

REPORT OF STANDARDS COMMITTEE 01/2020-21

FULL COUNCIL 18 March 2021

Chair: Councillor Opoku

1. INTRODUCTION

1.1 This report from the Standards Committee meetings on 25 January 2021 and 2 March 2021 asks Full Council to consider the following:

- Proposed amendments to the Constitution in relation to the Pensions Committee and Board terms of reference.
- To approve changes to the Committee structure and resultant changes to the Constitution. This is relating to the deletion of the Regulatory Committee and the establishment of a Strategic Planning Committee, with a Planning Sub Committee, and establishment of a main Licensing Committee, with a Licensing Sub Committee, to take effect from the 2021/22 Municipal year.
- To revoke the Members' Allowances Scheme for 2020/21 as of 31 March 2021 and to approve a new Members' Allowances Scheme for the Municipal year 2021/22 to take effect from 1 April 2021.
- To approve changes and additions to section 5.3 of Part Five, Section A of the Constitution (Protocol for Complaints Against Members).

1.2 The full recommendations for each item are included in the report and the attached appendices.

2. MINOR UPDATES TO THE PENSIONS COMMITTEE AND BOARD TERMS OF REFERENCE

2.1 It was proposed to amend the wording of the Pensions Committee and Board terms of reference in relation to employer representatives to bring it in line with the Local Government Pension Scheme (Amendment) (Governance) Regulations 2015 (the Pensions Regulations).

2.2 We heard that the Pensions Committee and Board consisted of six Councillor members, two employer representatives, and two employee representatives. The employer and employee representatives were co-opted members who served for a period of four years and were eligible for re-appointment. The two employer representatives were nominated by employers other than the Council. We were informed that it had proved difficult to fill all of the employer representative positions and one position had been vacant for a number of years.

- 2.3 We noted that the Local Government Pension Scheme (Amendment) (Governance) Regulations 2015 (the Pensions Regulations) stated that an employer representative must have 'the capacity to represent employers'. We heard that the existing wording in relation to employer members of the Pensions Committee and Board in the Haringey Council Constitution was narrower than the statutory wording in the Pensions Regulations and stated that employer representatives must be 'from scheduled and admitted employers'. The proposed amendment would bring the wording in line with the Pensions Regulations so that employer members would not need to be from scheduled and admitted employers but would need to have the capacity to represent scheduled and admitted employers.
- 2.4 We noted that the Pensions Committee and Board had considered the proposal at its meeting on 21 January 2021, had noted the proposed amendment, and hoped that the amended wording, which would provide a wider pool of potential employer representatives, would assist in filling the employer representative vacancy which had existed for several years.
- 2.5 We considered the proposals and agreed to the proposed amendments.

3. WE RECOMMEND

- 3.1 Full Council approve the amendment of the Pensions Committee and Board terms of reference in relation to employer member representatives to bring the wording in line with Pensions Regulations. The amendment would change the wording as follows (additions in bold text, deletions in strikethrough text): 'Two representatives ~~from~~ **who have the capacity to represent** scheduled and admitted employers'.

4. REPORT 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

- 4.1 In the Review of Members' Allowances for the Municipal year 2020/21, the independent person outlined, in their report to the Standards Committee meeting on 2 March 2020, 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. The Standards Committee considered this suggestion and recommended consultation with the Regulatory Committee on options for taking forward any changes to the Committee structure.
- 4.2 Various proposals were considered by the Standards Committee and the Regulatory Committee; these are set out in detail in **Appendices 1-5 to the Standards report considered on the 2nd of March 2021[pages 49 to 102 of the full Council agenda pack]**. The Regulatory Committee had considered the proposals at a working group meeting on 11 February 2021

and at the Regulatory Committee meeting on 25 February 2021 and had formally endorsed Option 3, which proposed the establishment of a Planning Committee called the Strategic Planning Committee, with a Planning Sub Committee, and a Licensing Committee, with a Licensing Sub Committee.

- 4.3 The Regulatory Committee had welcomed the fact that the existing policy and performance reports would continue to be reported to the Strategic Planning Committee and similar reports would go forward to the Licensing Committee. It was considered that it would be appropriate to have the same number of members for the Strategic Planning Committee and the Planning Sub-Committee. It was also suggested that, instead of having three set members for the Licensing Sub-Committee, the Chair of the main Licensing Committee would chair the Sub Committee and the remaining members would be appointed from a pool of members from the Licensing Committee. It was also noted that, as the Strategic Planning Committee and Licensing Committee would be parent Committees, there would be no need for Full Council to act as a parent Committee in the unlikely event that an application was referred up.
- 4.4 We noted that the Regulatory Committee had commented on the need to refer to Building Control functions in the terms of reference for the Strategic Planning Committee and it was highlighted that it was proposed to make this change after consultation with Legal Services. There had been some discussion about changing the name of the main Licensing Committee to the Strategic Licensing Committee. However, we noted that a number of other boroughs had a Licensing Committee, and it was acknowledged that this reflected the terminology used in legislation. In summary, we noted that the Regulatory Committee and the relevant planning, licensing, and legal officers had agreed with the changes to the Committee structure and the Council's Constitution.
- 4.5 We agreed with the proposals to establish a Strategic Planning Committee, with a Planning Sub Committee, and a Licensing Committee, with a Licensing Sub Committee. We also thanked the Regulatory Committee and officers for their excellent, collaborative work in recommending updates in relation to the Regulatory Committee and the Council's Committee structure.
- 4.6 We agreed to delegate any further required minor amendments to appendices 2 to 4 and other resultant changes to the Constitution, that may be necessary before submission of the Standards Report to Full Council on 10 March 2021, to the Monitoring Officer after consultation with the Chair. There has been additional wording added to Strategic Planning Committee Terms of reference and Protocol to reference that this Committee will consider Planning related regulatory matters. This is to pick up issues raised at the Regulatory Committee meeting on building control matters. **These additions are underlined and added as a new appendix 5.1, pages 103 to 116 of the full Council pack. In addition , Article 8 in the Constitution references Regulatory Committee and this is also attached for amendment at appendix 5.2, page 117 of the full Council pack.**

5. WE RECOMMEND

That Full Council is asked:

- 5.1 To note the endorsement of Regulatory Committee and Standards Committee to Option 3, set out at **Appendix 1 of the 2nd of March Standards Report [pages 49 to 56 of the full Council pack]**, which was the deletion of the Regulatory Committee for the 2021/22 municipal year and establishment of a separate main Planning Committee called the Strategic Planning Committee, with a Planning Sub Committee, and the establishment of a separate main Licensing Committee, with a Licensing Sub Committee.
- 5.2 To approve these changes to the Committee structure, set out above, to take effect from the 2021/22 Municipal year, as set out in **section 6.6 of Appendix 1 of the 2nd of March Standards Report [page 53 of the Council pack]**
- 5.3 To approve resultant changes and additions to the Constitution, Part 3 Section B (Full Council and Non-Executive Functions and protocols), which are attached at **Appendices 2 to 5.2 pages 57 to 86 and 103 to 117 of the Council pack]** to take effect from the 2021/22 Municipal year.

6. MEMBERS' ALLOWANCES SCHEME 2021/22

- 6.1 The Standards Committee has the responsibility, under Article 14.03 of the Constitution, to consider the Members' Allowances Scheme (the Scheme) and any changes and to recommend the Scheme to Full Council for approval.
- 6.2 It is a statutory requirement, under the Local Authorities (Members Allowances) (England) Regulations 2003 (the Regulations), for the Council to adopt a Members' Allowances Scheme for the following financial year by 31 March each year. The scheme may be amended at any time but may only be revoked with effect from the beginning of a year, the beginning of a year being 1 April. Under the Regulations, a year is defined as any period of 12 months ending on 31st March.
- 6.3 Under the Regulations, before making or amending the Members' Allowances Scheme, an authority shall have regard to the recommendations made in relation to it by an Independent Remuneration Panel. The Regulations allow London Boroughs to use an independent remuneration panel set up for the purpose of making recommendations across London. London Councils set up a panel for this purpose in 2001 and its most recent report was published in 2018 and makes recommendations in respect of the Members' allowances payable by London Boroughs.
- 6.4 We considered the Members' Allowances Scheme for 2020/21 and had regard to the report of the Independent Remuneration Panel established by London Councils when considering the Members' Allowances Scheme 2021/22.

- 6.5 We noted that the Independent Remuneration Panel recommendations and the Members' Allowances Scheme generally had been reviewed in detail in the 2019-20 review.
- 6.6 We acknowledged that the Members' Allowances Scheme 2021-22 would require some changes to descriptions if the proposals to reconstitute the Regulatory Committee as a Strategic Planning Committee, with a Planning Sub-Committee, and a Licensing Committee, with a Licensing Sub-Committee, were agreed. This would mean that sections referring to the Chair of Regulatory Committee, under Band 2B of the scheme, would be amended to refer to the Chair of Strategic Planning Committee and sections referring to the Vice-Chair of Regulatory Committee, under Band 1B of the scheme, would be amended to refer to the Chair of Licensing Committee.
- 6.7 We noted that, under the existing Members' Allowances Scheme, any increases to the basic allowance were index linked to local government officer pay increases; this meant that there would only be an increase in members' allowances if there was an increase in local government officers' pay and that any increase in Member Allowances was capped at a maximum of 2%. It was clarified that index linking was only relevant to members' basic allowances and not to Special Responsibility Allowances (SRAs) for additional duties. We noted that there was unlikely to be an increase in local government officers' pay this year but that it was important to ensure that members' basic allowances were not increased for 2021-22. It was also reported that, following some discussion with political groups, there was a general consensus amongst members that it would be inappropriate for there to be any increases to members' basic allowances this year.
- 6.8 We considered that the general principle to index link any potential increases in Members' basic allowances to local government officers' pay with a maximum percentage increase was appropriate in most years. However, due to the Covid-19 pandemic and the current financial climate, it was agreed that it would not be appropriate for there to be any increases in members' basic allowance for 2021-22. We agreed that members' basic allowances would not be index linked to local government officers' pay in 2021-22 and that this provision would be removed from the Members' Allowances Scheme 2021-22. It was confirmed that this would be revisited in the Members' Allowances Scheme for 2022-23.
- 6.9 The changes to the Members' Allowances Scheme for 2021-22 are shown in tracked changes of **Appendix 6** of this report and **Annex 1 of the 2nd of March Standards report on Member's Allowances [pages 123 to 132 of this Council Pack]**

7. WE RECOMMEND

- 7.1 Full Council revoke the Members' Allowances Scheme for 2020/21 as of 31 March 2021.

7.2 Full Council approve the new Members' Allowances Scheme for the Municipal year 2021/22, **as set out in Appendix 6 - Annex 1.1 pages 133 to 140 of the Council pack**, to take effect from 1 April 2021, noting that in the start of the Municipal year 2021/22, Band 2B of the scheme, would be amended to refer to the Chair of Strategic Planning Committee and sections referring to the Vice-Chair of Regulatory Committee, under Band 1B of the scheme, would be amended to refer to the Chair of Licensing Committee.

8. PROPOSED AMENDMENTS TO THE CONSTITUTION (PART FIVE, SECTION A – PROTOCOL FOR COMPLAINTS AGAINST MEMBERS)

8.1 The Standards Committee had suggested, at its recent meetings, that it would be appropriate to consider additional circumstances where the Monitoring Officer could dismiss a standards complaint at an earlier stage. It had been suggested that additional powers to dismiss complaints could be delegated to the Monitoring Officer, in particular where an allegation took place more than three months prior to the complaint, and that the Committee could receive an annual report from the Monitoring Officer to ensure oversight of the number and type of complaints that had been dismissed at an earlier stage.

8.2 We have considered proposed amendments to section 5.3 of Part Five, Section A of the Constitution (Protocol for Complaints Against Members); this is included as **Appendix 7 of this main Council report [pages 235 to page 252 of this Council pack]**

8.3 Following research into the Constitutions of other local authorities, we considered a proposal to include a Monitoring Officer delegated power to dismiss frivolous complaints. We noted that it was also proposed to update officer names and contact details. To provide assurance in relation to the additional delegated powers, it was agreed that the responsibility for the Monitoring Officer to provide an annual report on complaints, including details of the number of complaints that were dismissed at an earlier stage, would be included in the Constitution.

8.4 We enquired whether the power to dismiss an allegation that appeared to be motivated by malice or was 'tit-for-tat' could also be delegated to the Monitoring Officer in order to avoid complaints being considered by the Committee unnecessarily. We noted that this category of complaint could be a challenging and delicate judgement which may not be appropriate for the Monitoring Officer to make. We also acknowledged that there was no established guidance or previous Committee direction for this type of complaint so it would be appropriate to keep this in the remit of the Assessment Sub-Committee. However, we noted that this could be reviewed by the Committee if there was an increasing trend of this type of allegation as part of the annual report on complaints.

9. WE RECOMMEND

That Full Council is asked:

- 9.1 To approve the changes and additions to section 5.3 of Part Five, Section A of the Constitution (Protocol for Complaints Against Members), attached at **Appendix 7.1 Proposed amendments to part 5 Section A - protocol for complaints against Members [pages 239 to page 252]**