

READING BOROUGH COUNCIL
REPORT BY MONITORING OFFICER

TO:	COUNCIL		
DATE:	26 MAY 2021		
TITLE:	CONSTITUTION; POWERS AND DUTIES OF THE COUNCIL AND COMMITTEES; SCHEME OF MEMBERS' ALLOWANCES; AND DELEGATIONS		
SERVICE:	LEGAL AND DEMOCRATIC SERVICES	WARDS:	BOROUGH-WIDE
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1. PURPOSE AND SUMMARY OF REPORT

1.1 This report asks Council, for the Municipal Year 2021/22, to:

- (1) appoint the Committees of the Council: the allocation of seats between Groups has to be calculated in accordance with Sections 15-17 of the Local Government and Housing Act 1989 and details have been circulated to Group Leaders before the meeting;
- (2) appoint a local Standards Committee for the authority;
- (3) agree the powers and duties of committees, sub-committees, partnerships and consultative Working Parties (Appendices A, B and C), including incorporating the terms of reference of the Channel Panel within Article 10: Consultative Committees and Forums;
- (4) agree the general dispensation granted to all Members as set out in para. 2.16 below.
- (5) amend the Council's scheme of Councillors' Allowances, and confirm those Councillors who meet the definition of Members having significant responsibilities in relation to the discharge of the Council's functions in terms of entitlement to Special Responsibility Allowance at Tier 4 for the financial year 2021/22, pending the results of the full review of Councillors' Allowances by the Remuneration Panel;

- (6) re-establish the Remuneration Panel for the Municipal Year 2021/22;
 - (7) make arrangements for decision-making now that the permission under Section 78 of the Coronavirus Act 2020 and the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 to hold Council and Committee meetings remotely have ceased.
- 1.2 The Constitution for the authority will be amended in the light of these changes and published on the Council's website.
- 1.3 The powers and duties of the Committees and Sub-Committees are included in **Appendices A and B**. The terms of reference of Partnership and advisory and consultative bodies, and Member:Officer working groups, are included in **Appendix C**.

2. RECOMMENDED ACTION

A. Constitution

- 2.1 That the Constitution for the authority be amended to include the action set out below.

B. General Reservation of Powers to the Council

- 2.2 That the following matters be reserved to the Council, in line with Article 4 of the Constitution, and any decisions of Committees in relation to them shall be submitted to the Council as recommendations:

- (a) changing the Constitution;
- (b) approving the authority's budget, and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) Approving the authority's budget strategy, including plans or strategies for:
 - The control of borrowing and investments
 - Capital expenditure
 - Determining the authority's minimum revenue provision

and agreeing the Council's capital strategy and asset management plan;

The budget framework is as set out in Part 4 of the Constitution;

- (d) agreeing and/or amending the terms of reference for committees appointed by the Council, deciding on their composition and making appointments to them;
- (e) making a Members' allowances scheme under Article 2.5 of the Constitution;
- (f) changing the name of the area, conferring the title of freedom or freeman of the Borough;
- (g)
 - (i) confirming the appointment of the Head of Paid Service;
 - (ii) confirming the dismissal of the Head of Paid Service, Chief Finance Officer and Monitoring Officer;
- (h) appointing the external auditors and agreeing the arrangements for their appointment;
- (i) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (j) requesting a change to single-member electoral areas, and passing a resolution to change the Council's scheme of elections;
- (k) reorganisation of community governance - making an order giving effect to recommendations made in a community governance review under Section 86 of the Local Government and Public Involvement in Health Act 2007;
- (l) promoting and maintaining high standards of conduct by Councillors and Co-opted Members, including adopting a local Member code of conduct and establishing a local Standards Committee;
- (m) passing a resolution to make a change in governance arrangements for the authority under Section 9KC(1) of the Local Government Act 2000 as amended by Schedule 2 of the Localism Act 2011;
- (n) those functions set out in Part 3 Schedules 2 and 3 of the Council's Constitution which are shown as being for the Council to exercise, and which the Council has not delegated to a Committee or an officer;
- (o) setting the strategic vision and corporate objectives of the Council;
- (p) making referrals to the Secretary of State, the regulator or the NHS Commissioning Board arising from the exercise of the health scrutiny function of the authority, under Section 22A of the National Health Service Act 2006 (as added under Section 190(3) of the Health & Social Care Act 2012);

- (q) entering into joint arrangements with other local authorities under sections 101 and 102 of the Local Government Act 1972;
- (r) all other matters which, by law, must be reserved to Council.

C. Powers and Duties of Committees

2.3 Subject to the Schemes of Delegation to Officers,

The Committees listed in 2.4 below shall have delegated authority to exercise and perform the Powers and Duties of the Council in relation to the functions set out in Appendices A and B to this report.

D. Constitution of Committees

2.4. That for the Municipal Year 2021/22 the following standing Committees and Regulatory and Other Committees be constituted, as set out below:

Standing Committees

Policy Committee

Adult Social Care, Children's Services & Education Committee

Housing, Neighbourhoods & Leisure Committee

Strategic Environment, Planning & Transport Committee

Regulatory and Other Committees

Audit and Governance Committee

Health & Wellbeing Board

Reading Covid-19 Outbreak Engagement Board

Licensing Applications Committee

Personnel Committee

Planning Applications Committee

Committees related to the Employment Procedure Rules

Investigating and Disciplinary Committee

Appeal Committee

Independent Panel

Joint Committee

Joint Health Overview and Scrutiny Committee (with Buckinghamshire, Oxfordshire, West Berkshire and Wokingham Councils)

2.4.1 That with regard to the Health and Wellbeing Board, under the provision of regulations 6 and 7 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013:

- a) the duty to allocate seats to political groups under Sections 15 and 16 of the Local Government & Housing Act 1989 be disapplied;

- b) the following statutory Members, as officers, be non-voting members of the Board:
- Executive Director of Children’s Services (or representative)
 - Executive Director of Adult Care & Health Services (or representative)
 - Director of Public Health, Berkshire (or representative)
- c) The following will be co-opted as non-voting additional members:
- The Chief Executive of Reading Borough Council (or representative)
 - A representative from Reading Voluntary Action
 - A representative from Thames Valley Police’s Reading Local Police Area
 - A representative from Royal Berkshire Fire & Rescue Service

E. Codes and Protocols

- 2.5 That a local Standards Committee be appointed for the Municipal Year 2021/22 with unchanged terms of reference, standing orders and Rules of Procedure; that the Committee will consist of Councillors and at least one Co-opted Member; that Mrs T Barnes be re-appointed as a Co-opted Member for the 2021/22 Municipal Year; and that Mr D Comben be re-appointed as the Independent Person for 2021/22.

F. Constitution of Sub-Committees

- 2.6 That for the Municipal Year 2021/22 a Traffic Management Sub-Committee will be appointed by the Strategic Environment, Planning & Transport Committee; The Mapledurham Playing Fields Trustees Sub-Committee will be appointed by the Policy Committee; and the Licensing Applications Committee will establish a number of sub-committees (See Meetings of Committees, item (c) later on the agenda).

G. Establishment of Appeal, Review and Complaints Panels

- 2.7 That for the Municipal Year 2021/22, the following bodies be set up to handle appeals against decisions made by or on behalf of the authority:
- a) an Appeals Panel from which trained Councillors will be drawn to hear appeals on matters considered by the following bodies, as required by regulation:
- Curriculum Complaints Panel
 - Removal of Early Years Providers Appeals Panel
- b) an Education Appeals Panel to deal with schools’ admission and school exclusion reviews in line with the provisions of the School Standards Framework Act, 1998, to which Councillors may not be appointed.

- c) a Social Services Complaints Review Panel to hear individual complaints which reach the third stage of the Council's Social Services Complaints process, to which Councillors may not be appointed.
- d) a Secure Accommodation Panel.

H. Partnership Bodies

2.8 That, for the Municipal Year 2021/22, the Authority will continue to participate in the following joint consultative partnership bodies:

- Community Safety Partnership
- Cultural Partnership Board
- Community Learning & Skills Advisory Board
- Safer Reading Neighbourhood Forum

I. Education Bodies

2.9 That for the Municipal Year 2021/22 the following Education bodies be set up:

- SACRE (Standing Advisory Council on Religious Education)
- School Admission Forum

J. Safeguarding Bodies

2.10 That for the Municipal Year 2021/22 the following safeguarding bodies be set up:

- Adult Safeguarding Panel
- Children's Safeguarding Panel
- Parenting Panel

K. Advisory and Consultative Working Parties, Panels and Forums

2.11 That for the Municipal Year 2021/22, Councillors will be appointed to serve on the following advisory and consultative bodies, which may not meet formally, and which may operate as special interest groupings with whom partners and stakeholders may liaise and consult:

Equality Groups

- Access and Disabilities Working Group
- Alliance for Cohesion & Racial Equality
- Older People's Working Group
- Channel Panel

Special Interest Groups

- Arts and Heritage Forum
- Cleaner Air & Safer Transport Forum

- Cycle Forum
- Town Twinning Group

L. Member:Officer Working Parties

2.12 That for the Municipal Year 2021/22 the following advisory Member:Officer consultative Working Parties be established, to report to the bodies set out below:

COUNCIL

- Civic Board

PERSONNEL COMMITTEE

- Local Joint Forum

PLANNING APPLICATIONS COMMITTEE

- Planning Management Panel

2.13 That the powers and duties of the above bodies listed in H-L above for the Municipal Year 2021/22 be as set out in Appendix C to this report.

M. Scheme of Members' Allowances for the Financial Year 2021/22

2.14 That, further to Minute 27 of the meeting of Council on 23 March 2021, the following persons shall be regarded as, or equivalent to, "other Councillors carrying out other activities in relation to the discharge of the authority's functions as require the commitment of equivalent time and effort as for other categories of activity which would qualify for Special Responsibility Allowance" at Tier 4 for the financial year 2021/22 (and subject to no Councillor receiving more than one Special Responsibility Allowance):

- Vice-Chairs of Committees
- Representative(s) on the Fostering Panel
- Independent Person appointed in accordance with Section 28 of the Localism Act 2011

2.15 That the Remuneration Panel be re-established for 2021/22 with the same terms of reference as agreed at Minute 51 of the Council meeting on 13 November 2001; that its membership be Francis Connolly, Lady Audrey Durant, Linda Fort and Mick Pollek.

N. DELEGATIONS

2.16 The Monitoring Officer's delegated authority, under Section 33 of the Localism Act 2011, to grant a dispensation from the restrictions in Section 31(4) of the Act, which would allow members of the authority with a disclosable pecuniary interest to take part and vote on decisions in certain prescribed circumstances be agreed in the following circumstances:

- “(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
- (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (iv) an allowance, payment or indemnity given to members;
- (v) any ceremonial honour given to members; and
- (vi) setting Council Tax or a precept under the Local Government Finance Act 1992;
- (vii) any other business which might reasonably be regarded as affecting the financial position of the Member and/or his/her spouse or partner to a greater extent than the majority of other Council Tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision”;

and the general dispensation apply for four years, subject to it being renewed each year at the Annual Council Meeting.

O. FUTURE MEETING ARRANGEMENTS

- 2.17 The arrangements made in accordance with Section 78 of the Coronavirus Act 2020 and ‘the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020’, which allowed the Council and its Committees to be held remotely ceased to be effective on 7 May 2021.
- 2.18 A challenge in the High Court brought by Hertfordshire County Council, Lawyers in Local Government and The Association of Democratic Services Offices, the effect of which would have been to allow the continuation of remote meetings under the Local Government Act (LGA) 1972 was unsuccessful. The Court concluded that primary legislation would be required to allow local authority “meetings” under the LGA 1972 Act to take place remotely and that once the Flexibility Regulations ceased to apply, such meetings must take place at a single, specified geographical location; attending a meeting at such a location means physically going to it; and being “present” at that location.
- 2.19 As a result, ‘in person’ meetings are being reintroduced for the forthcoming round of Committee meetings. These meetings will not be in exactly the same form as prior to the start of the Covid pandemic because of the restrictions on the Council to meet safely indoors. Members will be advised of the relevant protocols which will be established and these will be kept under regular review to ensure they are consistent with the latest guidance.

- 2.20 In view of potential ongoing disruption to the normal Committee cycle, caused by the Covid-19 pandemic, a general dispensation will continue to be granted to all Councillors for a further period of six months in relation to the requirement set out in Section 85 of the LGA 1972, which states if a member throughout a period of six consecutive months from the date of his last attendance fails to attend any meeting of the authority, he shall, unless the failure was due to some reason approved by the authority before the expiry of that period, cease to be a member of the authority.
- 2.21 Where Councillors are unable to, or hesitant to, attend a meeting in person during the 2021/22 municipal year, they will be permitted to (a) contribute remotely where this is technologically possible, but in these circumstances they would not form part of the quorum or be able to vote; or alternatively (b) ask their Group Leader to appoint a substitute to attend and vote in their place. Substitutes appointed for meetings of the Planning Applications Committee and the Licensing Applications Committee (and its sub-committees) must be suitably trained.

3. BACKGROUND PAPERS

None