

**LONDON BOROUGH OF LEWISHAM**

**TO: THE MAYOR AND COUNCILLORS OF THE  
LONDON BOROUGH OF LEWISHAM**

You are hereby summoned to attend a meeting of the Council, which will be held in the Council Chamber, Lewisham Town Hall, Catford, SE6 4RU on **MONDAY, 29 SEPTEMBER 2008** at 7.30 p.m. for the transaction of the business set out in the agenda below.



Lewisham Town Hall  
Catford  
London SE6 4RU  
19 September 2008

Chief Executive

**A G E N D A**

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## 1. Minutes

To approve as a true record the minutes of the meeting of the Council held on 16 July 2008.

## 2. Declarations of Interests

Members are asked to declare any personal interest they have in any item on the agenda.

### Personal interests

There are two types of personal interest :-

- (a) an interest which you must enter in the Register of Members' Interests\*
- (b) an interest where the wellbeing or financial position of you, (or a "relevant person") is likely to be affected by a matter more than it would affect the majority of inhabitants of the ward or electoral division affected by the decision.

\*Full details of registerable interests appear on the Council's website.

("Relevant" person includes you, a member of your family, a close associate, and their employer, a firm in which they are a partner, a company where they are a director, any body in which they have securities with a nominal value of £25,000 and (i) any body of which they are a member, or in a position of general control or management to which they were appointed or nominated by the Council, and (ii) any body exercising functions of a public nature, or directed to charitable purposes or one of whose principal purpose includes the influence of public opinion or policy, including any trade union or political party) where they hold a position of general management or control,

If you have a personal interest you must declare the nature and extent of it before the matter is discussed or as soon as it becomes apparent, except in limited circumstances. Even if the interest is in the Register of Interests, you must declare it in meetings where matters relating to it are under discussion, unless an exemption applies.

### Exemptions to the need to declare personal interest to the meeting

You do not need to declare a personal interest where it arises solely from membership of, or position of control or management on:

- (a) any other body to which you were appointed or nominated by the Council
- (b) any other body exercising functions of a public nature.

In these exceptional cases, unless your interest is also prejudicial, you only need to declare your interest if and when you speak on the matter

### **Sensitive information**

If the entry of a personal interest in the Register of Interests would lead to the disclosure of information whose availability for inspection creates or is likely to create a serious risk of violence to you or a person living with you, the interest need not be entered in the Register of Interests, provided the Monitoring Officer accepts that the information is sensitive. Where this is the case, if such an interest arises at a meeting, it must be declared but you need not disclose the sensitive information.

### **Prejudicial interests**

Your personal interest will also be prejudicial if all of the following conditions are met:

- (a) it does not fall into an exempt category (see below)
- (b) the matter affects either your financial interests or relates to regulatory matters - the determining of any consent, approval, licence, permission or registration
- (c) a member of the public who knows the relevant facts would reasonably think your personal interest so significant that it is likely to prejudice your judgement of the public interest.

### **Categories exempt from being prejudicial interest**

- (a) Housing – holding a tenancy or lease with the Council unless the matter relates to your particular tenancy or lease; (subject to arrears exception)
- (b) School meals, school transport and travelling expenses; if you are a parent or guardian of a child in full time education, or a school governor unless the matter relates particularly to the school your child attends or of which you are a governor;
- (c) Statutory sick pay; if you are in receipt
- (d) Allowances, payment or indemnity for members
- (e) Ceremonial honours for members
- (f) Setting Council Tax or precept (subject to arrears exception)

### **Effect of having a prejudicial interest**

If your personal interest is also prejudicial, you must not speak on the matter. Subject to the exception below, you must leave the room when it is being discussed and not seek to influence the decision improperly in any way.

### **Exception**

The exception to this general rule applies to allow a member to act as a community advocate notwithstanding the existence of a prejudicial interest. It only applies where members of the public also have a right to attend to make representation, give evidence or answer questions about the matter. Where this is the case, the member with a prejudicial interest may also attend the meeting for that purpose. However the member must still declare the prejudicial interest, and must leave the room once they have finished making representations, or when the meeting decides they have finished, if that is earlier. The member cannot vote on the matter, nor remain in the public gallery to observe the vote.

### **Prejudicial interests and overview and scrutiny**

In addition, members also have a prejudicial interest in any matter before an Overview and Scrutiny body where the business relates to a decision by the Executive or by a committee or sub committee of the Council if at the time the decision was made the member was on the Executive/Council committee or sub-committee and was present when the decision was taken. In short, members are not allowed to scrutinise decisions to which they were party.

## **3. Announcements or Communications**

(A) Announcement by the Chief Executive:

### **Appointment of Lewisham's new Representative Deputy Lieutenant**

A letter has been received from the Lord Lieutenant, Sir David Brewer, confirming the appointment of Jane Davis, QHN, QVRM as Lewisham's new Deputy Lieutenant. She takes up her post with immediate effect and hopes to be in attendance.

The Council will continue to maintain the close working relationship with the new D.L. via Lewisham's representative on the cadet and reserve forces Councillor, Sylvia Scott.

### **Retirement of Lewisham Borough Fire Commander**

The Council is invited to note the retirement of Lewisham's Fire Commander Dave Smith from his post which he has held for the last eight years.

Many Members will have first hand knowledge of the work and commitment Dave has given to the borough both as Commander and his work on various bodies such as the LCPCG and the Safer Lewisham Partnership.

All Members have been invited to a civic reception on Thursday, 2 October when they will have the chance to acknowledge Dave's contribution to the well-being of the borough.

(B) To receive any further announcements or communications from the Mayor, Chair of Council or the Chief Executive.

#### **4. Petitions**

To receive petitions (if any)

#### **5a. Public Questions**

<u>Question</u>	<u>Questioner</u>
1.	Ms B Garnett
2.	Mr G Ambrose
3.	Mr G Ambrose
4.	Mr G Ambrose
5.	Mr G Ambrose
6.	Mr G Ambrose
7.	Ms M Drabble
8.	Ms M Drabble
9.	Mr D McKibbin

#### **5b. Question from Members of the Council**

Section C, paragraph 14 of the Constitution, provides for questions relevant to the general work or procedure of the Council to be asked by Members of the Council. Copies of the questions received and the replies to them will be circulated at the meeting.

#### **6. Audited Statement of Accounts**

##### **1. Executive Summary**

Each financial year the publication of the Statement of Accounts and its approval by Council is a statutory requirement. The pre-audit 2007/08 Accounts were agreed by Council on 30 June 2008. Since then the external audit has been in progress and certain changes have been agreed with the District Auditor. The final audited 2007/08 Accounts will be submitted to Council on 29 September 2008.

##### **2. Purpose**

To approve the publication of the audited 2007/08 Statement of Accounts. The audited Accounts have been circulated separately to members in Booklet format.

### **3. Statutory Requirements**

- 3.1 Regulation 11 of the Accounts and Audit Regulations 2003 requires authorities to publish the statement of accounts as soon as is reasonably possible after the external audit is concluded but in any event no later than three months after the deadline for approval. The deadline for the 2007/08 Accounts is therefore 30 September 2008. The approval of the audited Statement of Accounts by Council on 29 September 2008 will satisfy this statutory requirement.
- 3.2 The Council's compliance with statutory deadlines and performance on the production of the Statement of Accounts is also a key element in the Audit Commission's Corporate Performance Assessment. The financial statements and the summary financial information are key elements in the Financial Reporting theme of the Use of Resources block of the CPA. Therefore, meeting the statutory deadlines and producing Accounts to a high standard with good quality working papers is a key element in the Use of Resources score. For 2006/07 the Financial Reporting theme was assessed by the District Auditor as a 3. This confers performance consistently above minimum requirements and assesses the Council as performing well.

### **4. Review of Final Audited Accounts**

- 4.1 Since the pre-audit Accounts were approved by the Audit Panel and Council at the end of June 2008, they have been subject to rigorous checking and audit by the Audit Commission. The audit has now been completed and the District Auditor will be presenting his Annual Governance Report on the Accounts later on the agenda.
- 4.2 During the audit certain amendments to the Accounts have been agreed with the auditors. Most of these changes are trivial and have an immaterial affect on the Council's position. Despite being minor in nature these changes are necessary to ensure the quality and accuracy of the information. The Table in Appendix 1 sets out the more important changes that have been made. None of the items significantly affect the overall financial position. The General Fund surplus for 2007/08 remains unchanged from the pre-audit Accounts at £298k (page 28). Although the Income and Expenditure deficit (page 22) has reduced from £430.584m to £261.589m, a net reduction of £168.995m, there has been a similar reduction to the Statement of Movement on General Fund Balances (page 28). Therefore the General Fund Balance carried forward of £10.936m (page 28) also remains unchanged. The full list of detailed changes is available from the Executive Director for Resources.

- 4.3 The audited Accounts will be submitted for review to the Audit Panel on 23 September 2008.

## **5. Management Representation Letter**

The Executive Director for Resources is the officer designated as the Section 151 Officer under the Local Government Act 1972. It is a requirement of the external audit that the Section 151 Officer signs a letter of Representation confirming that she has the responsibility for the proper administration of the financial affairs of the Authority and that the duties that this responsibility entails have been undertaken. The draft letter is attached as Appendix 2 and will be signed nearer to the Council approval date of 29 September.

## **6. Publication of Statement of Accounts**

- 6.1 Sections 15 and 16 of the Audit Commission Act 1998 give electors the right to question the auditor or object to the Accounts. The Accounts are required to be available for public inspection for 20 working days prior to the conclusion of the audit and an advertisement placed in the local press to publicise this fact. This public inspection period ended on the 5 September and the 8 September was the day electors were able to question the auditor. It is also a requirement that notice of conclusion of the audit is advertised in the local press.
- 6.2 On the 29 September the Council will be asked to approve the publication of the Accounts. Following this the District Auditor will be able to provide his formal opinion on the Accounts and formally conclude the Audit. The Accounts will then be available to the general public through copies in the Libraries and on the Authority's website. For a small charge members of the public may also purchase a copy of the Accounts booklet.
- 6.3 As in previous years a summary of accounts has been provided. A copy is attached at Appendix 3. This will put the Statement of Accounts into a user friendly format for members of the public and other users. This year the summary account information will be incorporated in an Annual Report. It is planned that this will be published by the end of October 08 and be available to the public through the library service or on the Council's website.

## **7 Financial Implications**

These have been addressed in the body of the report.

## **8. Legal Implications**

These have been addressed in the body of the report.

**9. Equality Implications**

None specifically resulting from this report.

**10. Crime & Disorder Implications**

None specifically resulting from this report.

**11. Environmental Implications**

None specifically resulting from this report.

**12. Conclusion**

The Accounts present fairly the financial position for the year ending 31 March 2008. Approval of the publication of the audited Accounts by Council on 29 September will ensure compliance with all statutory requirements.

**For further information please contact Steve Mace, ext.46458, Corporate Resources Division, Resources Directorate.**

## **7. Health & Safety Plan and Food Law Enforcement Plan**

### **1 Introduction**

1.1 This report seeks approval for the 2008/2009 service plans for the following services namely:-

- **Health & Safety Team** - Under Section 18 Guidance of the Health and Safety at Work etc. Act 1974, the Health and Safety Commission [HSC] states that Local Authorities should produce and make available an annual health and safety service plan which is agreed by their elected members and makes clear their arrangements for contributing to current Health & Safety Executive [HSE] priorities. The plan is attached at Appendix 1.
- **Food Safety Team** – There is a requirement for the authority to produce and publish a food law enforcement plan which may be scrutinised and monitored by the Food Standards Agency [FSA]. The plan is attached at Appendix 2

1.2 These plans form the basis upon which local authorities are monitored and then assessed as to their provision of these respective services.

1.3 The objectives for both services are contained in the service Plan 2008-9 and include the following:-

- Ensuring businesses comply with the relevant legislation in relation to Food Safety and Health and Safety.
- Providing an advisory service to businesses and residents in the borough on consumer rights.
- Enforcing regulation fairly and equitably by ensuring that all businesses compete on an equal basis.

### **2 Summary and Purpose of the Report**

2.1 This item presents the Health and Safety Service Plan and the Food Law Enforcement Plan so as to ensure compliance with the obligations placed upon the authority by the Health and Safety Commission and the Food Standards Agency respectively. The Plans were considered by the Mayor at a meeting of the Mayor & Cabinet held on Wednesday September 17 2008 and recommended to the Council for approval.

### **3 Policy Context**

3.1 Both plans support the council's priorities and significant delivery of the Sustainable Community Strategy (SCS). In particular 'dynamic and prosperous' in improving the quality and vitality of Lewisham's Town Centres and localities.

- 3.2 The Food Law Enforcement Plan is noted in article 4 of the Constitution is one of the items that make up the Council's policy framework (and is referred to at paragraph 2.1 within the plan).
- 3.3 Article 4 also refers to the Health & Safety at Work etc Act 1974. (The policy framework can be found at paragraph 3.5 within the plan).
- 3.4 Statutory guidance issued by the Health & Safety Commission (HSC) states that elected Member approval should be obtained for the Health & Safety Service Plan.

#### **4 Recommendation**

The Council is recommended to:

- 4.1 Approve the Health and Safety Plan for the year 2008-2009 and the Food Law Enforcement Plan for 2008-2009.

#### **5 Health & Safety**

- 5.1 The key policy issues for the service are mainly dictated by central government. The HSC has produced a national strategy until 2010, which the authority will feed into to help to reduce illness and injury at work.
- 5.2 Six priority areas have been targeted as being those that cause most problems within the workplace. These are:
- Falls from Height
  - Workplace Transport
  - Musculoskeletal Disorders
  - Work Related Stress
  - Slips & Trips
  - Disease Reduction
- 5.3 The current policy from the Health and Safety Executive (HSE) is to carry out topic inspections. This means that each inspection carried out by the team should focus in on the five priority areas under the banner 'Fit 3' (fit for work, fit for life, fit for tomorrow). Most inspections and project work will incorporate this. This will have a major impact into the way in which we carry out inspections.
- 5.4 Special inspection projects already carried out have included:
- Band-saw guarding in butchers
  - Launderettes in the Borough specifically looking at machine safety
  - Ladder safety as part of a national initiative to reduce fall accidents
  - Continuing work with hairdressing salons and nail bars to reduce the incidence of skin complaints such as dermatitis.
  - Continuing work to educate and enforce workplace transport issues such as fork lift truck safety awareness.

- 5.5 These premise types were targeted in line with the HSE priority topics as well as local issues.

## **6 Food Safety**

- 6.1 Key issues for this service include:

- There is a new Code of Practice being published and it is envisaged that this will provide different ways of working and the alternative enforcement strategy will be developed further.
- The London-wide “Scores on the Doors” project continues with the current consideration for it to become national.
- Continuing work with the small manufactures and importers of foodstuffs in the borough.
- The team has moved from Business Regulatory Services to the Environment Division to form the new Environmental Health & Enforcement Team in April 2008.

## **7 Financial implications**

- 7.1 There are no specific financial implications resulting from this report.
- 7.2 The services are all currently projected to operate within the overall net budget allocated for the 2007/8 financial year:
- Health & Safety £255,000
  - Food Safety £738,000

## **8 Legal and Human Rights Implications**

- 8.1 The Human Rights Act 1998, which came into force on 2 October 2000, incorporates the European Convention on Human Rights into UK law. The Council, as a public authority, is under a duty, by virtue of section 6 of the 1998 Act, to act compatibly with Convention rights in the exercise of their functions.
- 8.2 The rights that are of particular significance to Members’ decisions in this matter are those contained in Article 2, the right to life, Article 6, the right to a fair trial, Article 7, no punishment without law, Article 8, right to respect for private and family life and Article 1 of The First Protocol namely the protection of property.
- 8.3 Articles 2 and 7 are ‘Absolute Rights’ and thus cannot be balanced with any general public interest. Article 6 provides certain limited rights including the right to have any allegations against a defendant explained to that defendant, the right for a defendant to make representations to defend any such allegations and to have any relevant tribunal hearing held within a reasonable period of time.
- 8.4 Article 8 is a qualified right and thereby enables the general public interest to be taken into account. Article 1 of the First Protocol, namely

the protection of property is another qualified right. In determining the level of permissible interference in the enjoyment of possessions, the Courts have held that any interference must achieve a fair balance between the general interests of the community and the protection of the rights of individuals. There must be reasonable proportionality between the means employed and the aim pursued. The availability of an effective remedy and compensation to any affected persons is relevant in assessing whether a fair balance has been struck. The Protocol protects the rights of businesses other organisations as well as those of individuals.

## **9 Crime & Disorder implications**

9.1 There are no specific implications

## **10 Equalities Implications**

- 10.1 Both services can positively impact upon the lives of the socially excluded and vulnerable groups. Examples are as follows:-
- Through provision of advice and information to help consumers make informed choices through schemes such as “scores on the doors”.
  - The removal of food which is not fit for sale from the market place and continued work around food labelling to ensure that consumers are not put at risk.
  - Workers whose first language is not English may be especially at risk from employers who disregard health and safety requirements and would thus benefit by appropriate enforcement action.

## **11 Environmental Implications**

11.1 There are no specific implications.

## **12 Conclusion**

12.1 Both the appended service plans seek to address relevant national and local issues and each service can demonstrate clear links to corporate objectives and priorities. Progress against the plans will be monitored and reported as part of the Directorate performance review system. Formal executive approval confirms that the significance of each of these services is recognised, addresses government expectation and also satisfies a statutory requirement.

## **13 Background papers**

There are no background papers

**NB Appendices A & B have been circulated separately to members and are available on the Council’s website at the address:**

<http://www.lewisham.gov.uk/CouncilAndDemocracy/CouncilMeetings/>

For more information on this item please contact Charlotte Faint, Environmental Health Manager on 0208 314 8342 or Peter Adams, Health and Safety Manager on 0208 314 9032.

## **8. Action taken by the Chair of Council under Rule 15 of Section E of the Constitution**

The Chair of Council agreed under the urgency procedure set out in Rule 15 of Section E of the Constitution, that the matter listed below should be treated as a matter of urgency and not subject to call-in. This determination not to subject a Mayoral decision to scrutiny was made by the Chair of Council as the delay in considering the items of business would have prejudiced the interests of the Council:-

<b><u>Date</u></b>	<b><u>Title</u></b>	<b><u>Reason for Urgency</u></b>
11.7.2008	Albemarle and Foreshore – Decent Homes through Stock Transfer	Decisions on the Stock Transfer were reported to the Council on July 16 having being considered by the Mayor on July 9. They were exempted from the Business Panel meeting held on July 22 as otherwise the 45 leaseholders involved would have been liable for the next phase of works estimated at £2 million. The original timetable envisaged by the Customer Services Directorate would have provided ample time for scrutiny, but owing to the failure of a local newspaper to print the open space disposal notice the public consultation had to be repeated.

## **9. Motion in the name of Councillor Luxton to be seconded by Councillor Phoenix**

This council:

- supports the bottom-up process in the Sustainable Communities Act, by which central government has a legal duty to assist local authorities in promoting the sustainability of local communities, giving communities the power to drive the help that central government gives in reversing community decline and promoting thriving, sustainable communities;
  - notes that the Act became law in October 2007 with full cross party support following a five-year campaign run by a coalition of over 90 national citizens' organisations called Local Works;
  - notes that the Act gives local authorities the power to make proposals to government on the action government must take to reverse community decline and promote sustainable communities, and to argue for a transfer of public money and function from central to local control;
  - calls on the Mayor to instruct officers to take the necessary action for the council to opt in to the Act when the government issues invitations to do so in October 2008, and to set out how he will convene the citizens' panels with which the council must agree on which proposals to present to government;
  - notes that there is a public meeting on 29th October in the Council Chamber, with a representative from the Local Works campaign, to discuss how the new act can be used to protect local communities;
- calls on the Mayor to write to Local Works to inform them of his decision to use the Act, and to publicise the Act in the local press

## **10. Motion in the name of Councillor Johnson to be seconded by Councillor Michel**

“This Council notes the importance of kitchen and garden waste collection schemes in other boroughs and the essential role they play in reducing household waste in the ordinary refuse collection. Following the popular "brown bin" pilot scheme in the borough, this Council urges the Mayor to give full consideration to a borough-wide scheme as a key component of the council's new waste strategy for Lewisham and to give consideration to this including kitchen as well as garden waste.

This council further calls on the Mayor to make publication of the waste strategy an urgent priority so that planning for appropriate investment in a sustainable waste infrastructure can take place without further delay.”

**11. Motion in the name of Councillor Morris to be seconded by Councillor Russell**

“This Council notes:

With concern the high level of continued and persistent problems that a large number of Councillors of all political parties have experienced and are experiencing with the IT provision that is made available to them and the impact that this has on local residents being able to contact their councillors and for councillors to properly fulfil their democratic mandate.

Council calls on the Mayor to conduct an urgent investigation into the quality of the IT hardware that is provided to Councillors with particular regard to the age and reliability of the computers that are provided, the number of faults that have been reported, the average length of time that it takes to get them repaired and to report back within two months on how this situation can be improved”

**12. Motion in the name of Councillor Flood to be seconded by Councillor Page**

“This council notes that, following the strike of council workers on the 16th-17th July, the local government employers agreed to re-open negotiations with the unions on the 2008/09 pay offer.

At a time of rising inflation (including housing and council tax costs), and in a situation where over a quarter of a million local government employees earn less than £6-50 an hour, this council endorses the unions’ view that the original offer of 2.45% was effectively a pay cut for council workers.

In this light we call on the local government employers to ensure that the re-negotiated pay offer for this year does not fall below the RPI inflation rate.”

**13. Motion in the name of the Mayor to be seconded by Councillors Britton, Hall, Johnson, Morris and Page**

“This council recognizes the tremendous achievement of Team GB at the Beijing Olympics this summer and in particular congratulates Lewisham’s Tasha Danvers in securing a Bronze Medal in the 400 metres hurdles. The courage, dedication and determination she has shown in winning this medal should be an example to all Lewisham residents in striving to achieve their ambitions. Lewisham is extremely proud of her and we wish her every success in the future”.