

# **REPORT OF THE CONSTITUTION REVIEW WORKING GROUP No. 7/2009-10**

## **COUNCIL 22 MARCH 2010**

Chair:  
Councillor Kober

### **INTRODUCTION**

- 1.1 This report to full Council follows two reports considered by the Constitution Review Working Group at our meeting on 11 March 2010. The first item for decision is the making of a scheme of Members' Allowances for the year 2010/2011. The second item for decision concerns the adoption of a Protocol to implement the Councillor Call for Action procedure and the agreement of related amendments to the Council's Constitution.
- 1.2 As an item of urgent business, we noted with approval that the report of the Chief Executive to this meeting of full Council (at item 6) would recommend Members (i) to designate the Assistant Chief Executive, People and Organisational Development, as "scrutiny officer", and (ii) to amend the Council's Constitution at Appendix E, Section 9 in order to reflect this.

### **ITEMS FOR DECISION**

#### **2. MAKING THE SCHEME OF MEMBERS' ALLOWANCES FOR 2010/2011**

- 2.1 We noted that the Council was obliged to make its Members' Allowances Scheme afresh before the start of each municipal year in order that Members could be paid their allowances. This meant that a report had to be considered at this meeting of the full Council (22 March) so that Members could make the final decision on the Scheme for 2010/2011. We were advised that this would still be a requirement even if no substantive change was being made to the Scheme as compared to 2009/2010. There was nothing to prevent the full Council from amending the Scheme later in 2010 should Members then wish to do so.
- 2.2 We were reminded that the Council meeting on 13 November 2006 decided that the main allowances should be increased from 1 April 2007 in line with the rate of increase agreed in the national pay settlement for Council officers for 2007/08. At that time it was agreed

in principle that allowances should be increased according to the same formula in subsequent years. This had happened in 2007/08 and in 2008/09. On 30 March 2009 the Council had adopted the current scheme for 2009/10 which included the officer arbitration award of 0.3% made late in 2008.

- 2.3 We noted that in May 2009 both the Labour Group and the Liberal Democrat Group had indicated that their Members would not take the percentage increase agreed in the 2009/2010 national pay settlement for officers nor the previous 0.3% arbitration award. We took into account that both Groups are indicating their present intention not to take any percentage increase agreed in the 2010/2011 national pay settlement for officers, if any such increase is forthcoming.
- 2.4 The Scheme now recommended for 2010/2011 is set out in Appendix 1 to this report. These figures include the percentage increases for officers in 2008/09 but exclude the 0.3% arbitration award in accordance with the requests of the Groups. The percentage increase for officers in 2009/2010 has not been added to the figures. There is no provision for this percentage increase in 2010/2011.
- 2.5 We noted that if any Group, or any one or more individual Members, wished to take less by way of allowances than would be permitted by the Scheme, this could be arranged by written notice to the Head of Local Democracy and Member Services as provided for in paragraph 10.05 of the Scheme.
- 2.6 We saw that the Scheme in Appendix 1 showed few changes as compared with the Scheme for 2009/2010. Apart from deleting the provision for the percentage increase in line with the officer pay settlement, where this was mentioned in the previous Scheme, most of the changes are simply updating i.e. "2010" in place of "2009". There is also a change in the table of Special Responsibility Allowances on page 2 to reflect the fact that the Leader may appoint fewer than 9 Cabinet Members in May 2010. We were informed that the increase in the babysitting and dependants allowance, at paragraph 8.01 (a), from £5.73 to £5.80 reflected the increase in the national minimum wage.
- 2.7 We were advised that, when the full Council made its decision on the Scheme, Members were obliged to have regard to the report of the Independent Panel on the Remuneration of Councillors in London. Last year (2009/2010) the allowances agreed were well within those recommended by the Panel's report in 2006 and accorded with the principles recommended by the Panel. Since the proposed Scheme will not change the levels of allowances, there was no need to append the Panel's report to this report. We noted that there had been no fresh report or recommendation from the Independent Panel this year.

## **WE RECOMMEND:**

- (i) That the scheme of Members' Allowances for 2010/2011 as set out in Appendix 1 to this report be agreed, and
- (ii) That this scheme be adopted as the replacement for Part 6 of the Council's Constitution.

### **3. ADOPTING THE COUNCILLOR CALL FOR ACTION PROTOCOL AND MAKING RELATED AMENDMENTS TO THE COUNCIL'S CONSTITUTION**

- 3.1 We recalled considering a report on the Councillor Call for Action (CCfA) at our meeting on 20 October 2009. The CCfA procedure was intended to be a remedy of "last resort" enabling Ward Councillors to ask the Overview and Scrutiny Committee (OSC) to look into persistent local community problems when the normal means of achieving resolution, through approaches to officers, Cabinet Members and partner agencies, had not achieved a solution.
- 3.2 The Protocol recommended for practical implementation of the CCfA procedure in Haringey is attached as Appendix 2 to this report. We saw that the Protocol defined the "local government matters" covered by the CCfA and set out the procedure for referral to OSC. This included a standardised referral form at the end of Appendix 2. If the CCfA request was validated by the Monitoring Officer, the Councillor bringing the CCfA would be able to attend to relevant meeting of OSC and explain the problem.
- 3.3 We were advised that OSC would have a variety of options in response to a CCfA including: (i) making immediate recommendations to Cabinet, Directors or partner agencies, (ii) commissioning a further investigation or report, (iii) reference to a Scrutiny Review Panel or (iv) a decision to take no further action.
- 3.4 We noted that a briefing on the draft Protocol and the related changes to the Councils Constitution had been considered by all parties represented on the Council. There had been no requests for changes to the draft protocol or the proposed Constitutional changes. There being no substantive changes to report, it had not been considered necessary to report again to the Haringey Strategic Partnership Board or the Chief Executive's Management Board, both of which had already noted the original proposals.
- 3.5 Since our meeting on 11 March, the OSC considered and approved

the recommendations of this report at its meeting on 15 March 2010.

- 3.6 We were advised that amendments would be required to the Council's Constitution to include reference to the CCfA procedure in the terms of reference of OSC (Part 3, Section C) and in the Overview and Scrutiny Procedure Rules (Part 4, Section G). These amendments are set out in Appendix 3 and Appendix 4 to this report.
- 3.7 We agreed to recommend to full Council that the CCfA Protocol itself should not be formally incorporated into the text of the Constitution but be kept outside so that it could be amended more flexibly by OSC in the light of practical experience of its operation. We are also recommending that full Council delegate powers to OSC to make interim amendments to the CCfA Protocol subject to reporting such proposed amendments to the Constitution Review Working Group and a report being made to full Council on the working of the procedure at the end of 2010/11.
- 3.8 At our 20 October meeting, we had considered and approved a report on the crime and disorder functions arising under the Police and Justice Act 2006 (as amended). These functions were approved for addition to the terms of reference of OSC and the changes were formally adopted by full Council on 18 January 2010.
- 3.9 Appendix 3 shows the terms of reference of OSC at Part 3, Section C of the Council's Constitution with the crime and disorder functions already adopted at sub-paragraphs (h), (i) and (j). The new reference to the functions of OSC under the CCfA procedure is at the final sub-paragraph (k) on page 2 of Appendix 3.
- 3.10 Appendix 4 shows the relevant parts of the Overview and Scrutiny Procedure Rules at Part 4, Section G of the Constitution. The recommended new reference to the CCfA procedure is at sub-paragraph 1.2 (xii) on page 2. There is also a short summary of the CCfA Protocol and procedure at paragraph 16 on pages 2 and 3. In order to keep Part 4, Section G of the Constitution consistent with Part 3, Section C, we recommend that a reference to the crime and disorder scrutiny functions be included in the former at sub-paragraph (xi) on page 2.
- 3.11 We noted the statutory requirement that the CCfA procedure must apply with respect to any "local crime and disorder matter" that a Ward Councillor may wish to refer to OSC. When a request for a CCfA referral is made in relation to a crime and disorder matter, the Ward Councillor would be expected to have raised the issue beforehand with the Police or the Safer Communities Partnership Board. Otherwise the CCfA Protocol will apply in a very similar way. Therefore, we are recommending that the CCfA Protocol should expressly cover both local government matters and local crime and disorder matters and this is provided for at paragraph 17 at the end of the Protocol in Appendix 2 to this report.

**WE RECOMMEND:**

- (i) That the Protocol on the Councillor Call for Action procedure be approved as set out at Appendix 2 to this report, and
- (ii) That the Protocol be excluded from the Council's Constitution pending a further report, and
- (iii) That the Overview and Scrutiny Committee be delegated power to amend the Councillor Call for Action Protocol during 2010/11 as the Committee may consider desirable in the light of practical experience, subject to reporting such proposed amendments to the Constitution Review Working Group and officers reporting again to full Council at the end of 2010/11 on the operation of the Councillor Call for Action Protocol, and
- (iv) That the changes to the terms of reference of the Overview and Scrutiny Committee as set out in Appendix 3 to this report and the changes to the Overview and Scrutiny Procedure Rules as set out in Appendix 4 to this report be approved and resolve to adopt them as amendments to Part 3, Section C and Part 4, Section G of the Council's Constitution.