and referral to Council

**2.0 RECOMMENDATIONS: That Council be recommended to adopt the proposals set out in Appendix 2.**

### **3.0 SUPPORTING INFORMATION**

The proposed changes are lengthy and complicated and for ease of reference, are contained in Appendix 1.

### **4.0 POLICY IMPLICATIONS**

The Localism Act 2011 comes into effect in so far as Standards are concerned on 1<sup>st</sup> July 2012. After that time, Councils will have to adopt a code of conduct and put in place arrangements for dealing with complaints.

### **5.0 OTHER IMPLICATIONS**

None

### **6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

**6.1 Children and Young People in Halton Borough Council**

None

**6.2 Employment, Learning and Skills in Halton Borough Council**

None

**6.3 A Healthy Halton**

None

**6.4 A Safer Halton**

None

**6.5 Halton's Urban Renewal**  
None

**7.0 RISK ANALYSIS**

The Council must as a matter of Law adopt a Code of Conduct and put in place arrangements for dealing with complaints. It must also advertise and appoint an Independent Person.

**8.0 EQUALITY AND DIVERSITY ISSUES**

The proposed arrangements are designed to enable the transparent and efficient handling of complaints relating to the Members Code of Conduct to the benefit of all sectors of the community.

**9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

The report has been prepared in consideration of legislation and appropriate guidance, available from Mark Reaney, Operational Director, Legal and Democratic Services, Municipal Building, Kingsway, Widnes.



### **1 The Localism Act 2011**

The Localism Act 2011 makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors. The date for implementation of these changes is 1 July 2012.

This report describes the changes and recommends the actions required for the Council to implement the new regime.

### **2 Duty to promote and maintain high standards of conduct**

The authority will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members.

### **3 Standards Committee**

The Act repeals Section 55 of the Local Government Act 2000, which provides for the current statutory Standards Committee. So, there will be no requirement for a Standards Committee. However, there will still be a need to deal with standards issues and case-work, so that it is likely to remain convenient to have a Standards Committee, it will be a normal Committee of Council, without the unique features which were conferred by the previous legislation. As a result –

3.1 The composition of the Committee will be governed by proportionality, unless Council votes otherwise with no member voting against. The present restriction to only one member of the Executive on the Standards Committee will cease to apply;

3.2 The current co-opted independent members will cease to hold office. The Act establishes for a new category of Independent Persons (see below) who must be consulted at various stages, but provides that the existing co-opted independent members cannot serve as Independent Persons for 5 years. The new Independent Persons may be invited to attend meetings of the Standards Committee, but are unlikely to be co-opted onto the Committee;

3.3 The Council will continue to have responsibility for dealing with standards complaints against elected and appointed members of Parish Councils, but the current Parish Council representatives cease to hold office. The Council can choose whether it want to continue to involve Parish Council representatives and, if so, how many Parish Council representatives it wants. The choice is between establishing a Standards Committee as a Committee of the Council, with co-opted but non-voting Parish Council representatives (which could then only make recommendations in respect of Parish Council members), or establishing a Standards Committee as a Joint Committee with the Parish Councils within the Borough (or as many of them as wish to participate) and having a set number of Parish Council representatives as voting members of the Committee (which could then take operative decisions in respect of members of Parish Councils, where the Parish Council had delegated such powers to such a Joint Standards Committee).

**Issue 1 – The Council must decide whether to set up a Standards Committee, and how it is to be composed.**

**Recommendation –**

- a. That the Council establish a Standards Committee comprising 9 elected members of the Council, appointed proportionally;**
- b. That the Leader of the Council be requested to nominate to the Committee only one member who is a member of the Executive;**
- c. That the Parish Councils be invited to nominate a maximum of 2 Parish Councillors to be co-opted as non-voting members of the Committee;**
- d. That the Standards Committee co-opt a maximum of 2 independent non – voting members**

#### **4 The Code of Conduct**

The current ten General Principles and Model Code of Conduct will be repealed, and members will no longer have to give an undertaking to comply with the Code of Conduct. However, the Council will be required to adopt a new Code of Conduct governing elected and co-opted members' conduct when acting in that capacity. The Council's new Code of Conduct must, viewed as a whole, be consistent with the following seven principles –

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

The Council has discretion as to what it includes within its new Code of Conduct, provided that it is consistent with the seven principles. However, regulations to be made under the Act will require the registration and disclosure of “Disclosable Pecuniary Interests” (DPIs), broadly equating to the current prejudicial interests. The provisions of the Act also require an authority's code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests. The result is that it is not possible yet to draft Code provisions which reflect the definition of DPIs which will appear in regulations, but it is possible to give an indicative view of what the Council might consider that it might be appropriate to include in the Code in respect of the totality of all interests, including DPIs, other pecuniary interests and non-pecuniary interests. Accordingly, it might be sensible at this stage to instruct the Monitoring Officer to prepare a draft Code which requires registration and disclosure for those interests which would today amount to personal and/or prejudicial interests, but only require withdrawal as required by the Act for DPIs. The Act prohibits members with a DPI from participating in authority business, and the Council can adopt a

Standing Order requiring members to withdraw from the meeting room. So the Council's new Code of Conduct will have to deal with the following matters –

- General conduct rules, to give effect to the seven principles. This corresponds broadly with Paragraphs 3 to 7 of the current Code of Conduct. In practise, the easiest course of action would be simply to re-adopt Paragraphs 3 to 7 of the existing Code of Conduct. The Council can amend its Code of Conduct subsequently if the need arises; and
- Registration and disclosure of interests other than DPIs – effectively, replacing the current personal interests provisions. The Act requires that the Code contains “appropriate” provisions for this purpose, but, until the regulations are published, defining DPIs, it is difficult to suggest what additional disclosure would be appropriate.

## **Issue 2 – The Council has to decide what it will include in its Code of Conduct**

### **Recommendation -**

**a. That the Monitoring Officer be instructed to prepare and present to Council for adoption a draft Code of Conduct. That draft Code should –**

**i. equate to Paragraphs 3 to 7 of the current Code of Conduct applied to member conduct in the capacity of an elected or co-opted member of the Council or its Committees and Sub-Committees; and**

**ii. require registration and disclosure of interests which would today constitute personal and/or prejudicial interests, but only require withdrawal as required by the Act in relation to Disclosable Pecuniary Interests.**

**b. That, when the Disclosable Pecuniary Interests Regulations are published, the Monitoring Officer, after consultation with the Chair of Standards Committee and the Leader of the Council, add to that draft Code provisions which he considers to be appropriate for the registration and disclosure of interests other than DPIs.**

## **5 Dealing with Misconduct Complaints**

### **5.1 “Arrangements”**

The Act requires that the Council adopt “arrangements” for dealing with complaints of breach of Code of Conduct both by Council members and by Parish Council members, and such complaints can only be dealt with in accordance with such “arrangements”. So the “arrangements” must set out in

some detail the process for dealing with complaints of misconduct and the actions which may be taken against a member who is found to have failed to comply with the relevant Code of Conduct.

The advantage is that the Act repeals the requirements for separate Referrals, Review and hearings Sub-Committees, and enables the Council to establish its own process, which can include delegation of decisions on complaints. Indeed, as the statutory provisions no longer give the Standards Committee or Monitoring Officer special powers to deal with complaints, it is necessary for Council to delegate appropriate powers to any Standards Committee and to the Monitoring Officer.

## 5.2 Decision whether to investigate a complaint

In practice, the Standards for England guidance on initial assessment of complaints provided a reasonably robust basis for filtering out trivial and tit-for-tat complaints. It is sensible to take advantage of the new flexibility to delegate to the Monitoring Officer the initial decision on whether a complaint requires investigation, subject to consultation with the Independent Person and the ability to refer particular complaints to the Standards Committee where he feels that it would be inappropriate for him to take a decision on it, for example where he has previously advised the member on the matter or the complaint is particularly sensitive. These arrangements would also offer the opportunity for the Monitoring Officer to seek to resolve a complaint informally, before taking a decision on whether the complaint merits formal investigation. If this function is delegated to the Monitoring Officer, it is right that he should be accountable for its discharge. For this purpose, it would be appropriate that he make a quarterly report to Standards Committee, which would enable him to report on the number and nature of complaints received and draw to the Committee's attention areas where training or other action might avoid further complaints, and keep the Committee advised of progress on investigations and costs.

## 5.3 "No Breach of Code" finding on investigation

Where a formal investigation finds no evidence of failure to comply with the Code of Conduct, the current requirement is that this is reported to Referrals Sub-Committee and the Sub-Committee take the decision to take no further action. In practice, it would be reasonable to delegate this decision to the Monitoring Officer, but with the power to refer a matter to Standards Committee if he feels appropriate. It would be sensible if copies of all investigation reports were provided to the Independent Person to enable him to get an overview of current issues and pressures, and that the Monitoring Officer provide a summary report of each such investigation to Standards Committee for information.

## 5.4 "Breach of Code" finding on investigation

Where a formal investigation finds evidence of failure to comply with the Code of Conduct, there may yet be an opportunity for local resolution, avoiding the

necessity of a local hearing. Sometimes the investigation report can cause a member to recognise that his/her conduct was at least capable of giving offence, or identify other appropriate remedial action, and the complainant may be satisfied by recognition of fault and an apology or other remedial action. However, it is suggested that at this stage it would only be appropriate for the Monitoring Officer to agree a local resolution after consultation with the Independent Person and where the complainant is satisfied with the outcome, and subject to summary report for information to the Standards Committee. In all other cases, where the formal investigation finds evidence of a failure to comply with the Code of Conduct, it would be necessary for the Standards Committee (in practice a Hearings Panel constituted as a Sub-Committee of Standards Committee) to hold a hearing at which the member against whom the complaint has been made can respond to the investigation report, and the Hearing Panel can determine whether the member did fail to comply with the Code of Conduct and what action, if any, is appropriate as a result.

#### 5.5 Action in response to a Hearing finding of failure to comply with Code

The Act does not give the Council or its Standards Committee any powers to impose sanctions such as suspension or requirements for training or an apology on members. So, where a failure to comply with the Code of Conduct is found, the range of actions which the authority can take in respect of the member is limited and must be directed to securing the continuing ability of the authority to continue to discharge its functions effectively, rather than “punishing” the member concerned. In practice, this might include the following –

5.5.1 Reporting its findings to Council *[or to the Parish Council]* for information;

5.5.2 Recommending to the member’s Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;

5.5.3 Recommending to the Leader of the Council that the member be removed from the Executive, or removed from particular Portfolio responsibilities;

5.5.4 Instructing the Monitoring Officer to *[or recommend that the Parish Council]* arrange training for the member;

5.5.5 Removing *[or recommend to the Parish Council that the member be removed]* from all outside appointments to which he/she has been appointed or nominated by the authority *[or by the Parish Council]*;

5.5.6 Withdrawing *[or recommend to the Parish Council that it withdraws]* facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or

5.5.7 Excluding *[or recommend that the Parish Council exclude]* the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

There is a particular difficulty in respect of Parish Councils, as the Localism Act gives the Standards Committee no power to do any more in respect of a member of a Parish Council than make a recommendation to the Parish Council on action to be taken in respect of the member. Parish Councils will be under no obligation to accept any such recommendation. The only way round this would be to constitute the Standards Committee and Hearings Panels as a Joint Committee and Joint Sub- Committees with the Parish Councils, and seek the delegation of powers from Parish Council to the Hearings Panels, so that the Hearings Panels can effectively take decisions on action on behalf of the particular Parish Council.

### 5.6 Appeals

There is no requirement to put in place any appeals mechanism against such decisions. The decision would be open to judicial review by the High Court if it was patently unreasonable, or if it were taken improperly, or if it sought to impose a sanction which the authority had no power to impose.

**Issue 3 – The Council has to decide what “arrangements” it will adopt for dealing with standards complaints and for taking action where a member is found to have failed to comply with the Code of Conduct.**

**Recommendation – That the Monitoring Officer be instructed to prepare and submit to Council for approval “arrangements” as follows –**

- a. That the Monitoring Officer be appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct;**
- b. That the Monitoring Officer be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation. He be instructed to seek resolution of complaints without formal investigation wherever practicable, and that he be given discretion to refer decisions on investigation to the Standards Committee where he feels that it is inappropriate for him to take the decision, and to report quarterly to Standards Committee on the discharge of this function;**
- c. Where the investigation finds no evidence of failure to comply with the Code of Conduct, the Monitoring Officer be instructed to close the matter, providing a copy of the report and findings of the investigation to the complainant and to the member concerned, and to the**

Independent Person, and reporting the findings to the Standards Committee for information;

d. Where the investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer in consultation with the Independent Person be authorised to seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to Standards Committee. Where such local resolution is not appropriate or not possible, he is to report the investigation findings to a Hearings Panel of the Standards Committee for local hearing;

e. That Council delegate to Hearings Panels such of its powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct, such actions to include –

§ Reporting its findings to Council *[or to the Parish Council]* for information;

§ Recommending to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;

§ Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;

§ Instructing the Monitoring Officer to *[or recommend that the Parish Council]* arrange training for the member;

§ Removing *[or recommend to the Parish Council that the member be removed]* from all outside appointments to which he/she has been appointed or nominated by the authority *[or by the Parish Council]*; § Withdrawing *[or recommend to the Parish Council that it withdraws]* facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or

§ Excluding *[or recommend that the Parish Council exclude]* the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

Recommendation – That a meeting be arranged between the Chair of Standards Committee and the Group Leaders for the Council and representatives of Parish Councils to discuss how the new system can best operate. 6 Independent Person(s)

The “arrangements” adopted by Council must include provision for the appointment by Council of at least one Independent Person.

#### 6.1 “Independence”

The Independent Person must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of all members of the Council (not just of those present and voting).

A person is considered not to be “independent” if –

6.1.1 he is, or has been within the last 5 years, an elected or co-opted member or an officer of the Council or of any of the Parish Councils within its area;

6.1.2 he is, or has been within the last 5 years, an elected or co-opted member of any Committee or Sub-Committee of the Council or of any of the Parish Councils within its area (which would preclude any of the current co-opted independent members of Standards Committee from being appointed as an Independent Person); or

6.1.3 he is a relative or close friend of a current elected or co-opted member or officer of the Council or any Parish Council within its area, or of any elected or cop-opted member of any Committee or Sub-Committee of such Council.

For this purpose, “relative” comprises –

- (a) the candidate’s spouse or civil partner;
- (b) any person with whom the candidate is living as if they are spouses or civil partners;
- (c) the candidate’s grandparent;
- (d) any person who is a lineal descendent of the candidate’s grandparent;
- (e) a parent, brother, sister or child of anyone in Paragraphs (a) or (b);
- (f) the spouse or civil partner of anyone within Paragraphs (c), (d) or (e); or
- (g) any person living with a person within Paragraphs (c), (d) or (e) as if they were spouse or civil partner to that person.

#### 6.2 Functions of the Independent Person

The functions of the Independent Person(s) are –

- They must be consulted by the authority before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member (this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);
- They may be consulted by the authority in respect of a standards complaint at any other stage; and



· They may be consulted by a member or co-opted member of the Council or of a Parish Council against whom a complaint has been made. This causes some problems, as it would be inappropriate for an Independent Person who has been consulted by the member against whom the complaint has been made, and who might as a result be regarded as prejudiced on the matter, to be involved in the determination of that complaint.

### 6.3 How many Independent Persons?

The Act gives discretion to appoint one or more Independent Persons, but provides that each Independent Person must be consulted before any decision is taken on a complaint which has been investigated. Accordingly, there would appear to be little advantage in appointing more than one Independent Person, provided that a couple of reserve candidates are retained and can be activated at short notice, without the need for re-advertisement, in the event that the Independent Person is no longer able to discharge the function.

### 6.4 Remuneration

As the Independent Person is not a member of the authority or of its Committees or Sub-Committees, the remuneration of the Independent Person no longer comes within the scheme of members' allowances, and can therefore be determined without reference to the Independent Remuneration Panel.

In comparison to the current Chair of Standards Committee, the role of Independent Person is likely to be less onerous. He/she is likely to be invited to attend all meetings of the Standards Committee and Hearings Panels, but not to be a formal member of the Committee or Panel (he/she could be co-opted as a non-voting member but cannot chair as the Chair must exercise a second or casting vote). He/she will need to be available to be consulted by members against whom a complaint has been made, although it is unclear what assistance he/she could offer. Where he/she has been so consulted, he/she would be unable to be involved in the determination of that complaint. This report suggests that the Independent Person also be involved in the local resolution of complaints and in the grant of dispensations. However, it would be appropriate to undertake a proper review of the function before setting the remuneration.

## **Issue 4 – How many Independent Persons are required?**

### **Recommendation –**

**a. That the Monitoring Officer, in consultation with the Chair of Standards Committee and the Leader of the Council, and with the advice of the Head of HR, be authorised to set the initial allowances and expenses for the Independent Person and any Reserve Independent**

**Persons, and this function subsequently be delegated to the Standards Committee**

**b. That the Monitoring Officer advertise a vacancy of the appointment of 1 Independent Person and 2 Reserve Independent Persons**

**c. That a Committee comprising the Chair and three other members of Standards Committee be set up to short-list and interview candidates, and to make a recommendation to Council for appointment.**

## **7 The Register of Members' Interests**

### 7.1 The register of members' interests

The Localism Act abolishes the concepts of personal and prejudicial interests. Instead, regulations will define "Disclosable Pecuniary Interests" (DPIs). The Monitoring Officer is required to maintain a register of interests, which must be available for inspection and available on the Council's website. The Monitoring Officer is also responsible for maintaining the register for Parish Councils, which also have to be open for inspection at the Council offices and on the District Council's website.

At present we do not know what Disclosable Pecuniary Interests will comprise, but they are likely to be broadly equivalent to the current prejudicial interests. The intention was to simplify the registration requirement, but in fact the Act extends the requirement for registration to cover not just the member's own interests, but also those of the member's spouse or civil partner, or someone living with the member in a similar capacity.

The provisions of the Act in respect of the Code of Conduct require an authority's code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests. The Monitoring Officer is required by the Act to set up and maintain registers of interest for each Parish Council, available for inspection at the Borough Council offices and on the Council's website and, where the Parish Council has a website, provide the Parish Council with the information required to enable the Parish Council to put the current register on its own website.

### 7.2 Registration on election or co-option

Each elected or co-opted member must register all DPIs within 28 days of becoming a member. Failure to register is made a criminal offence, but would not prevent the member from acting as a member. In so far as the Code of Conduct which the Council adopts requires registration of other interests, failure to do so would not be a criminal offence, but merely a failure to comply with the Code of Conduct. There is no continuing requirement for a member to keep the register up to date, except on re-election or re-appointment, but it is likely that members will register new interests from time to time, as this avoids the need for disclosure in meetings. When additional notifications are given,

the Monitoring Officer has to ensure that they are entered into the register. The preparation and operation of the register, not just for this authority but also for each Parish Council, is likely to be a considerable administrative task, especially where different Parish Councils adopt different Code requirements for registration and disclosure in respect of interests other than DPIs. There is no provision for the Council to recover any costs from Parish Councils.

## **Issue 5 – Preparation of the Registers**

### **Recommendation –**

- a. That the Monitoring Officer prepare and maintain a new register of members interests to comply with the requirements of the Act and of the Council’s Code of Conduct, once adopted, and ensure that it is available for inspection as required by the Act;**
- b. That the Monitoring Officer ensure that all members are informed of their duty to register interests;**
- c. That the Monitoring Officer prepare and maintain new registers of members’ interests for each Parish Council to comply with the Act and any Code of Conduct adopted by each Parish Council and ensure that it is available for inspection as required by the Act; and**
- d. That the Monitoring Officer arrange to inform and train Parish Clerks on the new registration arrangements.**

## **8 Disclosure of Interests and Withdrawal from Meetings**

As set out above, DPIs are broadly equivalent to prejudicial interests, but with important differences. So –

8.1 The duty to disclose and withdraw arises whenever a member attends any meeting of Council, a committee or sub-committee, or of Executive Board or an Executive committee, and is aware that he/she has a DPI in any matter being considered at the meeting. So it applies even if the member would be absent from that part of the meeting where the matter in question is under consideration.

8.2 Where these conditions are met, the member must disclose the interest to the meeting (i.e. declare the existence and nature of the interest). However, in a change from the current requirements, the member does not have to make such a disclosure if he/she has already registered the DPI, or at least sent off a request to the Monitoring Officer to register it (a “pending notification”). So, members of the public attending the meeting will in future need to read the register of members’ interests, as registered interests will no longer be disclosed at the meeting.

8.3 Where the member does make a disclosure of a DPI, he/she must then notify it to the Monitoring Officer within the next 28 days, so that it can go on the register of interests.

8.4 If a member has a DPI in any matter, he/she must not –

8.4.1 Participate in any discussion of the matter at the meeting. The Act does not define “discussion”, but this would appear to preclude making representations as currently permitted under paragraph 12(2) of the model Code of Conduct; or

8.4.2 Participate in any vote on the matter, unless he/she has obtained a dispensation allowing him/her to speak and/or vote.

8.5 Failure to comply with the requirements (paragraphs 8.2, 8.3 or 8.4) becomes a criminal offence, rather than leading to sanctions;

8.6 The Council’s Code of Conduct must make “appropriate” provisions for disclosure and withdrawal for interests other than DPIs, but failure to comply with these requirements would be a breach of Code of Conduct but not a criminal offence.

8.7 The requirement to withdraw from the meeting room can be covered by Standing Orders, which would apply not just to Council, Committees and Sub-Committees, but can apply also to Executive Board and Executive Committee meetings, so that failure to comply would be neither a criminal offence nor a breach of Code of Conduct, although the meeting could vote to exclude the member.

### **Issue 6 – What Standing Order should the Council adopt in respect of withdrawal from meetings for interests?**

**Recommendation – The Monitoring Officer be instructed to recommend to Council a Standing Order which equates to the current Code of conduct requirement that a member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a DPI, except where he is permitted to remain as a result of the grant of a dispensation.**

### **9 Disclosure and Withdrawal in respect of matters to be determined by a Single Member**

9.1 Matters can be decided by a single member acting alone where the member is a Cabinet Member acting under Portfolio powers, or where the member is a Ward Councillor and the Council chose to delegate powers to Ward Councillors.

9.2 The Act provides that, when a member becomes aware that he/she will have to deal with a matter and that he/she has a DPI in that matter –

9.2.1 Unless the DPI is already entered in the register of members' interests or is subject to a "pending notification", he/she has 28 days to notify the Monitoring Officer that he/she has such a DPI; and

9.2.2 He/she must take no action in respect of that matter other than to refer it another person or body to take the decision.

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9.3 Standing Orders can then provide for the exclusion of the member from any meeting while any discussion or vote takes place on the matter.

9.4 Note that the Act here effectively removes the rights of a member with a prejudicial interest to make representations as a member of the public under Paragraph 12(2) of the current Code of Conduct

**Issue 7 – In what circumstances should Standing Orders exclude single members from attending meetings while the matter in which they have a DPI is being discussed or voted upon?**

**Recommendation – The Monitoring Officer be instructed to recommend to Council a Standing Order which equates to the current Code of conduct requirement that a member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a DPI, except where he is permitted to remain as a result of the grant of a dispensation.**

## **10 Sensitive Interests**

The Act effectively re-enacts the existing Code of Conduct provisions on Sensitive Interests. So, where a member is concerned that disclosure of the detail of an interest (either a DPI or any other interest which he/she would be required to disclose) at a meeting or on the register of members' interests would lead to the member or a person connected with him/her being subject to violence or intimidation, he/she may request the Monitoring Officer to agree that the interest is a "sensitive interest". If the Monitoring Officer agrees, the member then merely has to disclose the existence of an interest, rather than the detail of it, at a meeting, and the Monitoring Officer can exclude the detail of the interest from the published version of the register of members' interests.

## **11 Dispensations**

11.1 The provisions on dispensations are significantly changed by the Localism Act.

11.2 At present, a member who has a prejudicial interest may apply to Standards Committee for a dispensation on two grounds –

11.2.1 That at least half of the members of a decision-making body have prejudicial interests (this ground is of little use as it is normally only at the meeting that it is realised how many members have prejudicial interests in the matter, by which time it is too late to convene a meeting of Standards Committee); and

11.2.2 That so many members of one political party have prejudicial interests in the matter that it will upset the result of the vote on the matter (this ground would require that the members concerned were entirely predetermined, in which case the grant of a dispensation to allow them to vote would be inappropriate).

11.3 In future, a dispensation will be able to be granted in the following circumstances –

11.3.1 That so many members of the decision-making body have DPIs in a matter that it would “impede the transaction of the business”. In practice this means that the decision-making body would be inquorate as a result;

11.3.2 That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter. This assumes that members are predetermined to vote on party lines on the matter, in which case, it would be inappropriate to grant a dispensation to enable them to participate;

11.3.3 That the authority considers that the dispensation is in the interests of persons living in the authority’s area;

11.3.4 That, without a dispensation, no member of the Executive would be able to participate on this matter (so, the assumption is that, where the Executive would be inquorate as a result, the matter can then be dealt with by an individual Executive Member. It will be necessary to make provision in the scheme of delegations from the Leader to cover this, admittedly unlikely, eventuality); or

11.3.5 That the authority considers that it is otherwise appropriate to grant a dispensation.

11.4 Any grant of a dispensation must specify how long it lasts for, up to a maximum of 4 years.

11.5 The next significant change is that, where the Local Government Act 2000 required that dispensations be granted by Standards Committee, the Localism Act gives discretion for this power to be delegated to Standards Committee or a Sub-Committee, or to the Monitoring Officer. Grounds 11.3.1 and 11.3.4 are pretty objective, so it may be appropriate to delegate dispensations on these grounds to the Monitoring Officer, with an appeal to

the Standards Committee, thus enabling dispensations to be granted “at the door of the meeting”. Grounds 11.3.2, 11.3.3 and 11.2.5 are rather more objective and so it may be appropriate that the discretion to grant dispensations on these grounds remains with Standards Committee, after consultation with the Independent Person.

**Issue 8 – What arrangements would be appropriate for granting dispensations?**

**Recommendation – That Council delegate the power to grant dispensations –**

- a. on Grounds set out in Paragraphs 11.3.1 and 11.3.4 of this report to the Monitoring Officer with an appeal to Standards Committee, and**
- b. on Grounds 11.3.2, 11.3.3 and 11.3.5 to the Standards Committee, after consultation with the Independent Person.**

**12 Transitional Arrangements**

Regulations under the Localism Act will provide for –

- a. transfer of Standards for England cases to local authorities following the abolition of Standards for England;

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- b. a transitional period for the determination of any outstanding complaints under the current Code of Conduct. The Government has stated that it will allow 2 months for such determination, but it is to be hoped that the final Regulations allow a little longer;

- c. removal of the power of suspension from the start of the transitional period; and

- d. removal of the right of appeal to the First Tier Tribunal from the start of the transitional period

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It is recommended as follows

- (a) That the Council establish a Standards Committee comprising nine elected Members of the Council, appointed proportionally;
- (b) That the Leader of the Council be requested to nominate to the Committee only one member who is a member of the Executive;
- (c) That the Parish Councils be invited to nominate a maximum of 2 Parish Councillors to be co-opted as non-voting members of the Committee;
- (d) That the Standards Committee co-opt a maximum of 2 independent non – voting members.
- (e) That the Monitoring Officer be instructed to prepare and present to Council for adoption a draft Code of Conduct. That draft Code should
  - i) equate to Paragraphs 3 to 7 of the current Code of Conduct applied to member conduct in the capacity of an elected or co-opted member of the Council or its Committees and Sub-Committees; and
  - ii) require registration and disclosure of interests which would today constitute personal and/or prejudicial interests, but only require withdrawal as required by the Act in relation to Disclosable Pecuniary Interests.
- (f) That, when the Disclosable Pecuniary Interests Regulations are published, the Monitoring Officer, after consultation with the Chair of Standards Committee and the Leader of the Council, add to that draft Code, provisions which he considers to be appropriate for the registration and disclosure of interests other than DPIs.
- (g) That the Monitoring Officer be instructed to prepare and submit to Council for approval “arrangements” summarised as follows and contained in Appendix 3 to this report –
  - i) That the Monitoring Officer be appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct;
  - ii) That the Monitoring Officer be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation. He be instructed

to seek resolution of complaints without formal investigation wherever practicable, and that he be given discretion to refer decisions on investigation to the Standards Committee where he feels that it is inappropriate for him to take the decision, and to report quarterly to Standards Committee on the discharge of this function;

- iii) Where the investigation finds no evidence of failure to comply with the Code of Conduct, the Monitoring Officer be instructed to close the matter, providing a copy of the report and findings of the investigation to the complainant and to the member concerned, and to the Independent Person, and reporting the findings to the Standards Committee for information;
- iv) Where the investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer in consultation with the Independent Person be authorised to seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to Standards Committee. Where such local resolution is not appropriate or not possible, he is to report the investigation findings to a Hearings Panel of the Standards Committee for local hearing;
- v) That Council delegate to Hearings Panels such of its powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct, such actions to include –
  - Reporting its findings to Council [or to the Parish Council] for information;
  - Recommending to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
  - Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
  - Instructing the Monitoring Officer to [or recommend that the Parish Council] arrange training for the member;
  - Removing [or recommend to the Parish Council that the member be removed] from all outside appointments to which he/she has been appointed or nominated by the authority [or by the Parish Council];  
Withdrawing [or recommend to the Parish Council that it withdraws] facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or

- Excluding [or recommend that the Parish Council exclude] the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

That a meeting be arranged between the Chair of Standards Committee and the Group Leaders for the Council and representatives of Parish Councils to discuss how the new system can best operate.

- (h) That the Monitoring Officer, in consultation with the Chair of Standards Committee and the Leader of the Council, and with the advice of the Head of HR, be authorised to set the initial allowances and expenses for the Independent Person and any Reserve Independent Persons, and this function subsequently be delegated to the Standards Committee
- (i) That the Monitoring Officer advertises a vacancy of the appointment of 1 Independent Person and 2 Reserve Independent Persons
- (j) That a Committee comprising the Chair and three other members of Standards Committee be set up to short-list and interview candidates, and to make a recommendation to Council for appointment.
- (k) That the Monitoring Officer prepare and maintain a new register of members interests to comply with the requirements of the Act and of the Council's Code of Conduct, once adopted, and ensure that it is available for inspection as required by the Act;
- (l) That the Monitoring Officer ensure that all members are informed of their duty to register interests;
- (m) That the Monitoring Officer prepare and maintain new registers of members' interests for each Parish Council to comply with the Act and any Code of Conduct adopted by each Parish Council and ensure that it is available for inspection as required by the Act; and
- (n) That the Monitoring Officer arrange to inform and train Parish Clerks on the new registration arrangements.
- (o) The Monitoring Officer be instructed to recommend to Council a Standing Order which equates to the current Code of conduct requirement that a member must withdraw from the meeting room including from the public gallery, during the whole of consideration of any item of business in which he/she has a DPI, except where he or she is permitted to remain as a result of the grant of a dispensation.
- (p) The Monitoring Officer be instructed to recommend to Council a Standing Order which equates to the current Code of conduct requirement that a member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which

he/she has a DPI, except where he or she is permitted to remain as a result of the grant of a dispensation.

(q) That Council delegate the power to grant dispensations –

(i) on Grounds set out in Paragraphs 11.3.1 and 11.3.4 of this report to the Monitoring Officer with an appeal to Standards Committee, and

(ii) on Grounds 11.3.2, 11.3.3 and 11.3.5 to the Standards Committee, after consultation with the Independent Person.

# Model Arrangements for dealing with standards allegations under the Localism Act 2011

## 1 Context

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of this authority *[or of a parish council within its area]* has failed to comply with the authority’s Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the authority’s Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the authority *[or of a parish council within the authority’s area]*, or of a Committee or Sub-Committee of the authority, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member *[or a member or co-opted member of a parish council]* against whom an allegation as been made.

## 2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is attached as Appendix One to these arrangements and available for inspection on the authority’s website and on request from Reception at the Municipal Building Widnes.

*[Each parish council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council’s Code of Conduct, you should inspect any website operated by the parish council and request the parish clerk to allow you to inspect the parish council’s Code of Conduct.]*

## 3 Making a complaint

If you wish to make a complaint, please write or email to –  
“The Monitoring Officer  
Halton Borough Council  
Municipal Building  
Kingsway  
Widnes  
WA8 7QF”

Or –

[mark.reaney@halton.gov.uk](mailto:mark.reaney@halton.gov.uk)

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the authority's website, next to the Code of Conduct, and is available on request from Reception at the Municipal Building.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

#### **4 Will your complaint be investigated?**

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision. Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. *[Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council or your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.]*

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

### **5 How is the investigation conducted?**

The Council has adopted a procedure for the investigation of misconduct complaints. If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

### **6 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned *[and to the Parish Council, where your complaint relates to a Parish Councillor]*, notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.

## **7 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

### 7.1 Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee *[and the Parish Council]* for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will refer the matter for a local hearing.

### 7.2 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for local hearings,

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

If the Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of



Conduct, and so dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter..

## **8 What action can the Hearings Panel take where a member has failed to comply with the Code of Conduct?**

The Council has delegated to the Hearings Panel such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may –

- 8.1 Publish its findings in respect of the member's conduct;
- 8.2 Report its findings to Council [*or to the Parish Council*] for information;
- 8.3 Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.4 Recommend to the Leader of the Council that the member be removed from the Executive, or removed from particular Portfolio responsibilities;
- 8.5 Instruct the Monitoring Officer to [*or recommend that the Parish Council*] arrange training for the member;
- 8.6 Remove [*or recommend to the Parish Council that the member be removed*] from all outside appointments to which he/she has been appointed or nominated by the authority [*or by the Parish Council*];
- 8.7 Withdraw [*or recommend to the Parish Council that it withdraws*] facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 8.8 Exclude [*or recommend that the Parish Council exclude*] the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

## **9 What happens at the end of the hearing?**

At the end of the hearing, the Chair will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct

and as to any actions which the Hearings Panel resolves to take. As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the member *[and to the Parish Council]*, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

## **10 Who are the Hearings Panel?**

The Hearings Panel is a Sub-Committee of the Council's Standards Committee. The Standards Committee has decided that it will comprise a maximum of three members of the Council, including not more than one member of the authority's Executive and comprising members drawn from at least 2 different political parties. Subject to those requirements, it is appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Council.

The Independent Person is invited to attend all meetings of the Hearings Panel and his views are sought and taken into consideration before the Hearings Panel takes any decision on whether the member's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

## **11 Who is the Independent Person?**

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

A person cannot be "independent" if he/she –

11.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;

11.2 *[Is or has been within the past 5 years, a member, co-opted member or officer of a parish council within the authority's area], or*

11.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, "relative" means –

11.3.1 Spouse or civil partner;

11.3.2 Living with the other person as husband and wife or as if they were civil partners;

11.3.3 Grandparent of the other person;

11.3.4 A lineal descendent of a grandparent of the other person;

11.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;

11.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or

11.3.5; or

11.3.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

## **12 Revision of these arrangements**

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

## **13 Appeals**

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

Appendix One The authority's Code of Conduct

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**REPORT TO:** Executive Board

**DATE:** 29<sup>th</sup> March 2012

**REPORTING OFFICER:** Strategic Director - Communities

**PORTFOLIO:** Health and Adults

**SUBJECT:** Bridgewater Community Healthcare NHS Trust

**WARD(S):** Borough-wide

## **1.0 PURPOSE OF THE REPORT**

1.1 To outline for Executive Board members, Bridgewater Community Healthcare NHS Trust's proposals to become a Foundation Trust (FT).

## **2.0 RECOMMENDATION:**

- i) **The Council supports**
  - a. **the proposal, submitted by Bridgewater Community Healthcare NHS Trust, to become a FT.**
  - b. **the membership arrangements proposed by Bridgewater Community Healthcare NHS Trust. (see paragraph 3.5)**
  - c. **the public membership constituencies proposed by Bridgewater Community Healthcare NHS Trust. (see paragraph 3.6.1)**
  - d. **the staff membership proposals proposed by Bridgewater Community Healthcare NHS Trust. (see paragraph 3.6.2)**
  - e. **the Governors structure and numbers proposed by Bridgewater Community Healthcare NHS Trust. (see paragraph 3.7)**
- ii) **That the Council Executive Board Portfolio Holder for Health be the nominated as the Halton Governor Representative should Bridgewater Community Healthcare NHS Trust achieve FT status.**
- iii) **The Council will encourage Halton residents to take up the opportunity to become Members of the proposed Bridgewater Community Healthcare NHS FT.**

## **3.0 SUPPORTING INFORMATION**

3.1 Bridgewater provides NHS services to a population of 1,015,370 people living in Ashton, Leigh and Wigan, Halton & St Helens, Trafford and Warrington. They also provide specialist community dental services in these areas plus Bolton, Stockport, Tameside & Glossop and Western Cheshire.

- 3.2 Bridgewater Community Healthcare NHS Trust is aiming to become a Foundation Trust by April 2013 and as such is currently seeking views from patients and the public on its plans for becoming a FT. The FT will have unique governance arrangements which will include **Members** (public, patients and staff) and a **Council of Governors** (elected by members or nominated by partner organisations).
- 3.3 Patients, local people and partner organisations have been invited to express their views on the proposals for becoming a FT, including the governance arrangements during a 12 week consultation period, ending on April 30.
- 3.4 Kate Fallon, Chief Executive and Harry Holden, Chairman of Bridgewater Community Healthcare NHS Trust attended the Health Policy & Performance Board on 6<sup>th</sup> March to outline the proposals to become a FT.

### **Summary of Proposals**

- 3.5 **Membership** – Bridgewater’s proposals outline that the membership base will reflect the communities that Bridgewater serves. It will be made up of patients, their carers and families, residents, its members of the local communities and Bridgewater’s staff. Bridgewater is proposing that to become a member will be free and will be open to anyone aged 14 or above, and that all members would be able to vote in governor elections from the age of 14. NB. Members aged 16 years or above, would be able to stand for election as a governor.

Bridgewater are also proposing three levels of membership :-

- **Level 1** - Receive information about the Trust and issues affecting local health services at regular intervals, including invitations to events including the Annual Members’ Meeting and Annual General Meeting, receive voting papers for the elections to the Council of Governors.
- **Level 2** - Members will receive the same information as Level 1 members and receive invitations to participate in surveys and discussion groups, which will allow members to comment on service developments and the Trust’s future strategic plans.
- **Level 3** - Members will receive the same information as Level 1 and 2 members and will also receive more detailed information about governor vacancies, how to stand for election as a governor and receive invites to events for potential governors.

- 3.6 **Membership Constituency** – Bridgewater are proposing two membership constituency categories :-

3.6.1 **Public Membership** – These will be divided into sub-constituencies which are based on local authority boundaries, Primary Care Trust boundaries and the operational divisions within

the Trust, as outlined below :-

- Ashton, Leigh and Wigan - comprising the Borough of Wigan and mirroring the area covered by Ashton, Leigh and Wigan Division of the Trust
- Halton - comprising the Borough of Halton and is part of the area covered by the Halton & St Helens Division of the Trust
- St Helens - comprising the Borough of St Helens and is part of the area covered by the Halton & St Helens Division of the Trust
- Warrington - comprising the Borough of Warrington and mirroring the Warrington Division of the Trust
- Trafford - comprising the Borough of Trafford and mirroring the Trafford Division of the Trust
- Community Dental - for people receiving specialist dental treatment in the boroughs of Bolton, Stockport and the PCT areas of Tameside & Glossop and West Cheshire
- Rest of England - comprises all other parts of England and will ensure that carers, or relatives of Bridgewater's patients can also have a say on services

**3.6.2 Staff Membership** – It is proposed that eligibility for staff membership will be open to any individual who is employed by the Trust under a contract of employment with the Trust provided they are:

- employed by the Trust under a contract of employment which has no fixed term or has a fixed term of at least 12 months; or
- been continuously employed by the Trust under a contract of employment for at least 12 months.

The Trust intends to operate a system of automatic membership for staff, the impact of which is that all staff eligible for membership will become members unless they advise that they do not wish to be included. All staff members will be entitled to vote to elect governors.

The Trust Propose to structure staff membership under sub-constituencies, as follows:-

- Registered Nurses/Midwives
- Allied Health Professionals/other registered healthcare professionals
- Clinical support staff, including Assistant Practitioners/Healthcare Assistants
- Medical
- Dental
- Non-clinical support staff, including managerial and administrative staff

**3.7 Council of Governors** - The Council will be made up of members of the public and staff constituencies as part of a democratic voting process. In addition to this, a number of governors will be appointed to represent the Trust's partner organisations.

Bridgewater is proposing a Council of Governors made up of 34 governors. This includes 18 governors (2 from Halton) elected by

members of Bridgewater's Public Constituency and nine governors elected by the Staff Constituency. The number of public governors must exceed the staff and partner governors combined. This will allow Bridgewater to invite nominations for seven governors from partner organisations/forums. One nomination from Halton's Health and Wellbeing Board has been identified within Bridgewater's consultation document

- 3.8 Bridgewater's consultation document containing full details of the proposals can be found below, along with a link to their website.

<http://www.bridgewater.nhs.uk/ft/>

- 3.9 By supporting Bridgewater's application for Foundation Trust status this will help ensure better outcomes for the residents of Halton by giving the Trust greater freedom to respond to their needs and giving local residents a greater say in how the services provided are run in the future.

#### **4.0 POLICY IMPLICATIONS**

- 4.1 None identified at this stage.

#### **5.0 OTHER/FINANCIAL IMPLICATIONS**

- 5.1 None identified at this stage.

#### **6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

##### **6.1 Children & Young People in Halton**

See section 6.3 below.

##### **6.2 Employment, Learning & Skills in Halton**

Not applicable

##### **6.3 A Healthy Halton**

All issues outlined in this report and Bridgewater Community Healthcare NHS Trust's proposals to become a FT from April 2013 focuses directly on this priority.

Some of the key benefits of becoming a FT would be :-

- Local decision making as opposed to being dictated by central government.
- Local people and organisations having a much greater say in services through becoming members.
- Public and staff members being able to elect the majority of representatives on the Council of Governors.
- The Council of Governors being able to influence key decisions about the Trust and having a say on senior appointments.
- Greater financial freedom to invest in new services.
- Independent regulation by Monitor



6.4 **A Safer Halton**  
Not applicable.

6.5 **Halton's Urban Renewal**  
Not applicable.

7.0 **RISK ANALYSIS**

7.1 None identified at this stage

8.0 **EQUALITY AND DIVERSITY ISSUES**

8.1 Any services provided which seek to address the health needs of the residents of Halton needs to be fully accessible.

9.0 **LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

None under the meaning of the Act.

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**REPORT TO:** Executive Board

**DATE:** 29<sup>th</sup> March 2012

**REPORTING OFFICER:** Strategic Director - Communities

**PORTFOLIO:** Health and Adults

**SUBJECT:** Liverpool Community Healthcare NHS Trust

**WARD(S):** Borough-wide

## **1.0 PURPOSE OF THE REPORT**

1.1 To outline for Executive Board members, Liverpool Community Healthcare NHS Trust's proposals to become a Foundation Trust (FT).

## **2.0 RECOMMENDATION:**

- i) The Council supports
  - a. the proposal, submitted by Liverpool Community Healthcare NHS Trust, to become a FT and its development plans. (see paragraph 3.6)
  - b. the membership arrangements proposed by Liverpool Community Healthcare NHS Trust. (see paragraph 3.7)
  - c. the public membership constituencies proposed by Liverpool Community Healthcare NHS Trust should give due regard to a dedicated Halton constituency (see paragraph 3.8.1)
  - d. the staff membership proposals proposed by Liverpool Community Healthcare NHS Trust. (see paragraph 3.8.2)
  - e. the Governors structure proposed by Liverpool Community Healthcare NHS Trust. However in respect of the composition of public governors, the Council will recommend to the Trust that Halton and St Helens should have two representatives for each area and not one for both. (see paragraph 3.9)
  - f. the plans for governance proposed by Liverpool Community Healthcare NHS Trust. (see paragraph 3.10).
- ii) The Council will encourage Halton residents to take up the opportunity to become Members of the proposed Liverpool Community Healthcare NHS FT.

## **3.0 SUPPORTING INFORMATION**

3.1 Liverpool Community Healthcare NHS Trust provides NHS services to about 750,000 people living in Liverpool, Sefton, Knowsley and Halton & St Helens.

3.2 Liverpool Community Healthcare NHS Trust is aiming to become a Foundation Trust by April 2013 and as such is currently seeking views from patients and the public on its plans for becoming a FT.

3.3 Patients, local people and partner organisations have been invited to

express their views on the proposals for becoming a FT, including the governance arrangements during a 12 week consultation period, ending on April 30.

- 3.4 It should be noted that although Liverpool Community Healthcare NHS Trust do not provide any direct services to the residents of Halton, it is felt that the Board should support the Trust's application as there may be potential for business opportunities in the future.
- 3.5 Members of the Health Policy and Performance Board have received a copy of the above consultation and have had the opportunity to comment on Liverpool's proposals.

### Summary of Proposals

- 3.6 **Development Plans** – Within its consultation document Liverpool outlines details of three development plans for 2012/13, as follows :-
- **One Call for All** – This outlines the way Liverpool intend to improve the way patients, cares and clinical staff access their services by setting up a single telephone number that will be available all day, every day; where trained staff will be available to answer queries and deal with a referral or appointment
  - **Being Productive – Being 'Green'** – Liverpool plan to provide patients and staff with the best quality environment for delivering healthcare and ensure that their services are located close to home. They want to make staff as mobile as possible, reducing time spent travelling between their clinical base and patient's homes giving them more time to spend with patients and enhancing the service they provide.
  - **Every Contact Counts** – Liverpool want to improve health in their communities and have trained a number of staff to support people in making changes to their lifestyle. At every appointment or home visit it is envisaged that staff will ask patients about ways to improve their health and wellbeing and find out more about the health issues that matter to them.
- 3.7 **Membership** – Liverpool's proposals outline that membership will be representative of the communities and groups that they serve and want members to be able to shape the future of the Trust. They are proposing that members must be aged 12 years and over and have chosen to recruit members from a younger age because Liverpool provide a wide range of children services. NB. Members aged 16 years and above, would be able to stand for elections as a governor.

Liverpool are proposing two levels of membership :-

- **Level 1** – Members will receive information about the organisation on a regular basis, as well as an invitation to attend the Annual Members' Meeting and the Trust's Annual General Meeting. All members will be sent voting papers to elect a governor in their constituency area and will be given information on how they can stand for election to the Council of Governors
- **Level 2** – Members will receive the same information as Level 1. They will also be contacted by Liverpool to invite them to get

involved in a range of activities – from surveys to focus groups related to topics that interest them.

3.8 **Membership Constituency** – Liverpool are proposing two membership constituency categories :-

3.8.1 **Public Membership** – The proposal is for five constituency areas and each area will be based on the electoral wards of that area as outlined below :-

- Sefton
- Liverpool North
- Liverpool South
- Knowsley
- Halton and St Helens

Consideration should be given to identifying a dedicated Halton public membership.

3.8.2 **Staff Membership** - Membership will be available to staff if they are:

- employed by the Trust under a contract of employment which has no fixed term or has a fixed term of at least 12 months; or
- been continuously employed by the Trust under a contract of employment for at least 12 months.

The Trust intends to operate a system of automatic membership for staff, the impact of which is that all staff eligible for membership will become members unless they advise that they do not wish to be included.

The Trust propose to structure staff membership under three groups (classifications) :-

- Administration and Clerical, including Estates and Ancillary staff
- Nursing and Midwifery
- Allied Health Professions, Professional, Scientific and Technical, Medical and Dental staff and Additional Clinical Services.

3.9 **Council of Governors** – Liverpool is proposing that the Council of Governors will be made up of 22 Governors, which will include both elected and appointed governors, as follows :-

- **Public Governors** – 13 elected public governors representing the five constituencies. NB. Liverpool is proposing one public governor to represent Halton and St Helens and not one to represent each area.
- **Staff Governors** – Liverpool plan to elect four staff governors
- **Appointed Governors** – Liverpool propose to have five appointed governors from Liverpool City Council, Sefton Metropolitan Borough Council, NHS Merseyside, Liverpool John Moores University and one other from a local organisation they work with and want to hear from any community group that would like to put their organisation forward.

Liverpool propose to give elected governors two terms of office, however to ensure that they have a level of continuity they aim to give governors with the highest percentage of votes a terms of three years, and give the other elected governors a term of two years.

Consideration should be given to a dedicated Halton Governor.

3.10 **Governance** – It is proposed that the Trust’s Board of Directors will be made up of:-

- A Chair – the chair is a non-executive Director of the Board and will also be the Chair of the Council of Governors
- Up to 6 Non-Executive Directors (not including the Chair)
- Up to 6 Executive Directors, including a :-
  - Chief Executive
  - Director of Finance
  - Medical Director – a registered medical or dental practitioner
  - Executive Nurse – a registered nurse or midwife

NB. The Chief Executive will be the Accounting Officer of the FT and will be responsible for making sure that all the Trust’s legal and financial duties are met.

3.11 Liverpool’s consultation document containing details of the proposals can be found at the link below :-

[http://issuu.com/membershipengagement/docs/liverpool\\_community\\_health\\_consultation?mode=window&backgroundColor=%23222222](http://issuu.com/membershipengagement/docs/liverpool_community_health_consultation?mode=window&backgroundColor=%23222222)

NB. In terms of Liverpool’s consultation document, unfortunately it is not available via a downloadable document, rather an ‘E-Book’.

#### 4.0 **POLICY IMPLICATIONS**

4.1 None identified at this stage.

#### 5.0 **OTHER/FINANCIAL IMPLICATIONS**

5.1 None identified at this stage.

#### 6.0 **IMPLICATIONS FOR THE COUNCIL’S PRIORITIES**

##### 6.1 **Children & Young People in Halton**

All issues outlined in this report and Liverpool Community Healthcare NHS Trust’s proposals to become a FT from April 2013 focuses directly on this priority.

Some of the key benefits of becoming a FT would be :-

- Local decision making as opposed to being dictated by central government.
- Local people and organisations having a much greater say in services through becoming members.
- Public and staff members being able to elect the majority of

representatives on the Council of Governors.

- The Council of Governors being able to influence key decisions about the Trust and having a say on senior appointments.
- Greater financial freedom to invest in new services.
- Independent regulation by Monitor

**6.2 Employment, Learning & Skills in Halton**

None identified.

**6.3 A Healthy Halton**

As per 6.1 above.

**6.4 A Safer Halton**

None identified.

**6.5 Halton's Urban Renewal**

None identified.

**7.0 RISK ANALYSIS**

7.1 None identified at this stage

**8.0 EQUALITY AND DIVERSITY ISSUES**

8.1 Any services provided which seek to address the health needs of the residents of Halton needs to be fully accessible.

**9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

None under the meaning of the Act.

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**REPORT TO:** Executive Board

**DATE:** 29 March 2012

**REPORTING OFFICER:** Strategic Director – Policy and Resources

**PORTFOLIO:** Resources

**SUBJECT:** Annual Review of Constitution: 2012

### **1.0 PURPOSE OF REPORT**

1.1 The purpose of the report is to seek the approval of the Council to a number of changes to the Constitution.

**2.0 RECOMMENDATION: That Council be recommended to approve the changes to the Constitution as set out in Appendix 1.**

### **3.0 BACKGROUND**

3.1 The revised version picks up the changes to the Council's working arrangements that have taken place during the year, as well as other changes which are intended to assist the Council to operate more effectively.

3.2 The proposals for change have been considered by the Chief Executive and the Executive Board Member for Resources in accordance with Article 16.02. Apart from the purely technical changes, the proposed amendments that are considered to be of particular significance are listed in Appendix 1 to this report.

### **4.0 POLICY, FINANCIAL AND OTHER IMPLICATIONS**

4.1 The implications of the Localism Act 2011 and the Health and Social Care Bill 2010-12 have been considered as well as other changes in the law. However, further amendments, over and above those already outlined in the revised version circulated, may be required, once the Government has produced regulations dealing with a new category of declarable interests (to be known as Disclosable Pecuniary Interests). Any other required changes during the period 2012/13 will be the subject of further reports when dates and details are available.

4.2 The cross party Constitutional Working Group, set up following the Members' seminar on Governance and Structure in September 2011, has recommended a number of the changes, which are included in Appendix 1.

4.3 Changes to the Standards Regime, as contained in the Localism Act 2011, will be reported separately to Members, but a brief summary of the necessary changes in the Constitution are included in Appendix 1.

4.4 Changes to Public Health arrangements have also been incorporated.

## **5.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

5.1 **Children and Young People in Halton.**

5.2 **Employment, Learning and Skills in Halton.**

5.3 **A Healthy Halton.**

5.4 **A Safer Halton.**

5.5 **Halton's Urban Renewal.**

The changes proposed are designed to support the continued delivery of the Council's priorities.

## **6.0 RISK ANALYSIS**

6.1 The Council needs to ensure that its Constitution is regularly updated so that it continues to support efficient, transparent and accountable decision-making by the authority.

## **7.0 EQUALITY AND DIVERSITY ISSUES**

7.1 None.

## **8.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

None under the meaning of the Act.

**Proposed Significant Changes to the Constitution**

**Finance Standing Orders**

- Minor amendments to Finance Standing Orders to keep procedures up to date and to reinforce anti-fraud and corruption arrangements.
- In addition, text has been inserted before existing paragraph 3.5.1 – “All Officers and Members” -to ensure that all senior officers are aware of their obligations as they relate to the requirements under Finance Standing Orders.

**Procurement Standing Orders**

These have been amended to keep up with changes in procedures. A full set of the Procurement Standing Orders, showing tract changes, together with a summary of those changes, is available for inspection.

**Standing Orders Relating to Duties of Proper Officers and Delegation to Officers**

- Traffic Regulation orders – delegated to OD (as at present), but in discussion with the relevant Ward Members. Where objections or differences of opinion exist, these would be resolved by the Environment and Urban Renewal PPB and Executive Board.

**Responsibilities of PPB's**

The following additional responsibilities be added

- Business Efficiency Board – current page 277  
To ensure that the Council has effective processes in place to obtain value for money from its contractual arrangements with third parties.
- Corporate PPB – current page 265  
To receive the minutes of the Member Services/Development Group

**Changes to the Sub Committees of the Executive Board**

- 3MG – this Board will cease at the end of the current Municipal Year, be removed from the Constitution and any remaining business after this date be dealt with by Executive Board.
- Mersey Gateway Executive Board – the membership be extended to five to include the Leader plus the Portfolio holders for Resources, Transportation, Physical Environment and Economic Development. Observers from the Opposition Groups will be invited to attend together with the Chair of the Mersey Crossing Group. However, approval must

be sought prior to the start of the meeting for observers to remain in the meeting when Part II business is conducted.

- Executive Board Sub Committee – the membership be increased to five drawn the from Executive Board membership. However, it is proposed that meetings of the Board be suspended for a period of six months from 1 April 2012, with all business dealt with by Executive Board. This arrangement will be kept under review.

**Standards Committee**

- Although no longer a statutory requirement, it is recommended that the authority retain a Standards Committee. This will be made up of 9 Elected Members, one of which will be an Executive Board Member, together with two non-voting Independent co-optees and two non-voting Parish Council co-optees. Meetings to be held quarterly with the quorum for meetings being 3.
- In addition, arrangements must be put in place for investigating allegations made against an Elected Member, (or a Parish Councillor within the HBC Authority area), as well as having arrangements so decisions can be made. To this end, it will be necessary for the Authority to advertise for and recruit an Independent Person, who would be approved by Council majority, whose views must be taken into consideration before the authority makes a decision on an allegation it has decided to investigate.

**Public Health responsibilities**

Subject to the enactment of the Health and Social Care Bill 2012, the transfer of NHS functions to local authority control from April 2013, will result in the post of Director of Public Health reporting to the Chief Executive at Strategic Director level.

In preparation, the following amendments in the Constitution will need to be made:

Scheme of Delegation –

- Add Director of Public Health Job Title (current page 330)
- Add the following responsibilities

<i>FUNCTION</i>	<i>JOB TITLE</i>
<i>280 All local authority powers and duties referred to in sections 28-31 of the Health and Social Care Act 2012 when enacted and in each case commenced .</i>	<i>Director of Public Health</i>
<i>281 All those powers and duties listed in section 73A(1)(a)-(f) of the National Health Service Act 2006.</i>	<i>Director of Public Health</i>

Health PPB – (current page 267)

- Add as first bullet under Corporate Policies/Responsibilities

*‘To oversee the Council’s health functions’*

### **Shadow Health and Wellbeing Board**

The Shadow Health and Wellbeing Board, as a Committee of the Council, is responsible for guiding and overseeing the implementation of the ambitions outlined in the Health White Paper “Healthy Lives, Healthy People”.

It has been operating in Shadow form since December 2011 and the terms of reference were agreed at the first meeting. Subject to the enactment of the Health and Social Care Act 2012, it will become fully operational from April 2013.

Its Terms of Reference and Powers and Duties have been included in this version of the Constitution in preparation.

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**REPORT TO:** Executive Board

**DATE:** 29 March 2012

**REPORTING OFFICER:** Strategic Director – Policy and Resources

**SUBJECT:** Calendar of Meetings – 2012/13

**WARDS:** Boroughwide

### **1.0 PURPOSE OF THE REPORT**

1.1 To approve the Calendar of Meetings for the 2012/2013 Municipal Year attached at Appendix 1 (N.B. light hatched areas indicate weekends and Bank Holidays, dark hatched areas indicate school holidays).

**2.0 RECOMMENDATION: That Council be recommended to approve the Calendar of Meetings for the 2012/2013 Municipal Year, attached at Appendix 1.**

### **3.0 SUPPORTING INFORMATION**

3.1 The draft calendar of meetings for 2012/13 takes account of the proposed changes made by the Members Constitutional Working Group, as they affect the scheduling of the Executive Board Sub Committee and the deletion of the 3MG Sub Board.

3.2 Dates have been retained in the calendar for meetings of a Standards Committee, subject to the decision of Council to retain such a Committee. (This is the subject of a separate report on this agenda).

### **4.0 POLICY IMPLICATIONS**

None.

### **5.0 OTHER IMPLICATIONS**

None.

### **6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

#### **6.1 Children and Young People in Halton**

None.

#### **6.2 Employment, Learning and Skills in Halton**

None.

#### **6.3 A Healthy Halton**

None.

**6.4 A Safer Halton**

None.

**6.5 Halton's Urban Renewal**

None.

**7.0 RISK ANALYSIS**

Should a Calendar of Meetings not be approved, there will be a delay in publishing meeting dates. This would result in practical difficulties in respect of the necessary arrangements to be made and the planning process regarding agenda/report timetables.

**8.0 EQUALITY AND DIVERSITY ISSUES**

Once a Calendar of Meetings has been approved the dates will be published, hence assisting public involvement in the democratic process.

**9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

None under the meaning of the Act.



**NB** Lightly shaded areas indicate weekends and Bank Holidays; dark shaded areas indicate school holidays.

	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MARCH	APR
F		1								1	1	
S		2			1			1		2	2	
S		3	1		2			2		3	3	
M		4	2 Dev Control Cttee		3 Children, Young People & Families PPB	1 AF – G, HB, H AND M		3 Dev Control Cttee		4	4 Employment, Learning, Skills & Community PPB	1 Easter Monday
T	1	5	3 AF – A, K & R		4 Corporate Services PPB	2		4 SEMINAR	1	5 SEMINAR	5 Health PPB	2
W	2	6	4 AF – H C, NN, NS & WH	1	5 Standards Committee	3 AF – B & HL		5	2 Environment & Urban Renewal PPB	6 COUNCIL	6 SPECIAL COUNCIL	3
T	3 LOCAL ELECTIONS	7	5 SEMINAR	2	6 Executive Board	4 Executive Board	1 SEMINAR	6	3 Children, Young People & Families PPB SEMINAR	7 Executive Board	7	4
F	4	8	6	3	7	5	2	7	4	8	8	5
S	5	9	7	4	8	6	3	8	5	9	9	6
S	6	10	8	5	9	7	4	9	6	10	10	7
M	7	11 Dev Control Cttee	9	6 Development Control Committee	10 Dev Control Cttee	8 Dev Control Cttee	5 Dev Control Cttee	10	7 Dev Control Cttee	11 Dev Control Cttee	11 Dev Control Cttee	8
T	8	12 Safer Halton PPB	10	7 SEMINAR	11 Health PPB	9 AF – H C, NN, NS & WH	6 Health PPB	11	8 Health PPB	12	12 Safer PPB	9 SEMINAR
W	9	13 Environment & Urban Renewal PPB	11 Standards Committee AF – B & HL	8	12 Shadow HWB Environment and Urban Renewal PPB	10 Shadow HWB AF – B, F & HV SEMINAR	7 Standards Committee	12 Shadow HWB COUNCIL	9 Employment, Learning, Skills & Community PPB	13 Standards Committee AF – Daresbury	13 Environment & Urban Renewal PPB	10
T	10	14 Executive Board MGEb	12 Executive Board	9	13 SEMINAR	8 Executive Board MGEb		13 Executive Board	10 Executive Board Corporate Services PPB	14	14 Executive Board MGEb	11
F	11	15	13	10	14	12	9	14	11	15	15	12
S	12	16	14	11	15	13	10	15	12	16	16	13
S	13	17	15	12	16	14	11	16	13	17	17	14
M	14 Dev Control Cttee	18 AF – B, D, H & HG	16 AF- Daresbury	13	17 Employment, Learning, Skills & Community PPB	15 AF Daresbury	12 Employment, Learning, Skills & Community PPB	17	14 Regulatory Committee	18	18 Regulatory Committee	15
T	15 Executive Board (Selection)	19	17	14	18 Safer PPB	16	13 Safer PPB	18	15 Safer PPB	19	19 SEMINAR	16 Dev Control Cttee
W	16	20 Shadow HWB AF – B, F & HV	18 Shadow HWB COUNCIL	15	19 Regulatory Committee	17 COUNCIL	14 Shadow HWB Business Efficiency Board	19	16 Business Efficiency Board	20	20 Mayoral Committee	17 COUNCIL
T	17	21	19	16	20 Executive Board MGEb	18 Executive Board	15 PCC ELECTIONS	20	17	21	21	18
F	18 ANNUAL COUNCIL	22	20	17	21	19	16	21	18	22	22	19
S	19	23	21	18	22	20	17	22	19	23	23	20
S	20	24	22	19	23	21	18	23	20	24	24	21
M	21 Children Young People and Families PPB	25 AF – G, HB, H AND M	23	20	24 AF – B, D, H & HG	22	19 Regulatory Committee	24	21 AF – B, D, H & HG	25 Children, Young People & Families PPB	25	22
T	22 Corporate Services PPB	26	24	21	25 AF – A, K & R	23	20	25 Christmas Day	22 AF – A, K & R	26 Corporate Services PPB	26	23
W	23 Shadow HWB Business Efficiency Board	27 Business Effic'y B'd (Closure of Accounts)	25	22	26 Business Efficiency Board	24	21 Environment and Urban Renewal PPB	26 Boxing Day	23 AF – B, F & HV	27 Business Efficiency Board	27	24
T	24 Executive Board	28 Executive Board	26	23	27	25	22	27	24 Executive Board MGEb	28 Executive Board	28 Executive Board	25
F	25	29	27	24	28	26	23	28	25		29 Good Friday	26
S	26	30	28	25	29	27	24	29	26		30	27
S	27		29	26	30	28	25	30	27		31	28
M	28 Regulatory Committee		30	27		29 Children, Young People & Families PPB	26	31	28 AF – G, HB, H AND M			29
T	29 SEMINAR Health PPB		31	28		30 Corporate Services PPB	27		29AF – H C, NN, NS & WH			30
W	30 Employment, Learning, Skills & Community PPB			29		31	28		30 AF – B & HL			
T	31			30			29 Executive Board		31			
F				31			30					

