



**Haringey Council**

## **APPENDIX 1 - Briefing for the Leader of the Council and members group convened pursuant to article 15.03, to consider proposed amendments to the Constitution**

**Subject: Proposals for Governance Review 2014/15**

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**Date:** 8 July 2014

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This briefing is to advise members on proposals for constitutional change in 2014/15, for their comment. These proposals are scheduled to go to the 21 July 2014 Council meeting.

The proposals are described below. Appendix 1 provides a schedule of these constitutional changes. A full copy of the revised Constitution will be available at the meeting in hard format for members to review should they wish.

### **1. Senior management restructure / Officer Scheme of Delegation (OSD)**

- 1.1 Following the Chief Executive's senior management restructure, the OSD has been entirely reviewed to ensure that the relevant officers have the required delegated powers, at 1<sup>st</sup> and 2<sup>nd</sup> tier and for decision making to be Assistant Director (2<sup>nd</sup> tier) led.
- 1.2 It is proposed that there is a move away from the detailed and narrative Scheme of Delegation that currently sits in Appendix E of the Constitution. Instead, officers' powers will be more generally described at Part 3 Section E of the Constitution, with reference to those matters reserved to members. The Strategic Leadership Team (SLT) made up of the Chief Executive, Deputy Chief Executive, Chief Operating Officer and Director Regeneration, Planning and Development; together with all Directors and Assistant Directors will be empowered to take all decisions relating to their service area, to secure the effective management of their services including staffing structures as well as the authorisation of any procedures or contracts within the framework of the Financial Regulations and the Contract Procedure Rules.
- 1.3 In addition to being able to take decisions themselves the SLT, Directors and Assistant Directors are able to authorise staff, in writing, within their service area to exercise particular functions on their behalf as they deem appropriate. This will ensure that the Constitution is simpler to understand and that it is future-proofed in relation to restructure and change in the coming years.
- 1.4 As a consequence of this change, a separate review of the constitutional descriptions of executive and non-executive Committees' responsibilities has been undertaken. This is to ensure that the matters reserved to the Council and Cabinet



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and their Committees, including the Planning and Licensing Sub-Committees, is sufficiently detailed and explicit.

- 1.5 As part of this review of the Officer Scheme of Delegation, some changes in officer delegated powers are proposed by Planning and Children's Services:
- 1.6 Planning decisions. Officers are recommending an increase in officer delegated powers so that only major planning applications (as defined by the DCLG categorisation) are considered by the Planning Sub-Committee. Currently applications of more than 5 dwellings; changes of use of more than 500 sq metres of gross internal floor space; and 500 sq metres of non residential building are reserved to the Planning Sub-Committee. It is proposed to increase these thresholds and reserve to the Planning Sub-Committee decisions on applications of more than 10 dwellings; changes of use of more than 1000 sq metres of gross internal floor space; and 1000 sq metres of non residential building, where the officer recommendation is for approval. These changes are proposed in the context of a revised planning protocol adopted by Regulatory Committee on 12 June 2014 which seeks to ensure that there is wider member and public engagement at the pre-application stage which will lead to a number of additional Planning Sub-Committee meetings to deal with pre-application proposals. There will also be increased safeguards in respect of Council applications. All applications submitted by or on behalf of the Council or on Council owned land where the Council is not the applicant and there are significant material planning objections will be determined by the Planning Sub-Committee. Also the provision will remain which provides that members may make a request for an application to be determined by a Planning Sub-Committee even though it is delegated under the Scheme to officers. There has been extensive discussion with members of the Planning Sub-Committee on the proposed changes to the Officer Scheme of Delegation. These are the most significant changes proposed.
- 1.7 Children's Services. The Director of Children's Services is recommending that the power to suspend a school's right to a delegated budget, where that school is eligible for intervention, be delegated to officers. Where a school is eligible for intervention it is essential that the Council acts quickly in order to protect the Council's position. The suspension of the delegated budget prevents the Governing Body from making any further financial commitments as regards the school's staff, including preventing the appointment of new staff, the increasing of staff salaries or the making of enhanced redundancy payments. Where the school's delegated budget is not suspended immediately, any increased staffing spend will ultimately be borne by the Council.
- 1.8 In addition, suspension of the delegated budget enables the Council to direct the Governing Body to undertake certain actions such as to issue notices to terminate contracts or issue notices to staff in line with the complex contractual notice

periods for schools' staff. This further protects the Council's position both financially and in terms of potential employment claims.



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1.9 The decision on the withdrawal of any other delegated powers from a school remains reserved to the Cabinet.

## **2. Financial Regulations**

2.1 The Financial Regulations at Part 4 Section I of the Constitution have been updated consequent on the senior management restructure, to ensure that the relevant officers have the required delegated powers.

2.2 As part of this review the Chief Finance Officer has re-examined officers' powers and the financial limits for virements transactions, using system data relating to transaction values and volumes, as well as utilising Benchmarking data from other London Boroughs. Consequently it is proposed to increase the limit of officer delegated powers in relation to virements, from £100,000 to up to £250,000, in line with the key decision threshold for virements which is set at £250,000. This enables the Cabinet to focus on key decisions as intended.

2.3 Consequent revisions will be required to the internal departmental Schemes of Financial Delegation, which supplement the Financial Regulations within the Constitution. These internal Schemes of Financial Delegation sit outside of the Constitution, but work within the overarching framework of the Financial Regulations agreed by members. Finance officers, led by the Chief Finance Officer, will be working on a review of these internal Schemes over the coming year.

## **3. Contract Procedure Rules (CSO's)**

3.1 The Contract Procedure Rules (CSO's) at Part 4 Section J of the Constitution have also been updated following the senior management restructure.

3.2 As part of this review, the Head of Procurement has proposed that provision is made within the CSO's to establish decision making processes for matters relating to grant funding (relating to both the application for, and the granting of, funding by the Council); clarification around the way in which such documents are executed on behalf of the Council (seal or authorised signatories); and clarification around decision making on procurement matters between meetings of the Cabinet and in times of urgency.

3.3 The Head of Procurement has also considered officers' delegated powers in relation to the award of contracts, particularly in light of the removal of the Cabinet Procurement Committee. It is therefore proposed to increase the limit of officer delegated powers in relation to (i) the award of contracts, from £250,000 to £500,000, in line with the key decision threshold; and (ii) the approval of a waiver of

CSOs, from £100,000 to £250,000. In respect of the award of contracts, this enables the Cabinet to focus on key decisions as intended.



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#### **4. Leaders Conferences**

- 4.1 The concept of Leaders Conferences is not common practice in local authorities and it is felt that these meetings are no longer necessary. Where required or necessary, officers may still provide briefings for party groups.

#### **5. Proposed changes to Committees**

##### Staffing and Remuneration Committee

- 5.1 Officers in Human Resources are proposing to establish a new Staffing and Remuneration Committee, intended to streamline the staffing and human resources functions of the Council, and to enable faster and more effective decision making. It is common practice to have dedicated time and attention to staffing matters at a specific Council committee and this is particularly necessary given the changes brought in by the Localism Act 2011 (e.g. Pay Policy statement requirements) and the challenges faced by the Council over the forthcoming years. It is anticipated that a significant review and amendment of HR policies is required which will go through this Committee together with a new pay and reward scheme for staff.
- 5.2 The Committee is also envisaged to absorb all functions of the current K4 Panels convened under Part 4 Section K of the Constitution, as well the staffing functions of the Corporate Committee. This will mean that K4 Panels are no longer required. The intention is that the Staffing and Remuneration Committee will appoint and dismiss only the Council's most senior officers – the Strategic Leadership Team (SLT) made up of the Deputy Chief Executive, Chief Operating Officer and Director Regeneration, Planning and Development; together with the Council's statutory officers – the Directors for Children's Services, Adult Services and Public Health, together with the Monitoring Officer and Section 151 (Chief Finance) Officer. It is also intended to utilise this Committee to perform the functions currently carried out by Full Council under the Pay Policy Statement relating to the approval of severance payments/salary appointments in excess of £100k, for Chief and Deputy Chief Officers. This will require a small amendment to the Pay Policy Statement which will also be brought to full Council for approval at its meeting of 21 July.
- 5.3 The Staffing and Remuneration Committee will be a committee of the Council and be politically balanced. The Committee will have 5 members (4 drawn from Labour and 1 drawn from the Liberal Democrats) and, in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001, must include one member of the Executive as provided for previously in the K4 Panels. The Committee will also approve HR Policy and will have a forward plan.
- 5.4 The Corporate Committee currently has 4 Sub-Committees (Job Evaluation Appeals, Grievance Appeals, Disciplinary Appeals & Haringey Council Employees Joint Consultative Committee) The first two sub-committees no longer operate and will



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therefore be abolished as the relevant policies were changed to remove these member appeals several years ago. The latter two will become sub-committees of the Staffing & Remuneration Committee.

- 5.5 The creation of a new Committee will require the Members' Allowances Scheme to be updated to make provision for a special responsibility allowance to the chair of the Committee. The revised Members' Allowances Scheme will be brought to full Council for approval at its meeting of 21 July. If the existing chair of the Corporate Committee were also appointed chair of the new Staffing and Remuneration Committee, this would incur nil cost to the Council and would ensure continuity of knowledge in respect of staffing and remuneration matters.

As part of this review there will be some change in the delegation of powers to officers:

- 5.6 Decisions on restructures. Currently any restructuring of 50 or more employees must be approved by the Corporate Committee. It is important to note that the Local Authorities (Standing Orders) (England) Regulations 2001 prohibit member involvement in staffing matters below Deputy Chief Officer level. Over the last couple of years the ability of the Council to redeploy displaced staff has diminished. The consequence of this is that member decisions to delete posts may often result in a redundancy and as such could be deemed as a decision to dismiss an employee. There is therefore a risk that the current arrangements could be deemed unlawful and for that reason it is recommended that restructuring decisions are delegated to officers.
- 5.7 Appointment and dismissal of staff. It is also proposed to alter the scope of member involvement in the appointment and dismissal of staff. Currently all staff reporting to the Chief Executive or a Chief Officer are appointed and dismissed by the K4 Special Committee. It is proposed that this be clarified and for the Staffing and Remuneration Committee to be involved only in the appointment and dismissal of members of the Strategic Leadership Team (that is, the Deputy Chief Executive, the Chief Operating Officer, the Director of Regeneration, Planning and Development) and Statutory Officers (the S151 Chief Finance Officer, the Monitoring Officer, the Director of Adult's Services, the Director of Children's Services and the Director of Public Health). This would bring the Council into line with many other Local Authorities and also ensures that the Council operates within the spirit of the 2001 Standing Orders Regulations which aimed to restrict Member involvement in appointment and dismissal to the most senior staff only. Members will continue to be responsible for matters relating to the conduct and capability of the Chief

Executive, as a matter reserved to the Staffing and Remuneration Committee. All other appointments and dismissals of staff would be the responsibility of officers.



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- 5.8 Decisions on pensions. Currently the Corporate Committee is required to determine the terms of release of Chief and Deputy Chief Officers aged 55 or over and made redundant or retired early with a claim on the pension scheme. This provision has not been carried over the Staffing and Remuneration Committee. Where appropriate the Staffing and Remuneration Committee will take this into account as part of any decision to dismiss a member of the Strategic Leadership Team or a Statutory Officer.

### Review of Area Committees

- 5.9 Going forward, it is proposed that Area Committees are reviewed. It is proposed that a member working group is established for this purpose.

## **6 General Constitutional Review**

- 6.1 This is regarded as an opportune time to improve upon some of the constitutional procedures, to facilitate and streamline decision- making and eliminate duplication and areas of confusion. There are areas within the Constitution have sometimes been problematic for both officers and members. There are some areas of duplication which may be rationalised. It is also important to elaborate on the role of the Leader and their powers to agree to the taking of decisions by Cabinet members.
- 6.2 Within this particular review only limited changes to the current powers of members are proposed:
- (i) it is proposed that call-in of executive decisions by members is limited in future to key decisions, these being the decisions that are the focus of the Cabinet and the executive members. It should be noted that officers continue to be prohibited from taking key decisions and the taking of key decisions is reserved only to members;
  - (ii) it is proposed that all changes to the Constitution are referred to full Council via the Standards Committee, rather than via a member panel convened by the Leader. This gives an enhanced role to the Standards Committee and is consistent with practices in other authorities.