

**COUNCIL 3 OCTOBER 2005**

Chair:  
Councillor Reg Rice

Deputy Chair:  
Councillor Jean Brown

**INTRODUCTION**

- 1.1 This report covers four matters considered by the General Purposes Committee at our meeting on 20 September 2005 and two matters considered by us at meetings earlier this year. Three of the reports from our last meeting resulted in recommendations from the Committee to full Council to make amendments to the Council's Constitution. The fourth report on the web-casting of meetings produced a request to full Council to adopt a Protocol that will have effect on a trial basis before it is recommended for adoption as part of the Constitution.

**ITEMS FOR DECISION FROM THE COMMITTEE MEETING ON  
20 SEPTEMBER 2005**

**2. CHILDREN'S SERVICE – DELEGATIONS TO OFFICERS**

- 2.1 We noted that the Children Act 2004 and the Government's "Change for Children" programme have required the co-ordination of all the Council's services for children within a new Directorate. The Children's Service under its Director Sharon Shoesmith took over the functions of the former Education Directorate and the functions of the former Social Services Directorate relating to children with effect from 1 April 2005.
- 2.2 In order to provide the Director and her senior officers with the legal authority to take operational decisions, it was necessary to make urgent amendments to the scheme of delegation to officers. Under provisions in the Constitution, on 31 March 2005 the Leader authorised interim amendments to have effect for 6 months only.
- 2.3 Since March new Deputy Directors have come into post in the Children's Service and the allocation of responsibilities between them has been clarified. The proposed permanent scheme of delegation for the Children's Service is set out in Appendix 1 to this report. The functions relating to children that were formerly listed in the delegations to the Social Services Directorate are shown struck through in Appendix 2 which sets out the revised scheme for Social Services.

- 2.4 We were advised that the great majority of the statutory and non-statutory functions under the old scheme continue to be delegated in the same way under the new scheme but to officers with different titles.

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The Director of Children's Services will have the powers of the former Director of Education and the powers once exercised by the Director of Social Services in relation to children. The Director will have all the powers of her senior managers so that she has the authority to exercise effective control over decision-making. The former Deputy Director, School Improvement and Inclusion is replaced by the new Deputy Director, Standards and Inclusion with similar responsibilities. The former Deputy Director Resources and Community Services is replaced by the new Deputy Director, Community and Resources with similar responsibilities.

- 2.5 The main substantive changes arise from the new role of the Assistant Director, Business Support and Development (ADBSD). He will have powers relating to personnel matters concurrent with the existing powers of the Director. This is shown on page 3 of Appendix 3 to this report. The ADBSD will take over the existing delegated powers (i) to fix school term dates and training days, (ii) to license public performances by under 16s, (iii) to make exceptions to policies on admitting pupils to schools below statutory school age but only in cases with urgent medical or social reasons, and (iv) to provide travelling assistance, milk meals and clothing for children.
- 2.6 In some cases it is recommended that it would be more appropriate for existing delegations, that were once only at Director level, to be granted now, in addition, to the relevant Deputy Director or Assistant Director. These include (i) power to approve applications by youth workers to accompany youth groups on residential visits, (ii) power to approve training for youth service leadership and other training courses, (iii) power to provide careers education, (iv) duties to arrange appeals against exclusion from schools (v) duties in relation to school admissions parental preferences and appeals, (vi) duty to review sufficiency of childcare, (vii) duty to prepare (but not adopt) the Early Years Development Plan and (viii) powers relating to support for students in further and higher education.
- 2.7 We were recommended to clarify the roles of the Director (or her/his nominee) when establishing Fostering or Adoption Panels. The officer establishing the Panel must not be the same as the officer making the eventual decision in the light of the Panel's recommendation.
- 2.8 There are a small number of new statutory powers proposed as part of the revised scheme of delegation that were not included in the old scheme. The new reference to section 18 of the Children Act 2004 is required for legal reasons but confers no extra powers in practice.

There are new delegated powers under the Education Act 2005 relating to the inspection of maintained schools.

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- 2.9 Consequential changes to Parts K.1 and K.5 of the Constitution, which show the responsibilities of each Chief Officer and Directorate, are set out in Appendices 4 and 5 to this report.
- 2.10 We noted that there would be quarterly reports to The Executive with a digest of the types and numbers of decisions taken by officers under these delegated powers. Decisions of particular significance would be noted individually.
- 2.11 We were advised, by way of a late amendment to the report before us, that the arrangements for service provision relating to adult asylum seekers had changed. Since the Home Office were in the process of assuming responsibility for this provision, the remaining adult asylum seeker functions had now come under the management of the Deputy Director Children and Families within the Children's Service. We accepted that the references to the Immigration and Asylum Act 1999 in Appendix 2 should be deleted and that the corresponding references in Appendix 1 should be amended to remove the words (underlined and in italics) restricting the function to dependant children of asylum seekers.
- 2.12 We received recommendations from the Executive Member for Children and Young People that certain amendments be made to the scheme of delegation in Appendix 1 as follows:
- (i) on page 2, under "School Matters" item 1, the second sentence, relating to lost or stolen pupils' property, should be deleted ("Where payment exceeds £70 the Executive Member shall be consulted")
  - (ii) on page 3, under "School Matters" item 14, where the Director had authority to meet the employer's costs in cases of teachers stepping down, the circumstances should be better defined and the power should be subject to both consultation with, and the agreement of, the Executive Member with a report for to The Executive for decision in the event of disagreement.
  - (iii) on page 13, under the reference to 62 of the Children Act 1989, the word "himself" should be rendered gender-non-specific and similar changes should be made elsewhere.
  - (iv) near the start of the Appendix there should be a definition of "child" in age terms for Members' information.
- 2.13 We agreed to include the changes noted in paragraphs 2.11 and 2.12 above in the Appendices now recommended to Council. Arising from our discussion of the matter, we called for a Note from the Head of

legal Services for Committee Members before 3 October explaining (i) the circumstances in which the Council might be involved in claims for compensation for lost or stolen property of pupils at school, and (ii) the

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reference to Regulations under section 13 of the Social Security Act 1988 regarding the distribution of welfare foods.

## **WE RECOMMEND**

That Council adopt the revisions to the scheme of delegation to officers set out in Appendices 1, 2, 3, 4, and 5 to this report and that Parts F.7, K.1 and K.5 of the Council's Constitution be amended accordingly.

### **3. AMENDMENT OF CONTRACT STANDING ORDERS**

- 3.1 We considered a report dealing with Care Contracts for individuals and the need to amend the current procedures in Contract Standing Orders at CSO 6.10.
- 3.2 Before the coming into being of the Children's Service, responsibility for all care Contracts rested with the Social Services Directorate. Because of the need for urgent decisions to ensure continuity of care, the Director of Social Services was given powers to enter into "spot contracts". These are defined as one-off contracts meeting the needs of one or more individual "client" where beds, places or services are provided by the contractor without pre-agreed process. The price is negotiated on each referral over the contract period. Contract Standing Orders 8,9,10 and 11 relating to tender procedures and contract formation do not apply to spot contracts.
- 3.3 Other care contracts are categorised as "block contracts". These are defined as contracts where a number of beds places or services are provided by the contractor at pre-agreed prices. All Contract Standing Orders apply to block contracts. The Director is enjoined to maximise their use where this represented best value for the Council.
- 3.4 Responsibility for arranging care contracts for children has passed from Social Services to the new Children's Service. The Director of Children's Services should have the same powers in relation to both spot and block contracts as are granted to the Director of Social Services. The latter needs to retain her existing powers in order to continue provision for vulnerable adults and elders. The report proposed that a reference to "Children's Services" be added to CSO 6.10 wherever there is an existing reference to "Social Services" or its Director.

- 3.5 We also considered the recommendation to widen the definition of “block contract” so that it encompassed the current procurement practice. Most London Boroughs, including Haringey, have joined a pan-London scheme to secure fostering and residential care services

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for children. This involves a form of contract competitively tendered by the LB Harrow as lead Borough. This contract can be used by any participating Borough as the need arises. The scheme has substantial bulk purchasing advantages and is being extended to the provision of care for vulnerable adults and elders.

- 3.6 The pan-London contracts fits the definition of a block contract in all respects except that there is not generally a fixed “pre-agreed price”. Instead there will be a maximum price cap or a pre-agreed pricing schedule with upper and lower limits depending on the level of service provided. We noted that amending the definition to cover contracts with “pre-agreed pricing schedules” would bring the pan-London contract within the block contract definition.
- 3.7 We noted that a quarterly digest of decisions taken by the Director to enter into spot contracts would be reported to The Executive in addition to the existing monthly report to the relevant Executive Member.

## **WE RECOMMEND**

That Council adopt the amendments to Contract Standing Order 6.10 set out in Appendix 6 to this report and that Part G.3 of the Council’s Constitution be amended accordingly.

## **4. AMENDING THE SCHEME OF DELEGATION TO OFFICERS**

- 4.1 We noted that the last report proposing extensive changes to the scheme of delegation was considered by the Committee in January. New legislation had come into effect, or would soon do so, particularly the Housing Act 2004 and the Clean Neighbourhoods and Environment Act 2005.
- 4.2 Appendix 7 to this report records the changed title of the Head of Revenues and Benefits who is now the Head of Benefits and Local Taxation.
- 4.3 Appendix 8 to this report covers the revision of the delegated powers of the Head of Highways under the Highways Act 1980. It shows the removal of duplicated references to sections 130 to 278. It includes a reference to sections 90A-G granting powers relating to road humps and other traffic calming works. Delegated powers extend to consultation on proposals and implementing unopposed schemes.

Schemes subject to objection would be reported for decision to Members. Existing and new statutory powers relating to the stopping up and diversion of footpaths or other lengths of highway are now included together with the new “gating orders” procedure in locations

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experiencing significant crime or anti-social behaviour. We noted that controversial schemes would be reported for Member decision.

- 4.4 The Head of Highways and Assistant Director Streetscene would be granted the new powers under Part 5 in relation to skips scaffolding and building materials on highways in line with their existing delegated powers under the Traffic Management Act 2004, as shown on the first page of Appendix 9.
- 4.5 We noted that the Housing Act 2004 will replace the existing housing fitness standard with a new Housing health and safety rating system. It will introduce a new licensing regime for private rented properties. There will be a new requirement for sellers or estate agents to produce a home information pack before marketing any residential property for sale. These functions are to be exercised by the Assistant Director Enforcement as set out in Appendix 9.
- 4.6 The Clean Neighbourhoods and Environment Act 2005 will give the Council more effective powers to deal with nuisance and illegal parking, abandoned vehicles, litter, graffiti, fly-posting, waste deposits, dogs, noise from intruder alarms and other forms of statutory nuisance. These powers are to be exercised by the Assistant Director Enforcement as set out in Appendix 9 and also by the Head of Parking in relation to the parking controls.
- 4.7 We were advised that the Housing Act 2004 had introduced new powers in to the Housing Act 1985 and that new delegations to the Assistant Director Housing Management were appropriate in line with the existing delegations under the 1985 Act. These new powers included the ability to seek suspension of the “Right-to-Buy” in cases where the Council proposed demolition or tenants were guilty of anti-social behaviour. There were provisions on recovery of discounts on early disposals by former tenants, a right of “first refusal” for the Council on such disposal and powers to extend the trial period of an introductory tenancy. These new delegations are shown included with the existing powers in Appendix 10 to this report.
- 4.8 We noted that a quarterly digest of the type and number of decisions taken by officers under delegated powers would be reported to The Executive. Traffic Management Orders, road hump and traffic calming schemes, gating orders and other decisions of particular significance would be reported individually.

## **WE RECOMMEND**

That Council adopt the revisions to the scheme of delegation to officers set out in Appendices 7, 8, 9, and 10 to this report and that Part F.7 of the Council's Constitution be amended accordingly.

### **5. WEB-CASTING OF EXECUTIVE AND OTHER COUNCIL MEETINGS**

- 5.1 We received a report about the web-casting of Council and Committee meetings. We noted that a similar report was being submitted on the same date to The Executive in relation to "executive" bodies and that the report to us sought our recommendations to full Council in relation to the "non-executive" bodies.
- 5.2 The Government's E-Democracy National Project encourages Councils to engage more actively with their local communities using new technology. The web-casting of meetings and the inclusion of recorded material on the Council's website would accord with this. The report before us summarised the benefits in terms of increasing community awareness of the Council's policies, achievements and democratic processes and the ability to promote Haringey as a leading and innovative Council.
- 5.3 We were informed that the officer team had already sourced a suitable supplier of web-casting services with the intention of producing 5 hours of web-casting per month. Preparatory measures training and pilot web-casting of meetings had already occurred. The formal introduction of web-casting, if approved by Council, would be at the Wood Green Area Assembly on 17 October 2005.
- 5.4 We considered a proposed Protocol on Webcasting which would provide a set of rules to regulate it during meetings. There would be warnings on agendas and signage at meetings including an opportunity for individuals to object to being filmed. In each case the Chair would have discretion to suspend filming if it prejudiced the proper conduct of the meeting or if advised that it might infringe the rights of an individual.
- 5.5 This Protocol is intended to have effect once approved by full Council but it would not be adopted as part of the Council's Constitution until members were satisfied that it was appropriate for its purpose in the light of practical experience. After 6 months or thereabouts a further report will be submitted to Council recommending the adoption of the

Protocol as part of the Constitution. In the meantime, and in order to ensure that any problems can be rapidly resolved, we are recommending that the Head of Member Services, in consultation with the Leader and the Chair of this Committee, be granted delegated power to amend the Protocol if necessary.

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- 5.6 We received advice from the report and from officers present about the costs of the project and the legal implications in terms of Data Protection, Human Rights and Copyright Law. We also considered the implications for the hearing of licensing and planning applications in circumstances where there might be valid concerns about broadcasting identifiable objectors. We were concerned to ensure that individual objectors do not prevent themselves being filmed except where there are genuine and well-founded reasons for avoiding exposure but we agreed to support the text of the Protocol as drafted.

## **WE RECOMMEND**

That Council agree to:

- (1) the web-casting of its meetings and those of its non-executive subordinate bodies, and
- (2) the adoption of the "Protocol for the Webcasting of Council and Other Meetings" set out in Appendix 11 to this report, pending a future report recommending the adoption of the Protocol as part of the Council's Constitution, and
- (3) grant delegated authority to the Head of Member Services, acting in consultation with the Leader and the Chair of the General Purposes Committee, to amend the above Protocol if this proves to be desirable in order to secure the proper conduct of meetings.

That Council note that a report in similar terms has been agreed by The Executive at its meeting on 20 September 2005 in relation to its own meetings and those of its subordinate bodies.

## **ITEM FOR DECISION FROM THE COMMITTEE MEETING ON 8 MARCH 2005**

### **6. ATTENDANCE BY STATUTORY NON-COUNCILLOR MEMBERS OF COUNCIL BODIES**

- 6.1 On 4 October 2004 the Council amended the Scheme of Members' Allowances so as to put beyond doubt that the "Co-optees' Allowances" were only payable to the various statutory non-Councillor members of Committees, these being the 5 education representatives on scrutiny



bodies and the 4 independent members of the Standards Committee. In order to comply with the Regulations governing Members' Allowances, it was agreed that these allowances could no longer be paid at the rate of £50 per meeting attended but should instead be paid

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as an annual sum of £250 subject to pro-rata reduction if membership ceased during the year.

- 6.2 We noted that Councillors are subject to rules in section 85 of the Local Government Act 1972 which remove them from membership if they fail to attend any formal meeting throughout a period of 6 months without the approval of the Council before the expiry of that period. A similar rule applies to elected Parent Governors on scrutiny bodies. However, we had concerns about the payment of the "Co-optees' Allowances" to the church representative on scrutiny bodies and the independent Standards Committee members in circumstances where there might be no effective sanction to secure the attendance of those members at the Council bodies to which they had been appointed. Therefore, we called for a report on this matter and undertook a protracted consultation exercise on a draft Protocol with the bodies affected inside and outside the Council.
- 6.3 The proposed Protocol is attached to this report as Appendix 12. It provides for a procedure in the event that a statutory non-councillor member fails to attend a meeting of a Council body to which that member has been appointed for two consecutive meetings. The Head of Member Services will send a warning letter requesting the attendance of that member at the next meeting of the relevant body in order that the member can offer an explanation for absence. In the event of illness or other sufficient reason the member can submit a written explanation. The relevant Committee will decide whether to condone any past or future non-attendance and may impose conditions. The Overview and Scrutiny Committee and Standards Committee may recommend to full Council that a non-attending member should be removed from office.
- 6.4 We have been advised that the Council has power to terminate the membership of a non-attending Standards Committee member. In the case of the two church representatives on scrutiny bodies, the power to appoint and remove rests with the Diocesan Board of Education (Church of England) and the Roman Catholic Bishop. The Council could only request the church authorities to make a fresh appointment in the event of non-attendance.
- 6.5 We noted that the Standards Committee had accepted the draft Protocol. The Overview and Scrutiny Committee was unhappy with the proposals and they had asked us to re-consider them in relation to the church representatives. The Diocesan Board of Education had

indicated that it was happy with the proposals. Despite efforts to chase a reply, we were informed that the Roman Catholic Diocese office never responded to the consultation.

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6.6 At our meeting on 8 March we agreed the following amendments to the draft Protocol in order to meet the concerns expressed by the Overview and Scrutiny Committee (OSC):

- (i) paragraph 6 in its final sentence should provide that the “warning letter” procedure would not apply where an apology for absence had previously been sent and accepted, and
- (ii) paragraph 7 should state that the removal of a non-attending member is entirely a matter for the relevant Committee, and
- (iii) paragraph 10 should provide that OSC may take into account the potentially irregular nature of the meetings of OSC and its Scrutiny Review Panels where education matters would be considered. OSC may also take into account the other Council-related work done by the church representatives part from attending the formal meetings of scrutiny bodies, and
- (iv) paragraph 16 should mention the statutory reason why other faith and non-faith representatives have not had a role on education scrutiny.

6.7 We resolved to recommend the draft Protocol with these amendments to full Council but subject to a final consultation with OSC through its Chair. Consultation has been carried out but no adverse comments have been received in relation to the Protocol.

## **WE RECOMMEND**

That Council adopt the Protocol set out in Appendix 12 to this report as a new Part C.8 of the Council’s Constitution.

## **ITEM FOR DECISION FROM THE COMMITTEE MEETING ON 4 JULY 2005**

### **7. COUNCIL TAX BASE - DELEGATION OF THE ANNUAL DETERMINATION TO THE DIRECTOR OF FINANCE IN CONSULTATION WITH THE EXECUTIVE MEMBER FOR FINANCE**

7.1 We considered a report on this matter from the Director of Finance. We noted that the council tax base determination (CTB) is not only required for the Council’s purposes but also to enable the precepting bodies to set their budgets and levies. As such there is some pressure to conclude the annual determination within tight time limits. For this

reason there is a move among many Councils to delegate this to the Chief Finance Officer rather than leaving it for full Council.

- 7.2 We were advised that changes to the statutory position introduced by the Local Government Act 2003 mean that there is now no longer a

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legal requirement to have full Council determine the CTB. Legally, the Council can delegate this to a Committee or an officer.

- 7.3 The CTB for Revenue Grant purposes, as calculated in accordance with Annexe C of the Local Government Finance Report, measures the tax-raising capacity of local authorities, expressed in terms of properties. The CTB is used to calculate the level of Council tax for a Band D property to give the amount to be paid by individual households.
- 7.4 Council tax requires that all domestic properties be placed in one of nine valuation bands. The Government has determined that the Council Tax level for each of the bands is assessed as a proportion of the tax rate for a band D property. Each year the Council must estimate the equivalent number of Band D properties, after allowing for discounts, exemptions, losses on collection etc.
- 7.5 We noted that Haringey's CTB for 2005/06 of 83,314, after allowing for a provision for non-collection of council tax of 4 per cent, was approved at Council on 24 January 2005. Benefits and Local Taxation, in conjunction with Corporate Finance, each year provide this calculation. The methodology for calculating the CTB is set out in the Local Authorities (Calculation of Council Tax-Base) Regulations 1992. In summary the number of dwellings in each property band as assessed by the District Valuer is adjusted for discounts, exemptions and disabled person reductions. The resultant sum is then converted to Band D equivalent by application of the statutory weighting (ratio to Band D). The Council, in declaring its CTB, must take into account a provision for non-collection. It also needs to take into account the monies that will ultimately be received.
- 7.6 We were advised that determining the CTB is essentially a technical calculation with an element of discretion, for example in relation to the provision for non-collection, that must be exercised on the basis of professional judgement. As such, it is an appropriate matter to be delegated to the Director of Finance in consultation with the Executive Member for Finance. We noted that the actual level of Council Tax would continue to be a matter for the Executive and Council as part of the budget setting process.
- 7.7 This matter was subsequently considered by the Executive Advisory Board (EAB) on 6 September 2005. The EAB accepted the proposed

delegation arrangement subject to the proviso that EAB too must be consulted by the Director of Finance before the delegation is exercised each year. This will be reflected in the terms of the delegation.

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- 7.8** Part E1 paragraph 6.02 (b) of the Constitution refers to the 'Council Tax Base' in the definition of the 'Budget' so this would need amendment together with Part F7 section 3 which sets out the delegated powers of The Director of Finance.

### **WE RECOMMEND**

That Council adopt the addition to the delegated powers of the Director of Finance set out in Appendix 13 to this report and that Parts E.1 and F.7 of the Council's Constitution be amended accordingly.