



COUNCIL: 5 April 2023

Report of: Simon Goacher (Independent Legal Advisor) on behalf of the Chief Operating Officer

Relevant Portfolio Holder: Councillor Yvonne Gagen

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SUBJECT: CHANGE OF GOVERNANCE ARRANGEMENTS DRAFT TERMS OF REFERENCE FOR COMMITTEES

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 To present Council with draft terms of reference for service committees for consideration as a basis for stakeholder consultation.

2.0 RECOMMENDATIONS TO COUNCIL

2.1 That the draft terms of reference be considered and subject to any amendments, be used as a basis for stakeholder consultation.

3.0 BACKGROUND

3.1 The Full Council at its meeting on the 12 October 2021 considered a report on proposed governance arrangements and resolved:

- "A. *That the following recommendations of the Working Group be noted:*
- (a) *"That the council adopts the committee system form of governance with effect from the annual council meeting of the Council in 2024.*
 - (b) *That in respect of consultation arrangements:*
 - (i) *a referendum should not be held.*
 - (ii) *That a public consultation should not be held prior to a decision being made.*
 - (iii) *That consultation be undertaken with relevant stakeholders if a decision is taken to move to a Committee System*
 - (c) *That the following Committee structure be adopted:*

Service/Policy Committees:

- Policy & Resources
- Housing & Health
- Environment

Statutory Committees:

- Audit and Governance Committee
- Licensing and Appeals Committee
- Licensing and Gambling Committee
- Planning Committee
- Standards Committee

Although other suggestions that come forward can be considered by the Working Group and Council."

- B. *That taking into account the recommendations of the Working Group above, the implications of change set out in paragraph 8 of the report, including the financial/resource implications, set out in paragraph 10, the Council move to a committee system with effect from the Annual Council meeting in 2024.*
- C. *That the Council adopts the Committee structure set out at A(c) above.*
- D. *That the Terms of Reference of the Political Governance Arrangements Working Group be expanded, in order to bring further reports back to Council, in respect of the following:*
- (i) *The Consultation arrangements*
 - (ii) *The Membership size and Terms of Reference of Committees and to consider if any other bodies, such as Sub-Committee, Working Groups or Task & Finish Groups will be required.*
 - (iii) *Changes to the Constitution, including, but not limited to, the Scheme of Delegation to Chief Officers.*
 - (iv) *a review of the staffing required in Democratic Services to support the change.*
- E. *That it be noted that the Independent Remuneration Panel will be called upon to undertake a review of the Members Allowance Scheme for 2024/25, following the all-out elections being held in May 2023.*
- F. *That it be noted that the Member Development Commission will be consulted on proposals in relation to the required training for Members."*

3.2 Since the Council resolution draft terms of reference for the suggested service committees have been prepared and are attached as Appendix 1. These have been considered by the Political Governance Arrangements Working Group.

4.0 THE LEGAL FRAMEWORK

4.1 Chapter 4 of the Local Government Act 2000 (as amended by the Localism Act 2011) governs permissible forms of local authority governance and the rules to be followed in order to change form. Section 9KC of the Act states, a "resolution

of a local authority” (i.e. a simple majority) is required in order for the council to make such a change in governance arrangements.

- 4.2 A local authority may not then pass another resolution that makes a change from one to another of the permissible forms of governance arrangements “before the end of the period of 5 years” beginning with the date the first resolution is passed, unless that change is supported in a referendum.
- 4.3 A resolution passed by the Authority to change from one of the permissible forms of governance arrangements to another will then be implemented only at-
- (a) the first annual meeting of the local authority to be held after the resolution to make the change in governance arrangements is passed, or
 - (b) a later annual meeting of the local authority specified in that resolution.
- 4.4 The Council resolution means that the committee system will be adopted from annual council in 2024.
- 4.5 Section 101 of the Local Government Act 1972 enables local authorities to delegate functions to committees or sub-committees. There are certain matters which by law are reserved to full Council such as setting the budget or changing the name of the borough, but most functions can be fully delegated to committees.

5.0 DRAFT TERMS OF REFERENCE

- 5.1 The draft terms of reference have been prepared after reviewing the terms of reference of committee of other authorities which have adopted the committee system, consideration of legislation and best practice and incorporating the relevant functions which are currently exercised by Cabinet within the Council’s current constitution.

6.0 SUSTAINABILITY IMPLICATIONS

- 6.1 There are no specific implications arising from this report.

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 7.1 There will have to be a review of the members allowances scheme to reflect the new governance arrangements and the officer structure to support democratic services.

8.0 RISK ASSESSMENT

- 8.1 There are risks to the Council in any change of political governance structure in terms of cost; impact on resources; effective governance of the authority; effective operation of the Council’s decision making structure in accordance with statutory requirements and the impact on the Council’s member and officer structures.

8.2 The Council has time to consider and manage these risks before the new system is adopted in 2024.

9.0 HEALTH AND WELLBEING IMPLICATIONS

9.1 There are no direct health and wellbeing implications arising from this report.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices

Draft Terms of Reference