

READING BOROUGH COUNCIL
REPORT BY MONITORING OFFICER

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| TO: | COUNCIL | | |
| DATE: | 22 MAY 2019 | AGENDA ITEM: | 9 |
| 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 2019/20, 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 new Committees: Investigating and Disciplinary Committee, an Appeal Committee, together with an Independent Panel; terms of reference for which will be included within Article 8: Regulatory Committees;
- (4) agree changes to the Constitution
 - Part 4 - Officer Employment Procedure Rules (Appendix D)
 - Part 5 - Planning Code of Conduct (Appendix E)
- (5) agree the general dispensation granted to all Members as set out in para. 2.17 below.
- (6) 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 3 for the remainder of the financial year 2019/20, pending the results of the full review of Councillors' Allowances by the Remuneration Panel;
- (7) re-establish the Remuneration Panel for the Municipal Year 2019/20.

- 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 (subject to review);

- (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 2019/20 there be constituted four standing Committees, and eight Regulatory and Other Committees, 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
Licensing Applications Committee
Personnel Committee
Planning Applications Committee

New Committees related to the Employment Procedure Rules

Investigating and Disciplinary Committee
Appeal Committee
Independent Panel

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:
 - Director of Children, Education and Early Help Services (or representative)
 - 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

E. Codes and Protocols

2.5 That a local Standards Committee be appointed for the Municipal Year 2019/20 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 2019/20 Municipal Year; and that Mr D Comben be re-appointed as the Independent Person for 2019/20.

F. Constitution of Sub-Committees

2.6 That for the Municipal Year 2019/20 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 2019/20, 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 2019/20, 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 2019/20 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 2019/20 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 2019/20, 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

Special Interest Groups

- Arts and Heritage Forum
- Cleaner Air & Safer Transport Forum (Transport Users' Forum)
- Cycle Forum
- Town Twinning Group

L. Member:Officer Working Parties

2.12 That for the Municipal Year 2019/20 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 2019/20 be as set out in Appendix C to this report.

M. The Council's Constitution

2.14 That the following amended documents be approved for inclusion in the Council's Constitution for 2019/20:

- Officer Employment Procedure Rules (Appendix D)
- Planning Code of Conduct (Appendix E)

N. Scheme of Members' Allowances for the Financial Year 2019/20

2.15 That, further to Minute 54 of the meeting of Council on 26 March 2019, 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 3 for the remainder of the financial year 2018/19 (and subject to no Councillor receiving more than one Special Responsibility Allowance):

- Vice-Chairs of Committees
- Independent Person appointed in accordance with Section 28 of the Localism Act 2011

2.16 That the Remuneration Panel be re-established for 2019/20 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.

O. DELEGATIONS

2.17 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.

2.18 At its meeting on 8 November 2018 (Minute 7 refers), the Personnel Committee authorised the Chief Executive to implement a new senior management structure. The new structure refocused Heads of Service as Assistant Directors and created a number of new deputy and assistant director posts, whilst deleting six heads of service roles. The new structure requires that the Constitution and Delegations Register will need to be updated to reflect the new senior management structure, which includes the creation of new posts, revisions to post titles, shifts in responsibilities and consideration of specific delegations appropriate to new posts created within the structure. As a result, it is recommended that the Monitoring Officer, in consultation with the Chief Executive (and other senior managers as appropriate) be authorised to make such changes as necessary to update the Constitution and Delegations Register to reflect the changes summarised above.

2.19 Further to the Council meeting held on 16 October 2018 (Minute 29 refers), which transferred the Council's Children and Education Services to Brighter Futures for Children Limited (BFfC), it is recommended to reconfirm that the Monitoring Officer, in consultation with the Chief Executive and the Director of Children's Services be authorised to make the necessary amendments to the Council's Constitution and Scheme of Officer Delegation to reflect the establishment of and transfer of responsibilities to BFfC.

2.20 Dismissal and Disciplinary Arrangements for Relevant (Statutory) Officers - ie Head of Paid Service; Monitoring Officer and Chief Finance Officer.

That, in the case of a complaint against a relevant officer, the decision whether to refer the matter to the Investigating and Disciplinary Committee (IDC) be delegated jointly to the Monitoring Officer and Chief Finance Officer in the case of a complaint against the Head of Paid Service, and delegated to the Head of Paid Service in the case of a complaint against the Monitoring Officer or the Chief Finance Officer.

That, in the event a decision is required as a matter of urgency on whether or not to suspend a relevant officer, the decision be delegated jointly to the Monitoring Officer and Chief Finance Officer in the case of a complaint against the Head of Paid Service, and delegated to the Head of Paid Service in the case of a complaint against the Monitoring Officer or the Chief Finance Office, subject to consultation with the Chair of the Investigation and Discipline Committee.

3. BACKGROUND PAPERS

None