

Report for: Standards Committee – 2 November 2020

Title: Preliminary Paper responding to Member comments in the Review of Member Allowances that Regulatory Committee should be formally reconstituted as two separate Committees – a Planning Committee and a Licensing Committee

Report authorised by: Bernie Ryan, Assistant Director – Corporate Governance and Monitoring Officer

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Ward(s) affected: N/A

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

1. Describe the issue under consideration

- 1.1 In the Review of Members' Allowances for the Municipal year 2020/21, the independent person, conducting this review, outlined in his report, to the 2nd of March meeting, that there seemed to be consensus around the proposition that the Regulatory Committee should be formally reconstituted as two separate Committees – a Planning Committee and a Licensing Committee. It was also suggested that the SRA [Special Responsibility Allowance] for the Planning Committee Chair should be in line with the current SRA for the Regulatory Committee and that the SRA for the Licensing Committee Chair should be in line with the SRA currently paid to the Vice Chair of the Regulatory Committee.
- 1.2 In light of the work on the Review of Members' Allowances being welcomed but not all the recommendations accepted for implementation, the Standards Committee agreed to have a preliminary discussion on the separation of the Planning Committee and Licensing Committee duties from the Regulatory Committee. The Committee requested a brief report on the potential separation which outlined:
- what the desired outcome would be.
 - what the potential issues would be; and
 - what the potential timescale was for this to be achieved

The information in this report responds to this request.

2. Cabinet Member Introduction

N/A

3. Recommendations

- 3.1 To note the information contained in the report and recommended way forward at paragraph 6.13.

4. Reasons for decision

As outlined in paragraph 1.2.

The Standards Committee has responsibility for considering amendments to the Constitution and recommending proposals to Full Council for approval.

5. Alternative options considered

These are set out at paragraph 6.11.

6. Background information

- 6.1 Generally, most functions of the Council are 'executive' and the responsibility of the Executive [Cabinet]. In law some functions are prevented from being exercised by the Executive. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) set out which functions are non-executive. Regulation 2 Schedule 1 of the Act sets out the functions which cannot be the responsibility of Cabinet and these have been allocated to Regulatory Committee, Corporate Committee, Pensions and Staffing and Remuneration Committee.
- 6.2 The two main bodies of the Council dealing with non – executive functions as part of Regulation 2 Schedule 1 of the Act are the Regulatory Committee and Corporate Committee.
- 6.3 Regulatory Committee was established in 2011, following a governance review, led by the principle of reducing the number of non- executive committees together with a reduction in the number of SRAs.
- 6.4 The Regulatory Committee functions as set out in the Constitution, at Part Three Section B, take forward the following functions:
- The Council's Statutory Licensing Committee under the Licensing Act 2003. [Meaning that there is a need to have 10 to 15 Members to comply with the legislation as a Statutory Licensing Committee].
 - Exercising Council's functions under the Gambling Act 2005
 - Acting as a Non statutory Committee for Licensing, Town Planning, and other general regulatory matters.
- 6.5 The Regulatory Committee, delegates its functions relating to Town Planning (development management planning applications) to the Planning Sub - Committee which it establishes on an annual basis and further delegates its statutory Licensing and Gambling Act 2005 functions to Licensing Sub - Committee A and Licensing Sub- Committee B.

6.6 Therefore, the Regulatory Committee is left to consider Licensing policy issues, procedures and standard terms and conditions. In relation to Planning, the Regulatory Committee will make recommendations on Planning Policy and related matters to Cabinet and Full Council.

The merits of the current arrangements are:

- The Planning Committee can concentrate on Town Planning (development management planning applications) and there are several applications to consider monthly linked to the significant regeneration in the borough. Members will participate in site visits, consider pre- applications and then decision making on Planning Applications.
- There are 13 members of Regulatory Committee and this allows a wider pool of councillors to be trained and participate in Licensing Committees. If members of Licensing Subcommittee A or B are unable to participate then other members on Regulatory Committee can substitute.
- Members of Regulatory Committee can sit on both Planning Sub Committee and Licensing Sub Committees and allows wider knowledge of these regulatory areas to be developed. This then allows them to be able to contribute to the policy discussions on Licensing and Planning and make recommendations to the Cabinet or Full Council.

Disadvantages

6.7 The workload for councillors sitting on Regulatory Committee, Planning Sub Committee and Licensing sub committees can be intensive, especially if there are additional meetings added. This has been an issue highlighted by the Standards Committee and commented on in the Member's Allowances Review.

6.8 Most other boroughs in London have a parent Planning Committee and parent Licensing Committee with Licensing Sub Committees to consider functions under the Licensing Act 2003 and Gambling Act 2005. This is set out in Appendix A.

In the Municipal year 2019/20

- There were 10 Planning Committee meetings
- There were 7 Regulatory Committee meetings [2 of these were short meetings, related to membership changes and considering an urgent decision which was Covid related on pavement licensing]
- There were 5 special Licensing committee meetings [membership is chosen from whole of the Regulatory Committee]
- There were no meetings of Licensing subcommittee A
- There were 4 meetings of licensing subcommittee B

Legal, Governance and Resource Implications

- 6.9 Deleting Regulatory Committee and replacing this with a Licensing Committee would mean that licensing policy issues, procedures and standard terms and conditions together would be considered by the parent Licensing Committee with recommendations on planning policy and related planning matters that would normally proceed to Cabinet and Full Council added to the Planning Committee terms of reference. Some borough's Planning Committees do not consider Planning Policy issues and this could also be considered as a way forward with policy reports progressing directly to Cabinet and then Full Council . There would continue to need to be 2 licensing sub committees. Although, one could be chaired by the Licensing Chair, the second committee would require an additional SRA. There would be an additional cost to the Council and the Member's Allowance scheme would need to be updated.
- 6.10 This type of change to the Committee structure could not be considered in isolation and there would need to be a wider consideration of the impact on the Constitution and the officer scheme of delegation. The 4 scheduled meetings of Regulatory Committee could be allocated to Planning Committee, if it had planning policy added to its remit. As set out above, it could be agreed to have planning policy matters go directly to Cabinet and Full Council, therefore not requiring additional meetings. There would likely need to be 3 parent Licensing Committees scheduled to consider licensing policy issues. There is a current capacity issue with taking this action forward for Corporate Governance. In this current period we are running online meetings which require additional technical and officer support, facilitating increased decision making in the Council as a result of Covid 19, and are also entering the budget making period which will end in late February. The likely next available period to take forward this work would be in March 2021.
- 6.11 Another option considered from looking at other boroughs is keeping Regulatory Committee and establishing 2 Planning Committees A and B with the same terms of references to allow a wider pool of councillors to be trained and participate in decision making. Some boroughs have separate Planning Committees for major/strategic developments and for other developments. This would have an additional call on resources as there would need to be co-ordination of site visits, pre – application consideration and final planning application consideration by the same cohort of members. There would be impact on the Constitution, officer scheme of delegation and Planning Protocol that would require consideration. This would also require an additional SRA to be allocated. This option seems more complicated and it is considered that the existing scheme of delegation and Planning Protocol works generally well in terms of the Committee dealing with the right level of applications.
- 6.12 The Local Plan is a key document which will over the coming years involve detailed consideration by the Council. Regulatory Committee membership will have 13 members with 11 on Planning Committee and the remainder 2 members are still invited to planning training. Therefore, there are a good number of potential planning members available to allow expertise and experience in planning applications be put forward in this consultation process.

Conclusion

- 6.13 It is recommended that no changes are taken forward at this time, and the situation kept under review. Instead focus is given to monitoring the number of Planning and Licensing meetings taking place and if there is an increase of more than one a month, to further review the situation. This would also allow political consideration of the impact of taking forward an additional SRA, before this issue is re- considered in March.

7. Contribution to strategic outcomes

The Council's Constitution supports the governance of the Council and its Decision making thereby assisting the Council to meet its strategic outcomes.

8. Statutory Officers comments (Chief Finance Officer, Head of Procurement), Assistant Director of Corporate Governance, Equalities)

The financial impact of an additional SRA would need to be factored in the Corporate Governance budget for 2021/22 and considered in the context of assigned savings

Assistant Director of Corporate Governance

The legal comments are contained in the report.

9. Use of Appendices

Appendix A - Information on other London Borough Regulatory arrangements

10. Local Government (Access to Information) Act 1985

Member Allowances review 2020/21