

Ayshe Simsek, Acting  
Democratic Services  
and Scrutiny Manager

020 8489 2929

[ayshe.simsek@haringey.gov.uk](mailto:ayshe.simsek@haringey.gov.uk)

11 July 2019

To: All Members of the Full Council

Dear Member,

Full Council - Monday, 15th July, 2019

I attach a copy of the following reports for the above-mentioned meeting which were not available at the time of collation of the agenda:

(iii) Standards Committee report on Changes to Constitution - Section K

Yours sincerely

Ayshe Simsek,  
Acting Democratic Services and Scrutiny Manager  
0208 489 2929

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## **REPORT OF STANDARDS COMMITTEE**

**FULL COUNCIL 15 July 2019**

**Chair of Standards Committee – Cllr Felicia Opoku**

### **INTRODUCTION**

The Standards Committee considered the attached report which contained the proposal to redefine the role of members in the appointments process to better reflect the current structure of the senior management team, whilst ensuring that the authority continues to meet its statutory obligations. Appendix A set out the proposed changes to Part 4 Section K to reflect this change. Members would be responsible for the appointment and/or dismissal of Directors and Assistant Directors, as permitted by the Regulations, however in line with member expectations, it would no longer extend to every deputy chief officer of the Council, as some of these officers were operating below Assistant Director Level, i.e. as Heads of Service.

In accordance with Article 14.03, changes to the Constitution are approved by the Full Council on the recommendation of the Standards Committee. It was good practice to also consult with the relevant Committee, in this case, Staffing and Remuneration Committee, to obtain the Committee's views on the proposal. Their comments were considered by our meeting on the 25 June 2019.

### **SUMMARY OF CONSIDERATIONS**

We noted the significant changes undertaken to senior officer structure over the last year with the layering of management to allow closer working relationships between senior officers and heads of service. This had enabled operational decision making in key strategic services to be made at the most senior level.

We were advised that the amendment to Part 4 Section K was predominantly a change in language with the deletion of the term 'chief officer' and 'deputy chief officer' and inclusion of replacement term of 'Director'. This definition of senior roles was designed to better reflect the current structure of the senior management team, whilst ensuring that the authority continued to meet its statutory obligations.

We noted that the proposed changes did not diminish the responsibility of Members decision making role in the appointment and dismissal of Directors and Assistant Directors, as permitted by the Regulations. Members would remain responsible for the appointment and dismissal of Directors. The definition of the term 'Director' was clarified and set out at Part 3 Section E Section 1; 2.01 of this Constitution and we noted this included Corporate Board, Directors and Assistant Directors. Essentially, officers that were operating below Assistant Director Level, i.e. as Heads of Service would not be included in the Member appointments process. It was further clarified that, regardless of the role and title of a senior position, if an officer salary was

intended to be over £100k, then in accordance with the Pay Policy, this would require Member appointment.

The proposed changes had been considered by the Staffing and Remuneration Committee and we considered their tabled comments along with HR and legal responses to the issues they had raised. This is included at Appendix B.

We considered each comment individually and had the following discussion and decisions.

1. We noted that the Staffing & Remuneration Committee had commented on Part 4 section K - Paragraph 7 (a) asking if there were any provisions for investigations that may take longer than two months. We noted that under the Local Authorities Standing Orders Rags 2001, Schedule 3, Paragraph 3 there was no longer a set time period prescribed. However, we felt it would be prudent to keep the prescribed time period for investigation, to ensure that it was not left open-ended as this would be to the detriment of all parties concerned in such a scenario.
2. We noted Staffing & Remuneration Committee's comments in relation paragraph 6 (c) at Appendix A. This paragraph did not seem to be relevant to the Council's governance structure as it referred to an Executive Mayor. We concurred with this suggestion to delete this paragraph.
3. We discussed the Staffing & Remuneration Committee's comment concerning Paragraph 9 which was adding the Chief Executive to the list of Corporate Board members. We noted that the Chief Executive is already defined in the Constitution under a legislative role and therefore it was felt that listing the Chief Executive, under the list of Corporate Board, for the purposes of this section, would lead to having a double definition. In conclusion, we did not agree with the comment to add the Chief Executive to the definition of Directors set out at section 4 and listed in paragraph 9 as this statutory position was already covered in section 3 - Appointment and dismissal of Head of Paid Service, dismissal of Chief Finance Officer and Monitoring Officer. Therefore, for consistency purposes, this was still appropriate.
4. We considered the query in relation to Paragraph 4 (b) appointment / dismissal / discipline of the CE of Alexandra Palace, and why this was not coming under the remit of the Staffing & Remuneration Committee whilst paragraph 9 includes the Chief Executive of Alexandra Palace under the definition of Director. Clarity had been sought as to the meaning of 'as appropriate' – what areas of the role were covered if Paragraph 4 (a) did not apply to the CE of Alexandra Palace? In response to this query, legal advised that for the purposes of Part 4 Section K, the CE of Alexandra Palace does not need to be included in the definition of 'Director'

We noted that Chief Executive of Alexandra Palace was listed in this section due to this role being appointed to by the Chief Executive of the Council. This was to

conform to the Council's responsibilities as trustee and ensuring that the recruitment and dismissal process for such a role is streamlined and efficient. We noted that Paragraph 4 (b) had always been in the Constitution as a Chief Officer and director - exercising functions as a trustee and separate from the Council. We noted that there was an ongoing review of the governance arrangements for Alexandra Palace and Park and this appointment/ dismissal process could be considered. We agreed, on balance, that there be no change to Paragraph 4 (b) as set out in appendix A.

5. We continued to note the responses provided to the Staffing & Remuneration comments on change to the post names and the number of posts that the Committee would no longer be involved with.

**WE RECOMMEND TO FULL COUNCIL:**

To agree the amendment to Part Four, Section K of the Council's Constitution; Officer Employment Procedure Rules, as set out in Appendix A, for recommendation to full Council for adoption, subject to the amendment outlined at paragraph 2.

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**Report for:**               **Standards Committee**

**Title:**                   **Appointment and Dismissal of Senior Officers**

**Report  
authorised by :**       **Zina Etheridge – Chief Executive and Head of Paid Service**

**Lead Officer:**       **Ian Morgan – Reward Strategy Manager**

**Ward(s) affected:** n/a

**Report for Key/  
Non Key Decision:** **Non Key**

**1. Describe the issue under consideration**

The purpose of this report is to provide the Committee with recommendations for the future which will focus members' time on the appointment of the most senior officers of the Council in order to maintain the transparent link between our Constitution, our statutory obligations and the organisation of the senior management team.

In accordance with Article 14.03, changes to the Constitution are approved by the Full Council on the recommendation of the Standards Committee. It is good practice to also consult with the relevant Committee, in this case, Staffing and Remuneration Committee, to obtain the Committee's views on the proposal.

**2. Cabinet Member Introduction**

Not applicable.

**3. Recommendations**

To agree the amendment to Part Four, Section K of the Council's Constitution; Officer Employment Procedure Rules, as set out in Appendix A, for recommendation to full Council for adoption.

**4. Reason for Decision**

The Council has a number of statutory obligations and powers regarding the appointment and dismissal of its most senior officers, codified in the Officer Employment Procedure Rules; Part 4 Section K of the Constitution of the London Borough of Haringey.

The Council has significantly changed its senior management structure in order to reduce the number of management levels in the organisation. Simply using the generalised definitions set out in legislation, which are mainly based on reporting lines rather than the size and importance of the role, has inadvertently captured some smaller specialised professional roles at Head of Service level which would not previously have fallen into the category of a member appointment.

The amendment to Part 4 Section K is designed to better reflect the current structure of the senior management team, whilst ensuring that the authority continues to meet its statutory obligations.

Changes to the Constitution are approved by the Full Council on the recommendation of the Standards Committee, in accordance with Article 14.03 of the Constitution. It is good practice to also consult with the relevant Committee, in this case, Staffing and Remuneration Committee, to obtain the Committee's views on the proposal.

## **5. Alternative options considered**

The alternative would be to maintain the current definition of a member appointment, however, this would significantly increase the amount of member time taken up in recruitment activities.

## **6. Background**

- 6.1 The appointment of staff is governed by the Local Authorities (Standing Orders) (England) Regulations 2001 ('the Regulations') which provide that with certain exceptions, all staff appointments and dismissals must be carried out by officers. Exception is made for the appointment and/or dismissal of certain senior officers and includes provision that statutory chief officers, non-statutory chief officers and deputy chief officers may be (but do not have to be) appointed and dismissed by members.
- 6.2 The Regulations prescribe the process for the appointment and dismissal of Head of Paid Service, and the dismissal of Chief Finance Officer and Monitoring Officer and the specific roles and responsibilities of members in these processes. Thereafter, the Regulations offer the authority discretion to determine the role of members in the appointment and dismissal of officers at chief or deputy chief officer level.
- 6.3. Whether an officer is a statutory chief officer, a non-statutory chief officer or a deputy chief officer is defined in law (s2 Local Government Housing Act 1989):
- The statutory chief officers are (i) the director of children's services, (ii) the director of adult's services, (iii) the director of public health and (iv) the s151 officer
  - The non-statutory chief officers are those officers reporting directly to and accountable to the Chief Executive and Head of Paid Service
  - The deputy chief officers are those officers reporting directly to and accountable to one or more of the statutory or non-statutory chief officers.
- 6.4 The Council has significantly changed its management structure in recent years. The previous Senior Leadership Team (SLT) operated at executive level and reported directly to the Head of Paid Service. This structure consisted of an additional layer of senior operational management sitting beneath the SLT. The SLT has been dissolved and replaced with the Corporate Board. The establishment of Corporate Board removed a layer of senior management to enable operational decision making in key strategic services to be made at the most senior level.

The proposal is to redefine the role of members to better reflect the current structure of the senior management team, whilst ensuring that the authority continues to meet its statutory obligations. Appendix A sets out the proposed changes to Part 4 Section K to reflect this change. Members will be responsible for the appointment and/or dismissal of Directors and Assistant Directors, as permitted by the Regulations, however in line with member expectations, it will no longer extend to



every deputy chief officer of the Council, as some of these officers are operating below Assistant Director level, i.e. as Heads of Service.

6.5 The proposal in Appendix A redefines the scope of member involvement in appointments and dismissals as follows. The Staffing and Remuneration Committee will appoint and dismiss Directors. “Director” has the meaning given at Part 3 Section E Section 1; 2.01 of the Constitution and shall include the following officers:

- Members of the Corporate Board
- All Directors and Assistant Directors
- The Chief Executive of Alexandra Palace & Park (as appropriate)

“Corporate Board ” means:

- The Director for Environment and Neighbourhoods
- The Director for Housing, Regeneration and Planning
- The Director for Children’s Service
- The Director for Adults and Health
- The Director for Customers, Transformation and Resources
- The Director of Finance

## **7. Contribution to strategic outcomes**

Ensuring that the definition of member appointments is clear supports the Council’s commitment to fair and transparent recruitment practice.

## **8. Statutory Officers’ comments**

### **8.1 Chief Finance Officer**

There are no financial implications arising from the recommendations apart from minor administration changes.

### **8.2 Assistant Director of Corporate Governance**

The Assistant Director of Corporate Governance has been consulted in the preparation of this report. The legal implications are set out within the body of this report.

## **9. Use of Appendices**

Appendix A – London Borough of Haringey Constitution; Part Four, Section K “Officer Employment Procedure Rules”.

## **10. Local government (Access to Information) Act 1985**

Not applicable.

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# **Part Four, Section K**

## **Officer Employment Procedure Rules**

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### **1. Recruitment and Appointment**

#### **(a) Declarations**

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor, the Mayor or officer of the Council; or of the partner of such persons.
- (ii) Any candidate who fails to disclose such a relationship will be disqualified from appointment. The content of this paragraph will be included in any recruitment information.
- (iii) No candidate so related to a councillor, the Mayor or an officer will be appointed without the authority of the Assistant Director for Human Resources or an officer nominated by him/her.
- (iv) Every Member and senior officer of the authority who knows of a relationship to a candidate for appointment must report the details to the Assistant Director for Human Resources.

#### **(b) Seeking support for appointment.**

- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor or the Mayor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) No councillor or the Mayor will seek support for any person for any appointment with the Council. This rule does not prevent a Member from offering or providing a written reference about a candidate but the Member shall not take part in the appointment process involving that candidate.

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Section K– Officer Employment Procedure Rules

**2. Recruitment of Head of Paid Service and Directors\*, ~~Chief Officers and Deputy Chief Officers.~~**

Where the Council proposes to appoint a Head of Paid Service or a Director , ~~Chief Officer or Deputy Chief Officer~~ and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying:
  - (i) the duties of the officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.
- (d) all applicants for the post shall be interviewed, or a short list of the more suitable applicants shall be drawn up and those applicants shall be interviewed.

**3. Appointment and dismissal of Head of Paid Service, dismissal of Chief Finance Officer and Monitoring Officer**

- (a) The Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Staffing and Remuneration Committee.
- (b) The Council may only make or approve the appointment of the Head of Paid Service where:
  - (i) no objection has been made by any member of the Cabinet, or
  - (ii) if any objection is made, the Staffing and Remuneration Committee has declared itself satisfied that the objection is not material or well-founded
- (c) The procedures in (a) and (b) above will apply to the dismissal of the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer.


**\*the term *Director* has the meaning given at Part 3 Section E Section 1; 2.01 of this Constitution**

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**4. Appointment of Directors ~~Chief Officers and Deputy Chief Officers~~**

- (a) The Staffing and Remuneration Committee will appoint Directors ~~Chief Officers and Deputy Chief Officers~~.
- (b) The procedures in (a) above will not apply to the appointment, dismissal or discipline of the Chief Executive ~~Officer~~ of the Alexandra Palace and Park charity. Instead, the Chief Executive acting in his/her charity capacity will take the decisions to appoint, dismiss or discipline that Chief Executive ~~Officer~~ in consultation with the Alexandra Palace and Park Board or its appointed Panel.
- (c) An offer of employment as a Director ~~Chief Officer or a Deputy Chief Officer~~ shall only be made where:
  - (i) no objection has been made by any Cabinet Member, or
  - (ii) if any objection is made, the Staffing and Remuneration Committee or the Chief Executive is satisfied that the objection is not material or well founded.
- (d) The procedures in (a) and (c) above will apply to the dismissal of Directors ~~Chief Officers and Deputy Chief Officers~~ except that (b) and (c) will apply to the dismissal of the Chief Executive ~~Officer~~ of the Alexandra Palace and Park charity.

**5. Member Training**

All Members taking part in appointments or disciplinary proceedings  shall undertake appropriate training provided by the Assistant Director for Human Resources in consultation with the Assistant Director of Corporate Governance.

**6. Other appointments**

- (a) Appointment of all other officers (other than assistants to political groups and an assistant to the mayor) will be made by the Head of Paid Service or his/her nominee.
- (b) Assistants to political groups. Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.
- (c) Assistant to the Mayor. An assistant to the Mayor may only be appointed by the Mayor.

**7. Disciplinary action**

- (a) Suspension. The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two

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months.

- (b) Independent Panel. No other disciplinary action may be taken in respect of any of those officers until the Authority has invited relevant independent persons to form an Independent Panel to advise on such matters as set out in the Local Authorities (Standing Orders)(England) Regulations 2001.
- (c) Councillors will not be involved in the disciplinary action against any officer below Director ~~Deputy Chief Officer~~ except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of disciplinary action.

## 8. Dismissal

- (a) Independent Panel. In accordance with the provisions of the Local Authorities (Standing Orders) (England) Regulations 2001, before the taking of a vote at the relevant meeting on whether to approve or not a dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer, the Council must take into account, in particular:
  - (i) any advice, views or recommendations of the Independent Panel;
  - (ii) the conclusions of any investigation into the proposed dismissal; and
  - (iii) any representations from the relevant officer.
- (b) Councillors will not be involved in the dismissal of any officer below Director ~~Deputy Chief Officer~~ except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of dismissals.

## 9. Definitions

In these Rules:

- "Director" has the meaning given at Part 3 Section E Section 1; 2.01 of this Constitution and shall include the following officers:
  - Members of the Corporate Board
  - All Directors and Assistant Directors
  - The Chief Executive of Alexandra Palace & Park (as appropriate)
- "Corporate Board " means:
  - The Director for Environment and Neighbourhoods
  - The Director for Housing, Regeneration and Planning
  - The Director for Children's Service
  - The Director for Adults and Health
  - The Director for Customers, Transformation and Resources
  - The Director of Finance

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- ~~"Chief Officer" means a statutory chief officer or a non-statutory chief officer who, as respects all or most of the duties of his/her post, reports directly to the Head of Paid Service~~
- ~~"Deputy Chief Officer" means an officer who, as respects all or most of the duties of his/her post, reports directly to a chief officer.~~
- ~~an officer whose duties are solely secretarial, clerical or administrative in nature shall not be regarded as Chief Officer or Deputy Chief Officer.~~

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## **LATE BUSINESS SHEET**

**Report Title: Appointment and Dismissal of Senior Officers**

**Comments of the Staffing and Remuneration Committee**

**Date: 25 June 2019**

### **Reason for lateness and reason for urgent consideration**

This appendix is considered urgent pursuant to section 100B (4) (b) of the Local Government Act 1972. That provision states *“An item of business may not be considered at a meeting of a principal council unless ... by reason of special circumstances, which shall be specified in the minutes, the chairman of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency”*.

In accordance with Article 14.03 of the Council's Constitution, changes to the Constitution are approved by the Full Council on the recommendation of the Standards Committee. However, it is good practice to also consult with the relevant committee, in this case Staffing and Remuneration Committee, to obtain their views. The report on the Appointment and Dismissal of Senior Officers was considered by the Staffing and Remuneration Committee on 24 June 2019, and the comments made are detailed below.

**Concurrence of the Acting Democratic and Scrutiny Services Manager to the submission of this late item of business in accordance with Part 5 Section D – Protocol for Decision-Making - Paragraph 1.4.**

## Comments of the Staffing and Remuneration Panel

The Staffing and Remuneration Committee considered the report and requested clarification from Legal Services on the following:

- **Part 4, Section K**

Paragraph 7 (a) – are there any provisions for where investigations may take longer than two months?

*Response: this is a statutory requirement under the Local Authorities Standing Orders Regs 2001, Schedule 3, Paragraph 3.*

Paragraph 6 (c) – this doesn't seem to be relevant to Haringey Council, as it seems to refer to an Executive Mayor – can this be removed?

*Response: this can be removed.*

Paragraph 9 – the definitions do not include the Chief Executive – should this post be listed?

*Response: Chief Executive to be added to the list of Corporate Board members.*

Paragraph 4 (b) refers to the appointment / dismissal / discipline of the CE of Alexandra Palace as not being under the remit of the S&R Committee, however paragraph 9 includes the Chief Executive of Alexandra Palace under the definition of Director. Clarity was sought as to the meaning of 'as appropriate' – what areas of the role were covered if Paragraph 4 (a) did not apply to the CE of Alexandra Palace?

*Response: For the purposes of Part 4 Section K, the CE of Alexandra Palace does not need to be included in the definition of 'Director'. This definition applies and is relevant under the Officer Scheme of Delegation at Part 3, Section E, Part 1.*

Paragraph 9 – definitions. Clarity was sought on the listing of the posts under 'Corporate Board' and whether any change to the post name would mean that the rules of Part 4 Section K did not apply until the Constitution had been updated.

*Response: Changes to post names can be updated and approved by the Assistant Director of Corporate Governance, and would not require a decision by Full Council to do so. All posts under the definition of 'Director' would be under the remit of S&R.*

- Clarity was sought in relation to the number of posts that the Committee would no longer be involved with.

*Response: In practice, currently this would affect four posts:*

- o *Head of Programme Delivery*

- *Head of Construction Related Property Delivery*
- *Chief Information Officer*
- *Capital Accountant*

*All posts under the definition of 'Director' would be under the remit of S&R.*

The Committee requested that responses to these queries be provided to the Standards Committee on 25 June 2019 for their information whilst considering the report.

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