

REPORT OF STANDARDS COMMITTEE 01/2022/23

FULL COUNCIL 27 March 2023

Chair: Councillor Opoku

1. INTRODUCTION

- 1.1 This report arises from the Standards Committee meetings held on 4 October 2022, 24 January 2023 and 21 March 2023 and asks Full Council to consider the following:
- 1.2 To approve changes to the Council's Committee structure and resultant changes to the Constitution. This relates to:
- i. The deletion of:
 - Corporate Committee
 - Staffing and Remuneration Committee
 - ii. The establishment of:
 - Audit Committee
 - General Purposes Committee
 - Appointments Panel
 - Disciplinary, Grievance and Dismissal Panel

This is to take effect from the 2023/24 Municipal year.

- 1.3 To approve an update to Part 5 Section D of the Constitution, Decision Making protocol, to include consideration of climate change mitigation in decision making reports.
- 1.4 To revoke the Members' Allowances Scheme for 2022/23 as of 31 March 2023 and to approve a new Members' Allowances Scheme for the Municipal year 2023/24 to take effect from 1 April 2023.
- 1.5 To approve the continued appointment of the Independent Persons under section 28(7) of the Localism Act 2011 until June 2024.
- 1.6 The full recommendations for each item are included in this report and the attached appendices, some of which were considered at Standards Committee meetings and some detailing changes to the Constitution for approval.
- 2. Constitutional Changes and Committee Changes 2022/23 2023/24 - Establishment of an Audit Committee and General Purposes Committee and Update to part 5 Section D of the Constitution, Decision Making protocol, to include consideration of climate change mitigation in decision making reports**

- 2.1 On 21 March 2023 we considered a report setting out proposed changes to the Council's Committee Structure and resultant changes to the Constitution. The emphasis of the report was on meeting good governance requirements and ensuring that the non-executive functions were effectively assigned and also responded to recent changes in terms and conditions of statutory officers.
- 2.2 We noted that establishing a Committee which focused on Audit, independent of any executive council operations, would provide an independent and high-level focus on the adequacy of governance, risk and control arrangements, and give greater confidence to all those charged with governance that those arrangements would be effective. We discussed the following:
- The proposed 2 Independent Advisors and their appointment process. We noted that the Director of Finance, Head of Audit and Risk along with the Monitoring Officer would be part of the recruitment panel and the Chair of the Audit Committee would be consulted on the appointments. The recruitment process would start as soon as possible and it was hoped to attract local residents with the appropriate experience to be recruited by July 2023, if these Committee proposals were agreed. They would be non-voting and would not have a political affiliation. Their term of office was expected to be 4 years, and they would receive the same remuneration as the Independent Persons on Standards Committee.
 - The training of Audit Committee members and ensuring they had the skills needed to participate and making this mandatory requirement. We noted it was likely that training would take place before the first meeting in July and continue thereafter. *[Further Audit training dates have been added to the Council Calendar]*
 - The need for Audit Committee Members to be only part of the Audit Committee and not on scrutiny. It was clarified that the expectation was for Overview and Scrutiny members to not be a member of the Audit Committee, but that a Scrutiny Panel members [not the Chair] could participate in both Audit and Scrutiny Panel meetings. There was a concern raised about the democratic accountability of Audit Committee members if they were members of both Committees, but we noted the learning and preparation that would be involved in this Audit role.
 - The membership number of the Audit Committee was expected to be 7 plus 2 Independent Advisors. This was a proportionate number and the Committee would cover treasury management functions. These were areas concerning non-executive financial management and involved similar officers with linked expertise.
- 2.3 We considered information from the Constitution Working Group on the remaining powers for Corporate Committee which would be non-executive functions, including the legislation on non-executive functions set out in section Reg. 2 and Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 S.I. 2853 and the proposals for managing Director appointments, dismissals, disciplinarys and grievance to ensure the Council

met updated legislation related to statutory officers. We received updates to part 5 Section D of the Constitution, Decision Making protocol, to include consideration of climate change mitigation in decision making reports.

2.4 We discussed the following:

- The need to have Cabinet Members involved in Director and Statutory Officer Appointments, Dismissals, Disciplinary even though there was a right of Cabinet Members to call in a decision on the appointment of a Director. We were advised that this was a legislative requirement and there was no way around this.
- The request to have a separate Appointments body and a separate Disciplinary, Grievance and Dismissals body by the Constitution Working Group was noted
- The attendance reporting issues. Current arrangements meant that some Members of S&R were marked as having given apologies for special meetings which they could not attend as they had not been involved in the recruitment process and did not have a vote. Democratic services agreed to look into this matter and could mark S&R members as not required to attend.
- The current Staffing and Remuneration arrangements were referred to and compared to the proposals. It was proposed that the Leader of the Council chair these bodies, with the Chair of General Purposes Committee as Vice Chair of these bodies. In addition, the membership would comprise of a member from the GP Committee, a Cabinet Member, and a Member of the Opposition to ensure political proportionality.

2.5 We were advised at the meeting that late external legal advice had been received and indicated a legislative legal issue with establishing the Appointments body and Disciplinary, Grievance and Dismissals body as planned sub-Committees of the General Purposes Committee as it had been proposed that these Sub-Committees had a different membership to the parent Committee. Due to the Leader and Cabinet Member not being members of the GP Committee, it meant that they would not qualify to be a member of the Sub-Committees. However, they would be required to be a member of the Sub-Committees to meet legislative requirements. We noted that if the General Purposes Committee was expanded from 5 to 7 members to include the Leader and a Cabinet member, this would no longer be an issue. We had a discussion on this and indicated that General Purposes Committee should have a non-executive membership. We also noted that some Councils had these Appointments and Disciplinary bodies as Committees of the Council.

2.6 We noted that questions had been raised with the external legal advisor, shortly before the meeting, to understand if there could be a change in reference. This would be with the Sub Committee reference removed and instead the term 'Panel' used as a way forward and were awaiting a response.

- 2.7 We agreed the recommendations in the report, subject to clarification in the reports on whether the 2 bodies would be Sub-Committees or Panels. We agreed to provide a delegation to the Monitoring Officer in consultation with the Chair [who would in turn consult with the Standards members] following urgent legal external legal advice being sought, to clarify the report and either amend the number of members on General Purposes from 5 to 7 to include the executive members and meet the requirements of the Sub Committee or amend the references to the Sub Committee and use the term 'Panel'.
- 2.8 We subsequently received legal advice that the Sub Committee membership should be drawn from the main Committee and this was a matter concerning the way delegations worked. According to legislation, Full Council delegates the function to a Committee and the Committee can only work within the terms of reference and membership approved by Full Council. If they wish to create a Sub-Committee then they are bound to the remit set by Council .Therefore, there would be a legal issue if the Council set up these bodies as Sub Committees of General Purposes with additional members who were not members of the main Committee and would mean that the bodies were not constituted properly.
- 2.9 Further to consultation, it was agreed to update the report and assign the Appointments body and Disciplinary, Grievance and Dismissals body as Committees of the Council, calling these bodies: The Appointments Panel and Disciplinary, Grievance and Dismissals Panel. This would allow the involvement of Leader to chair meetings and the Cabinet Member with responsibility for the portfolio area to be on this Committee to meet legislative requirements. We agreed the following to be added to the terms of reference to allow this body to have a working relationship with General Purposes Committee:
- Specify the membership in the Constitution: the Leader of the Council, Cabinet Member responsible for HR, Chair of General Purposes, Member of General Purposes Committee and member of the Opposition. This would still allow the substitution of members for meetings if required. However, we would clearly set out the potential substitutes (which would be Cabinet Members) within the Annual report on Committees and could include a note on this within the Terms of Reference.
 - Specify that the Leader of the Council would be Chair of these bodies, with the Chair of General Purposes as Vice-Chair.
 - The minutes of the Panels would be received by the General Purposes Committee, in keeping with their responsibility and oversight for staffing functions of the Council and this would be added to their Terms of Reference to make this clear.
 - These meetings would not be listed in the Council's calendar of meetings as they would take place on an ad hoc basis.

In addition, the administrative details proposed to be completed were:

- Adding information to the published Members Allowance scheme, in the SRA banding 1b, alongside the listing of chair of General Purposes, Vice chair of Appointments Board/Panel and Disciplinary, Grievance and Dismissals.

3. WE RECOMMEND

- 3.1 To agree the deletion of the Corporate Committee and Staffing Remuneration Committee from the Council's Committee Structure, with effect from the Annual General Meeting of the Council in May 2023.
- 3.2 To agree the establishment of an Audit Committee as an Ordinary Committee of the Council and to take effect from the Annual Meeting of the Council in May 2023.
- 3.3 To agree the establishment of a General Purposes Committee as an Ordinary Committee of the Council and to take effect on from the Annual Meeting of the Council in May 2023.
- 3.4 To agree the establishment of an Appointments Panel to take effect from the Annual Meeting of the Council in May 2023.
- 3.5 To agree the establishment of a Disciplinary Grievance and Dismissal Panel to take effect from the Annual Meeting of the Council in May 2023.
- 3.6 To agree the subsequent administrative changes to the Member Allowance Scheme with the Chair of General Purposes Committee allocated the SRA banding 1B for the Staffing and Remuneration Chair, noting that this position will also be listed as the Vice Chair of the Appointments Panel and the Disciplinary, Grievance and Dismissal Panel; the Audit Committee Chair would be allocated the SRA 1B for the Corporate Committee Chair.
- 3.7 To agree to update part 5 Section D of the Constitution to include consideration of climate change mitigation in decision making reports . This will be in line with the adopted policy position, set out in the Council's Climate Change Action Plan, and will require all key decision-making reports, to consider and report on whether or how the proposals delivers Climate Change Mitigation (reducing carbon and energy impacts) and Climate Change Adaptation (minimising the risks and impacts in a changing climate).
- 3.8 To agree the subsequent changes to the Council's Constitution set out Appendices 1.1 to 4.
- 3.9 To provide delegation to the Council's Monitoring Officer to update the subsequent required administrative and technical amendments (grammatical, formatting, and consistency) necessary to finalise the revised constitution for publication. To note that these will be reported up to the Annual Council meeting in May as part of the Monitoring Officer report and shown in track changes.

4. MEMBERS' ALLOWANCES SCHEME 2023/24

- 4.1 We noted that the 2022 IRP report continued to recommend that the Basic Allowance should be updated in line with the Local Government Pay awards and overall recommendation was that the Basic Allowance can be up to £12,014. The report did not increase the bandings for Special Responsibility Allowances. However, there would be more detailed analysis of the demands and work patterns of councillors in the 2022/23 review.
- 4.2 The independent review of Members Allowance commissioned by the Committee in 2019/20 indicated that the Members Basic Allowance percentage increase be index linked to the local government officer pay percentage increase, capped at 2% to be reduced if a lesser percentage is agreed.
- 4.3 We discussed the Member's Allowance Scheme at the Standards meeting on 24 January 2023 and with our councillor colleagues and indicated that a 2% increase to the Basic Allowance for the 2023/24 municipal year was required. This was in alignment with the review completed in 2019/20 which indicated that the Members Basic Allowance percentage increase be index linked to the local government officer pay percentage increase, capped at 2% to be reduced if a lesser percentage is agreed. We considered that there had been a local government officer pay percentage increase, and we proposed that the current Basic Allowance be increased from £11,247 to £11,471.94 [rounded to 11,472] from the 1 April 2023 to 31 March 2024.

5. WE RECOMMEND

- 5.1 Full Council revoke the Members' Allowances Scheme for 2022/23 as of 31 March 2023.
- 5.2 Full Council approve the new Members' Allowances Scheme for the Municipal year 2023/24, **as set out in Appendix 8.**

6. Appointment of Independent Persons - Standards Committee from 30 June 2023 – 29 June 2024

- 6.1 We considered the continued appointment of the Independent Persons under section 28(7) of the Localism Act 2011 to support the Standards Committee in relation to allegations that members or co-opted members have failed to comply with the Member's Code of Conduct, and to support the Disciplinary, Grievance and Dismissal Panel.
- 6.2 We considered the following issues, since previous consideration of this issue on 25 January 2022:
- The Localism Act had not yet been updated following the report on 'Standards in Public Life'

- The resource intensive recruitment process for appointing new independent persons at a time when there is focus needed on considering the key governance changes as a result of the insourcing of Homes for Haringey and other required changes to the Constitution.
- The current experienced contribution of the current Independent Persons.

6.3 We agreed to recommend not taking forward a recruitment process and continuing with the incumbent Independent Persons, recommending in March 2023 to extend the appointment of the current independent persons from the 30th of June 2023 to 29th of June 2024.

7. WE RECOMMEND

7.1 To approve the extended appointment of Lisa Klein as Independent Person, and Stephen Ross as secondary Independent Person under s28(7) of the Localism Act 2011 for a further period of 1 year commencing on 1st July 2023 and ending on 30 of June 2024;

7.2 To approve the allowance to be paid to the Independent Person, and Secondary Independent person at £1250.00 and £250.00 per annum respectively.

Appendices

Appendix 1 Standards Committee Report- including updated references to Appointments Panel and Disciplinary Grievance and Dismissal Panel in accordance with paragraph 2.9.

Appendix 1.1 Tracked Changes to Part Three section B responsibility for Functions - Full Council and Non executive bodies.

Appendix 2 Clean Version Part Three section B responsibility for Functions - Full Council and Non executive bodies.

Appendix 3 Tracked changes to part 5 Section D of the Constitution, Decision Making protocol.

Appendix 4 Clean Version to part 5 Section D of the Constitution, Decision Making protocol.

Appendix 5 – CIPFA Guidance on Audit Committees

Appendix 6 – Members Allowances Report to Standards 21 March 2023

Appendix 7 – Members Allowances 2023/24 track changes

Appendix 8 – Members Allowances 2023/24 Clean version

Appendix 9 – The Remuneration of Councillors in London 2022– report of the Independent Panel

Appendix 10 Independent Person Report