

NOTICE OF MEETING

Special General Purposes Committee

THURSDAY, 2ND NOVEMBER, 2006 at 18:00 HRS - CIVIC CENTRE, HIGH ROAD,
WOOD GREEN, N22 8LE.

MEMBERS: Councillors Griffith (Chair), Adje (Deputy Chair), Dobbie, Patel, Beynon,
Bloch, C. Harris and Whyte

AGENDA

- 1. APOLOGIES FOR ABSENCE (IF ANY)**
- 2. DECLARATIONS OF INTEREST**

A member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

A member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest.

- 3. AMENDMENTS TO THE COUNCIL STANDING ORDERS ON SUBSTITUTE MEMBERS (PAGES 1 - 14)**

(Report of the Head of Legal Services and Monitoring Officer) To amend the rules about the appointment of substitute Members when a Member is unable to attend a meeting of a Committee or Sub-Committee.

In accordance with Standing Order 32.6, no other business shall be considered.

Yuniea Semambo
Head of Member Services
5th Floor
River Park House
225 High Road
Wood Green
London N22 8HQ

Jeremy Williams
Principal Committee Co-ordinator
Tel No: 020 8489 2919
Fax No: 0208 489 2660
Email: jeremy.williams@haringey.gov.uk

25 October 2006

Special General Purposes Committee on 2 November 2006

Report Title: Amendments to Council Standing Orders on Substitute Members	
Report of: The Head of Legal Services and Monitoring Officer	
Wards affected: All	Report for: Recommendation to Council
<p>1. Purpose</p> <p>1.1 To amend the rules about the appointment of substitute Members when a Member is unable to attend a meeting of a Committee or Sub-Committee</p>	
<p>2. Recommendations</p> <p>2.1 That Members recommend to full Council the adoption of the changes to Council Standing Orders, set out in Appendix 1 to this report, to have effect as amendments to Part E.8 of the Council's Constitution</p> <p>2.2 That Members recommend to full Council the adoption of the changes to the Members' Code of Conduct for Planning Applications Sub-Committee, set out in Appendix 2 to this report, to have effect as amendments to Part C.4 of the Council's Constitution.</p> <p>2.3 That Members recommend to full Council the adoption of the changes to the Scheme of Delegation to Officers, set out in Appendix 3 to this report, to have effect as amendments to Part F.7 of the Council's Constitution</p>	
<p>Report authorised by:</p> <p>Davina Fiore Head of Legal Services and Monitoring Officer</p>	

Contact officer: Terence Mitchison – Senior Project Lawyer, Corporate
Telephone: 020 8489 5936 terence.mitchison@haringey.gov

3. Executive Summary and Reasons for Change

This report sets out proposals to amend Council Standing Order 43.4 which currently requires the Member intending to be absent to appoint a substitute by giving 3 clear days notice. The operation of this rule has given rise to practical problems. The revised rules now proposed would allow greater flexibility about timing combined with clarity on the requirement for training before Members serve on specified bodies.

4. Access to information:

Local Government (Access to Information) Act 1985

The following background papers were used in the preparation of this report and can be inspected at the Alexandra House, 10 Station Road, Wood Green, London N22 7TR by contacting Terence Mitchison on 020 8489 5936:

The Council's Constitution

5. Background

5.1 The text of the existing rule about substitute Members is mainly set out in Council Standing Order (CSO) 43.4 shown in Appendix 1 to this report. The principal features are (a) the Member proposing to be absent appoints the substitute, and (b) three clear days written notice must be given to the Head of Member Services by the absent Member.

5.2 CSO 43.5 clarifies that the substitute Member will have voting rights and that substitution is not allowed at The Executive and its subordinate Committees/bodies. This rule 43.5 is recommended for retention.

5.3 Only rule 43.4 would be deleted and replaced by the new text shown in Appendix 1 in italics and underlined. References to this new text are given with the relevant subparagraph in brackets e.g. (5)

6. Proposals

6.1 Under the new proposals, the Member intending to be absent would still, in most cases, give notice to the Head of Member Services to arrange for a substitute. This initial notice would have to be given by 10.00 a.m. on the morning of the meeting (see (5)). Removing the existing requirement for 3 clear days notice would create much greater flexibility.

- 6.2 Where any meeting takes place before 6.00 p.m, the initial notice must be given by 10.00 a.m. on the previous working day. This makes it plain that notices can only be given on days when Council offices are open (see (5)).
- 6.3 All notices must be given in writing but it would now be expressly stated that this includes e-mail (see (5) and (7)).
- 6.4 At present the power to appoint a substitute only arises where a Member is “unable to attend” a meeting. This might result in a legal challenge being made against a decision carried by the vote of a substitute Member in circumstances where the appointing Member’s reason for absence was called into question. Greater flexibility is now proposed by allowing absence “for any reason” (see (4)).
- 6.5 If a Member is abroad or seriously ill they may have difficulty giving notice. The new rules would allow the Chief Whip of a Group to give notice in place of the absent Member (see (4)).
- 6.6 One major change would be to have the actual selection and appointment of the substitute Member made the responsibility of the relevant Chief Whip or Group Officers (see (6), (7) and (8)). At present it is the responsibility of the absent Member. This could be a problem for example where the Member intends to be absent because of a prejudicial interest in an item. In such a case, the mere fact that the absent Member makes the appointment risks being seen as “improperly influencing” the decision on the item in breach of the Members’ Code of Conduct. Transferring the notification of appointment of the substitute to the Chief Whip or Group Officers should avoid this problem.
- 6.7 The initial notice to arrange for a substitute must always be given to the Head of Member Services or one of her nominated officers so that there is a clear record of due process. The Head of Member Services will then notify the relevant Chief Whip who would have the responsibility for selecting the substitute and giving the second notice stating the name of the substitute Member (see (6) and (7)). This second notice would have to be given in writing to the Head of Member Services no later than three hours before the meeting was due to start. This is to avoid any uncertainty about the right of the substitute Member to attend.
- 6.8 In order to facilitate the rapid selection of substitutes, it is recommended that each Political Group should nominate a series of reserve Members for each Committee and Sub-Committee. It would be a matter for each Group just how many reserves were nominated. A system of reserve Members would have the advantage that those Members would be known in advance and could be trained to serve on those bodies where specific training is necessary.
- 6.9 In any circumstances where none of the reserve Members was available or none had been nominated for the body, then the Chief Whip would have the power to select a substitute from any Member of the Group. This power would be subject to the training requirement in (9).
- 6.10 The training requirement currently applies to the Standards Committee and its Sub-Committees, the Planning Applications Sub-Committee, Disciplinary Appeals Panels, Grievance Panels, Job Evaluation Panels and hearings conducted by the Licensing Committee and its Sub-Committees. The proposed text of (9) is worded in such a way as to allow for the possible future addition of other bodies where training

may become mandatory.

- 6.11 In order to put the matter on a clear and logical footing, a change is also being recommended to Part C.4 of the Constitution which is the Members Code of Conduct for Planning Applications Sub-Committee (PASC). The relevant extract from Part C.4 is shown in Appendix 2 to this report. In paragraph 5.01 there is a requirement for Member training which states that PASC Members must be trained “within three months of appointment”. This implies that substitute Members can be appointed to PASC for one meeting with no training. This would be contrary to the proposals now recommended for CSO 43 and Government Guidance which expects all Members of Local Planning Authorities to have had appropriate training before they participate in decision-making. Therefore, the words “or within three months of appointment” should be deleted from paragraph 5.01 of Part C.4 as shown in Appendix 2.
- 6.12 At present there is a separate rule about substitute Members for the Licensing Sub-Committees. This is set out in Appendix 3 to this report which shows the “proper officer powers” delegated to the Head of Member Services in Part F.7 of the Constitution. At paragraph 1.4 (k) on page 2 there is a power to appoint substitute Members for one hearing or meeting when a permanent Member is unable to attend for any reason. It is now recommended that this delegated power be deleted because it would no longer be needed if the revised CSO 43 is adopted.

7. Recommendations

- 7.1 That Members recommend to full Council the adoption of the changes to Council Standing Orders, set out in Appendix 1 to this report, to have effect as amendments to Part E.8 of the Council’s Constitution
- 7.2 That Members recommend to full Council the adoption of the changes to the Members’ Code of Conduct for Planning Applications Sub-Committee, set out in Appendix 2 to this report, to have effect as amendments to Part C.4 of the Council’s Constitution.
- 7.3 That Members recommend to full Council the adoption of the changes to the Scheme of Delegation to Officers, set out in Appendix 3 to this report, to have effect as amendments to Part F.7 of the Council’s Constitution

8. Equalities Implications

- 8.1 There are no specific equalities implications.

9. Comments of the Director of Finance

- 9.1 There are no specific financial implications

10. Comments of the Head of Legal Services

- 10.1 If the changes recommended in this report are approved by General Purposes Committee, then they will be reported to the next meeting of full Council on 13 November for adoption as amendments to the Council's Constitution

11. Use of Appendices

- 11.1 Appendix 1 shows the existing text of Council Standing Order 43 (Part E.8 of the Constitution) on Substitute Members and the recommended new text.
- 11.2 Appendix 2 shows the words in the Code of Conduct for PASC (Part C.4 of the Constitution) recommended for deletion.
- 11.3 Appendix 3 shows the Proper Officer Powers of the Head of Member Services in the Scheme of Delegation to Officers (Part F.7 of the Constitution). The separate power relating to substitute Members for Licensing Sub-Committees is recommended for deletion.

This page is intentionally left blank

APPENDIX 1

PART E.8 of the Constitution – Council Standing Orders

EXISTING TEXT OF COUNCIL STANDING ORDERS 43.4 AND 43.5 ON
SUBSTITUTE MEMBERS – THIS TEXT IS RECOMMENDED FOR DELETION

[This extract starts at page 30 of Part E.8 in the version of the
Constitution updated in May 2006]

43. ATTENDANCE

.....

4. Where a Member is unable to attend a meeting of a particular Committee/Panel to which they have been appointed they may if they so wish arrange for the attendance of a named Member in their place providing that they have notified the Head of Members and Democratic Services in writing three clear days in advance of the Committee/Panel meeting of the name of the Member who will attend on their behalf.
5. Substitutes properly appointed will be recorded in the minutes and shall carry full voting and other rights and responsibilities. This rule (in 4) does not apply so as to allow substitution at meetings of The Executive or its Committees or its subordinate bodies.

PROPOSED TEXT TO REPLACE THE EXISTING TEXT SHOWN ABOVE –
THE REPLACEMENT TEXT, BELOW, IS SHOWN IN ITALICS AND
UNDERLINED

4. *Where a Member is proposing to be absent for any reason from a meeting of a particular Committee/Sub-Committee to which they have been appointed they may give notice to arrange for a substitute Member in their place. The Chief Whip of a political group may give this notice in place of any Member from that group who will be absent.*

5. Notice under (4) must be given in writing, including e-mail, to the Head of Member Services by 10.00 a.m. on the day of the meeting if the meeting commences at 6.00 p.m. or later. Where the meeting commences before 6.00 p.m., the notice must be given by 10.00 a.m. on the previous working day before the meeting.
6. On receipt of notice under (4) above, the Head of Member Services will notify the Chief Whip for the political group of the Member who will be absent. The Chief Whip will make arrangements for the attendance of a substitute Member from the list of reserve Members for that Committee/Sub-Committee nominated by the group. Where none of the listed reserve Members for the relevant Committee/Sub-Committee is available, or where no reserve Members have been nominated, then the Chief Whip may select any other Member of the group. The provisions of this rule are subject to (9) below.
7. The name of the Member selected to act as the substitute must be notified in writing, including e-mail, by the Chief Whip to the Head of Member Services no later than 3 hours before the time for commencement of the meeting stated on the agenda.
8. If the Chief Whip of a political group is absent or unable to act for any reason, then any action to be taken by the Chief Whip in this Standing Order may be undertaken instead by any of the group officers.
9. In the case of meetings of Committees/Sub-Committees where prior Member training is required, only those Members who have attended appropriate training can be selected as substitutes. Currently these bodies are the Standards Committee and its Sub-Committees, the Planning Applications Sub-Committee, Disciplinary Appeals Panels, Grievance Panels, Job Evaluation Panels and hearings conducted by the Licensing Committee and its Sub-Committees. Reserve Members will be trained for the relevant body as soon as possible after their appointment.
10. Substitutes properly appointed will be recorded in the minutes and shall carry full voting and other rights and responsibilities. The provisions of this Standing Order do not apply so as to allow substitution at meetings of The Executive or its Committees or its subordinate bodies.

This page is intentionally left blank

APPENDIX 2

[the words recommended for deletion are shown struck through]

Part C.4
Members' Code of Conduct for Planning
Applications
Sub-Committee

.....
.....

[this extract starts at page 4 of Part C.4 in the version of the
Constitution
last updated in May 2004]

**5. CONDUCT OF MEMBERS OF PLANNING
APPLICATIONS SUB-COMMITTEE**

Training

5.01. The Council will ensure that all Members of the Planning Applications Sub - Committee have received appropriate training on planning legislation and relevant matters prior to appointment ~~or within three months of appointment~~ The Council will make available updating training for Planning Members, and will encourage all other Members of the Council to take part in planning training.

5.02.

This page is intentionally left blank

APPENDIX 3

[the words recommended for deletion are shown struck through]

PART F.7 of the Constitution – Scheme of Delegation to Officers

[this extract starts at page 168 of Part F.7 in the version of the Constitution updated in May 2006 and further amended on 17 July 2006 when the words now recommended for deletion at paragraph 1.4 (k) were added]

Section 9 Proper Officer and Specified Officer Functions

.....
.....

1.4 **Head of Member Services**

The Head of Member Services has been appointed Proper Officer and specified officer in relation to:

- (a) Part VA and Schedule 12A of the Local Government Act 1972 (Access to Information) and the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000-2002 (Access to Information);
- (b) Except as provided in 1.6 below, section 191 (information to assist Ordnance Survey) of the Local Government Act 1972;
- (c) Sections 225 and 229 and Schedule 14, Part II, Paragraph 25 (7) of the Local Government Act 1972, and Section 41(1) of the Local Government (Miscellaneous Provisions) Act 1976 (custody of, and certifying, documents);
- (d) The Local Government and Housing Act 1989, Section 2(2) (Maintenance of list of politically restricted posts);
- (e) Section 19 of the Local Government & Housing Act 1989 and Regulations made thereunder (Members' Interests Regulations);

- (f) Section 8 of the Representation of the People Act 1983, as the officer who will act as Deputy to the Electoral Registration Officer in the event of the latter's incapacity or a vacancy arising.

In addition the Head of Member Services is empowered:

- (g) To determine the appointment of outside members to the "pool" from which the membership of School Admissions Appeals Panels and School Exclusions Appeals Panels are drawn;
- (h) To determine the membership of individual Appeals Panels (under (g) above) and the selection of Chairs of these Panels;
- (i) To make appointments of representative School Governors as notified by the Executive Member for Education or the Opposition Spokesperson, as appropriate;*
- (j) To make appointments to vacancies on the Standing Advisory Council on Religious Education and Conference Committees;
- ~~(k) In consultation with the Chair of the Licensing Committee, to appoint substitute Members to Licensing Sub-Committees for one hearing or one meeting from among the membership of the parent Licensing Committee when any permanent Sub-Committee Member is unable to attend for any reason.~~