

REPORT OF THE CONSTITUTION REVIEW WORKING GROUP No. 02/2010-11 COUNCIL 22 NOVEMBER 2010

Chair:
Councillor Cooke (substituting for Cllr Kober)

INTRODUCTION

1.1 This report to full Council arises from the 3 briefings considered by the Constitution Review Working Group (CRWG) at our meeting on 11 November 2010. These briefings were entitled:

- (i) Procedures for Complaints against Members in the Protocol for Member/Officer Relations,
- (ii) London Local Authorities “Gold” Resolution on Joint Emergency Arrangements, and
- (iii) Haringey Petition Scheme.

ITEMS FOR DECISION

2. PROCEDURES FOR COMPLAINTS AGAINST MEMBERS IN THE PROTOCOL FOR MEMBER/OFFICER RELATIONS

- 2.1 We considered a briefing on this matter (Appendix 1) and noted that the issues had arisen originally from a Standards Panel hearing last year. The Panel had expressed concern about the long time taken to resolve a complaint against a Member and the apparent lack of a clear and transparent relationship between the statutory procedure under the Members’ Code of Conduct and the non-statutory procedures for complaints in the Protocol for Member/Officer Relations (“the Protocol”).
- 2.2 We were informed that the matter had subsequently been considered by the main Standards Committee on 10 June when the Committee had approved suggested text changes to the Protocol (Appendix 2) subject to the views of CRWG and the agreement of full Council. The Standards Committee had asked for further amendments to Appendix 2 at paragraph 9.16 to provide for (i) the Service Head having to consult both the Head of Human Resources and the Monitoring Officer on receipt of the initial complaint about the arrangements for investigating it, (ii) the ability to appoint a senior officer as investigator either from within the complainant’s Service/Directorate or from outside it, and (iii) a statement that an investigation should be completed within 6 months whenever practicable. The Standards Committee had also asked for changes to paragraph 9.18 which are now incorporated in Appendix 2.
- 2.3 We were advised that a complainant had the right to pursue the statutory procedure if unsuccessful or dissatisfied under the non-statutory procedures, or vice versa, and that only the non-statutory procedures in the Protocol are within the Council’s powers to amend. We considered that the advice of the Service Head and the Monitoring Officer about the appropriate procedure to

follow should be given to the complainant at the outset of his/her complaint and not just when the complainant is contemplating a change of procedure. The relevant text change is incorporated in Appendix 2 at the end of paragraph 9.16.

- 2.4 We noted the other main changes proposed to the non-statutory procedures under the Protocol as follows: (i) the power of the Monitoring Officer to reject plainly abusive complaints in paragraph 9.15 (ii) the introduction of a mediation process, if the parties agree, in paragraph 9.16 (a) (iii) provision for the maintenance of confidentiality in paragraph 9.19 and (iv) provision for reporting the outcome of complaints under the non-statutory procedures to the Standards Committee in paragraph 9.20.

WE RECOMMEND:

That Members adopt the changes set out in Appendix 2 to this report as amendments to the Protocol on Member/Officer Relations at Part 5, Section B of the Council's Constitution.

3. LONDON LOCAL AUTHORITIES "GOLD" RESOLUTION ON JOINT EMERGENCY ARRANGEMENTS

- 3.1 We received a briefing on the "Addendum" to the "Gold" resolution (Appendix 3) which had been proposed by the Leaders' Committee of London Councils on 13 July as an improvement to the London-wide arrangements for responding to emergencies. Haringey's Cabinet had agreed the revised arrangements on 12 October. The purpose of the report to CRWG and full Council was to make corresponding amendments to the Council's Constitution that reflected the revised arrangements. The proposed amendments are set out in Appendix 4 to this report.
- 3.2 We noted that under the existing arrangements each London Borough had agreed to delegate its powers to respond to emergencies and disasters to the Borough Chief Executive who, at the time, was acting as "LA Gold". Experience in recent years had shown that LA Gold performed an important role in co-ordinating the actions of the Boroughs through advice and guidance in situations that could be described as "rising tide" or disruptive events, such as severe weather or threatened pandemics, as distinct from very sudden emergencies. This role was limited to advice and guidance rather than the formal exercise of powers delegated by other Boroughs. Provision is now made for this as reflected in Appendix 4 at Article 11.07 (b).
- 3.3 We were advised that a new "trigger" mechanism was being introduced as an alternative to the existing trigger which was the convening of "Gold Command" under Police leadership. This new trigger mechanism was the convening of a London Partnership Meeting with the prior agreement of London Councils and it would be used for situations where a Police-led response was not appropriate. One or other of the trigger mechanisms was required before LA Gold would be able to exercise emergency powers delegated by other Boroughs. Provision for this is in Article 11.07 (c).

- 3.4 The other significant change to the arrangements was the new power of LA Gold to incur expenditure up to a limit of £1 million in response to an emergency before receiving confirmation from Central Government, or the Council whose area is affected, that the expenditure will be reimbursed. Provision for this is in Article 11.07 (e).

WE RECOMMEND:

That Members adopt the changes set out in Appendix 4 to this report as amendments to Article 11.07 on London Councils Arrangements for Co-ordinating Response to Emergencies at Part 2 of the Council's Constitution.

4. THE HARINGEY PETITIONS SCHEME

- 4.1 We considered a briefing on the proposed revisions to the Council's Petitions Scheme (Appendix 5). We noted that the Local Democracy, Economic Development and Construction Act 2009 (LDEDC) imposed a duty on local authorities to respond to petitions and that the duty came into force on 15 June 2010. From 15 December 2010 all local authorities will also be required to have an electronic petitioning system on their website.
- 4.2 We further noted that on 19 July 2010 Full Council agreed a petition scheme for Haringey and that section 11(5) of the LDEDC Act allows a Council to revise their Petition Scheme at any time, with full Council being required to approve any changes. The Council must publish its revised petition scheme on its website and in such manner as the Council considers appropriate to bring it to the attention of persons who live, work or study in its area.
- 4.3 The requirement to make available on the Council website an e-petitions facility has necessitated a number of changes to the Haringey Petition Scheme. Recommended changes to the scheme in light of this are based on the guidance produced by the Department for Communities and Local Government and were considered by us at CRWG.
- 4.4 CRWG also considered further amendments to the Petition Scheme in order to improve the running of the petition process in Haringey. The principle change is to provide further clarity around what information will be made available on the Council website in relation to petitions submitted. In addition it is recommended that a mechanism be established so that prior to any request by a lead petitioner for Overview and Scrutiny (OSC) to review steps taken in response to a petition, an opportunity will be made available for officers to consider such a complaint, in the first instance. This may avoid unnecessary referrals to the OSC. The changes are intended to reduce the burden placed upon officer time and Council Committees and to improve transparency around the Petitions process. Attached at Appendix 6 is the existing Petition Scheme with the revisions shown as tracked changes.
- 4.5 We asked for an amendment to the section in Appendix 6 headed "E-petitions" at the third paragraph so that the public will be told that an e-petition

should be published on-line as soon as practicable but this may take up to 5 working days to allow for checks to guard against unsuitable content. This has now been incorporated into Appendix 6.

WE RECOMMEND

That Members agree the revised Petition Scheme as set out in Appendix 6.