

GOVERNANCE COMMITTEE

AGENDA

7.30pm	Wednesday 9 May 2007	Havering Town Hall Main Road, Romford
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Members 10: Quorum 4

COUNCILLORS:

**Conservative Group
(6)**

Frederick Thompson
(Chairman)
Kevin Gregory (Vice-
Chairman)
Steven Kelly
Eric Munday
Roger Ramsey
Michael White

**Residents' Group
(2)**

Gillian Ford
Barbara Matthews

**Rainham &
Wennington
Independent
Residents' Group
(1)**

Mark Stewart

**Labour Group
(1)**

Keith Darvill

**For information about the meeting please contact:
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e-mail ian.buckmaster@haverling.gov.uk**



NOTES ABOUT THE MEETING

1. HEALTH AND SAFETY

The Council is committed to protecting the health and safety of everyone who attends meetings of its Committees.

At the beginning of the meeting, there will be an announcement about what you should do if there is an emergency during its course. **For your own safety and that of others at the meeting, please comply with any instructions given to you about evacuation of the building, or any other safety related matters.**

2. MOBILE COMMUNICATIONS DEVICES

Although mobile phones, pagers and other such devices are an essential part of many people's lives, their use during a meeting can be disruptive and a nuisance. Everyone attending is asked therefore to ensure that any device is switched to silent operation or switched off completely.

3. CONDUCT AT THE MEETING

Although members of the public are welcome to attend meetings of the Committee, they have no right to speak at them. Seating for the public is, however, limited and the Council cannot guarantee that everyone who wants to be present in the meeting room can be accommodated. When it is known in advance that there is likely to be particular public interest in an item the Council will endeavour to provide an overspill room in which, by use of television links, members of the public will be able to see and hear most of the proceedings.

The Chairman of the meeting has discretion, however, to invite members of the public to ask questions or to respond to points raised by Members. Those who wish to do that may find it helpful to advise the Committee Officer before the meeting so that the Chairman is aware that someone wishes to ask a question.

PLEASE REMEMBER THAT THE CHAIRMAN MAY REQUIRE ANYONE WHO ACTS IN A DISRUPTIVE MANNER TO LEAVE THE MEETING AND THAT THE MEETING MAY BE ADJOURNED IF NECESSARY WHILE THAT IS ARRANGED.

If you need to leave the meeting before its end, please remember that others present have the right to listen to the proceedings without disruption. Please leave quietly and do not engage others in conversation until you have left the meeting room.

AGENDA ITEMS

1 CHAIRMAN'S ANNOUNCEMENTS

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

**2 APOLOGIES FOR ABSENCE AND ANNOUNCEMENT OF SUBSTITUTE MEMBERS
(if any) - receive.**

3 DECLARATION OF INTERESTS

Members are invited to declare any interests in any of the items on the agenda at this point of the meeting. Members may still declare an interest in an item at any time prior to the consideration of the matter.

4 MINUTES

To approve as correct records the minutes of the meeting of the Committee held on 20 March 2007, and to authorise the Chairman to sign them.

5 COUNCIL CHAMBER AND COMMITTEE ROOMS – availability and bookings policy

6 REVIEW OF THE COUNCIL'S STANDARDS COMMITTEE

7 AMENDMENTS TO THE CONSTITUTION

8 AMENDMENTS TO THE CONSTITUTION – made by the Monitoring Officer

9 URGENT BUSINESS

To consider any other item in respect of which the Chairman is of the opinion, by reason of special circumstances which shall be specified in the minutes, that the item should be considered at the meeting as a matter of urgency.

Governance Committee, 9 May 2007

Cheryl Coppel
Chief Executive

Governance Committee, 9 May 2007

**MINUTES OF A MEETING OF THE
GOVERNANCE COMMITTEE
Havering Town Hall
20 March 2007 (7.30pm – 8.45pm)**

Present:

COUNCILLORS:

Conservative Group Frederick Thompson (in the Chair), Kevin Gregory, Steven Kelly, Eric Munday, Roger Ramsey and Michael White

Residents' Group Gillian Ford

Rainham & Wennington Independent Residents' Group Mark Stewart

Labour Group Keith Darvill

Councillor Jeffrey Tucker was also present

Except as shown, all decisions were taken with no vote against

Councillor Roger Ramsey declared a personal interest in the matter referred to in Minute 27 and all Members present declared a personal interest in the matter referred to in Minute 29

The Chairman reminded Members of the action to be taken in an emergency

24 MINUTES

The Minutes of the meeting of the Committee held on 21 November 2006 were approved as a correct record and were signed by the Chairman.

25 RAINHAM WORKING PARTY

Consideration was invited of the future of the Rainham Working Party, which had been established during the last Administration but before the new area committee arrangements were put in place. It was suggested to Members that the new Area Committee effectively superseded the need for the Working Party.

RESOLVED:

Governance Committee, 20 March 2007

That in view of the establishment of new area committee arrangements and of area committee chairmen job descriptions, the Rainham Working Party is no longer required and Council be recommended that the Constitution be amended by the deletion of references to the Working Party in Part 2, Article 8, paragraph 8.03, and Part 3, Section 1, paragraph 1.6.

26 APPOINTMENT OF SCHOOL GOVERNORS – Members and Council employees for appointment

The Committee noted that the panel established to make recommendations as to the appointment of school governors by the Council as LEA had recently met. The names of prospective governors identified by the panel who were Members or employees of the Council were now submitted for approval.

RESOLVED:

That the persons named in the table below be appointed as LEA governors of the schools indicated:

Nominee:	School:
Ms Margaret Darvill (a Children's Service employee)	Hilldene Primary
Mrs Chris Hipperson (a Library Service employee)	Dunningford Primary
Councillor Pam Light	Redden Court
Councillor Andrew Mann	Pinewood
Councillor Geoff Starns	Bower Park

27 APPOINTMENTS TO OTHER ORGANISATIONS, 2006/07

Councillor Roger Ramsey declared a personal interest, as one of the three Members named in the report

Havering Theatre Trust

At its meeting in June 2006, the Committee had by inadvertent error appointed Councillors Andrew Curtin, Ray Morgon and Roger Ramsey to the Board of the Trust. Originally, the Council had appointed two Members to the Board but, for reasons now not all clear, in 2002 that was increased to three but the error was not noticed either by officers or by the Trust until late in 2006. The Committee was therefore now requested to amend its decision of last June and to determine which two of the three Members are to continue as Board members.

Governance Committee, 20 March 2007**Adoption Panel**

The Committee had appointed, among others, Councillor Pat Mylod, Roger Bolton and Cedric Hendricks as members of the Adoption Panel but had noted that new Adoption Panel Regulations had the effect among other things of requiring their compulsory retirement from the Panel once they had served nine years in that capacity.

Those three members had now retired and the Committee was requested formally to confirm the appointment of their successors, as well as to fill a further vacancy.

Trustees of Poyntz and other Charities

The Council was responsible for appointing three of the Trustees of this small local charity, administering benefits for the poor, including some almshouses of North Ockendon. One of the Council's appointees had now moved from the area and was no longer a trustee, and appointment was invited of a local resident, who had already supported the trustees, particularly in connection with the almshouses.

RESOLVED:

- 1 That the appointment of Councillor Ray Morgon to the Board of the Havering Theatre Trust, be rescinded.
- 2 A That the appointments of Tess Blight, Betty Haltham, Tony Ferguson and Jonathan Pearce to the Adoption Panel, be confirmed.

B That the Secretary of State be informed that the Council considers the requirement that Adoption Panel members be compelled to retire after nine years' service is counter-productive and ought to be rescinded.
- 3 That David Livermore be appointed a Trustee of the Charities of Richard Poyntz and others.

28 CORPORATE GOVERNANCE ARRANGEMENTS IN HAVERING

The Committee received and noted the latest six-monthly progress report on corporate governance arrangements in Havering.

29 MEMBERS' ALLOWANCES SCHEME, 2007/08

The Chairman agreed pursuant to section 100B(4) of the Local Government Act 1972 that the Committee should consider the following as an urgent matter, in

Governance Committee, 20 March 2007

order that the Committee's recommendations could be considered by Council at its meeting on 21 March 2007.

All Members present declared a personal interest as the recipients of Members' Allowances.

The Committee considered the Chief Executive's report that would be before Council.

Following discussion, the Committee agreed to propose some changes to the scheme as set out in that report and the following recommendations were agreed accordingly for submission, including consequential changes to the text of the detail of the Chief Executive's report and of the Scheme set out in the Appendix to these minutes.

The Committee AGREED to RECOMMEND to the Council:

- 1 That the report from the Independent Panel on the Remuneration of Councillors in London be noted.
- 2 That a "political group" be defined for the purposes of payment of a special responsibility allowance as a group consisting of a minimum membership of two Councillors (as provided by the Local Government (Committees and Political Groups) Regulations 1990 – Regulation 8).
- 3 That, having regard to the Independent Panel report, the Members' Allowance Scheme be amended to accord with the Panel's recommendations, as follows:
 - (a) Basic allowances be agreed as set out in the Chief Executive's report.
 - (b) Special Responsibility allowances for the Leader, Deputy Leader and Cabinet Members be agreed as set out in the Chief Executive's report.
 - (c) Special Responsibility allowances for the Principal Opposition Leader and Deputy Leader be agreed as set out in the Committee's report.
 - (d) Special Responsibility allowances for the Principal Minority Opposition Leader be agreed as set out in the Committee's report.
 - (e) Special Responsibility allowances for the Minority Opposition Leader be agreed as set out in the Committee's report.
 - (f) Special Responsibility allowances for the Mayor and Deputy Mayor be agreed as set out in the Chief Executive's report for the new Mayoral Year.
 - (g) Special Responsibility allowances for the Chairmen of Overview and

Governance Committee, 20 March 2007

Scrutiny and Area Committees be agreed as set out in the Chief Executive's report.

(h) Special Responsibility allowances for the Chairmen of Licensing, Regulatory Services, Audit, Pensions, Governance, Appointments, Adjudication and Review Committees be agreed as set out in the Chief Executive's report.

(i) Special Responsibility allowances for the Overview and Scrutiny Committee Principal Opposition Spokespersons be agreed as set out in the Chief Executive's report.

(j) Statutory co-optees be paid £117 per meeting attended.

4 That the changes set out in recommendation 3 be effective from 1 April 2007 (with exception of Mayor/Deputy Mayor SRA which becomes effective from new Mayoral Year) and that the existing scheme be revoked with effect from the same date.

5 That, subject to the decision of Members with regard to recommendation 3, the total number of SRAs may exceed the recommended 50% and, in the event of exceeding the 50% level, Council endorse the justification set out in the report.

6 That any additional cost in 2007/08 be met from the sum set aside in the budget.

7 The Group Director Finance and Commercial be authorised to amend Appendix B (of the Chief Executive's report to the Council) in accordance with the Council decision.

Note: The decision referred to in 2 above was agreed by 8 votes (Councillors Keith Darvill, Gillian Ford, Kevin Gregory, Steven Kelly, Eric Munday, Roger Ramsey, Frederick Thompson and Michael White) to 0; Councillor Mark Stewart abstained.

30 **JOINT SCRUTINY OF HEALTH SERVICES WITH OTHER LOCAL AUTHORITIES**

The Chairman agreed pursuant to section 100B(4) of the Local Government Act 1972 that the Committee should consider the following as an urgent matter, in order that the proposed change to the Constitution should be effected forthwith.

Authority was sought to enable the Council's Health Overview & Scrutiny Committee to arrange with other Health Overview & Scrutiny Committees to carry

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out joint scrutiny exercises of NHS services. The Council's Constitution already made some provision for such work but experience in a current scrutiny exercise had shown that the existing constitutional arrangements did not go far enough to cover all eventualities.

The Committee noted that the changed proposed required immediate implementation and agreed that the Monitoring Officer be authorised to make the necessary arrangements, and that the Council be invited to approve them retrospectively.

RESOLVED:

- 1 That Council be **RECOMMENDED** to agree that paragraph 6.05, in Article 6 of Part 2 of the Constitution, be amended to read:

6.05 Joint scrutiny of the health service

The Health Overview & Scrutiny Committee is authorised pursuant to Regulation 7 of the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 to establish together with the health overview & scrutiny committees of one or more other local authorities a joint overview & scrutiny committee.

Any such joint overview & scrutiny committee shall have such terms of reference, and shall exist for so long, as the appointing overview & scrutiny Committees may agree.

- 2 That the Monitoring Officer be authorised, in anticipation of the Council's approval, to make the necessary adjustment to the Constitution forthwith and that Council be invited to ratify that change at its July meeting.

31 ETHICAL GOVERNANCE SURVEY

The Chairman agreed pursuant to section 100B(4) of the Local Government Act 1972 that the Committee should consider the following as an urgent matter, in order that the proposed survey might be implemented forthwith.

The Committee noted that the Ethical Governance Survey was a "...survey of members and officers including awareness and understanding of ethical behaviour". The participation of all 54 members and all top 140 managers was expected in the survey, which would be administered by the Audit Commission and conducted online.

The survey was intended to give an assessment of the awareness of ethical

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governance issues at the top of the organisation. It was a national survey which would allow benchmarking against all other authorities who had completed it. The survey had been running since 2005, with many authorities having already completed it – therefore ensuring the benchmarking will be meaningful.

RESOLVED:

- 1 That the Survey be carried out in Spring/Summer 2007.
- 2 That the Committee play an active role in encouraging all Members to participate in the Survey.

APPENDIX**MEMBERS' ALLOWANCES SCHEME, 2007/08**

The consequential changes to the text of the Chief Executive's report to the Council are as follows (with changes made by the Committee shown in italics):

3.2 The Administration proposes the following scheme is implemented from 1 April 2007.

Category of Allowance	Amount Per Member £
Basic Allowance	9,964
Special Responsibility Allowances:	
Leader of the Council	51,191
Deputy Leader of the Administration	35,705
Cabinet members	32,705
Leader of Principal Opposition	18,000
Deputy Leader of Principal Opposition	3,825
<i>Leader of Principal Minority Opposition</i>	<i>6,390</i>
<i>Leader of Minority Opposition</i>	<i>2,227</i>
Mayor	14,418
Deputy Mayor	7,650
Area Committee Chairmen	4,260
Overview and Scrutiny Committee Chairmen	14,418
Licensing and Regulatory Service Committee Chairmen	20,430
Audit, Pension, Governance Appointments, Adjudication and Review Committee Chairmen	7,650
Overview and Scrutiny Committee Opposition Spokesmen	2,227

Note:

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- 1 In accordance with paragraph 4(c) of the Members' Allowance scheme, when a Councillor would otherwise be entitled to more than one special responsibility allowance, then the entitlement shall be to only one, that being the one attracting the higher rate.
- 2 The remaining conditions remain.

3.3 There are several definitions of what constitutes a group for the purposes of payment of a Special Responsibility Allowance. Current Havering practice is that a group consists of six members or over. The Panel, for allowance purposes, recommends a group is one consisting of a minimum membership of four Councillors, whilst under the Local Government (Committees and Political Groups) Regulations 1990 – Regulation 8, a political group is defined as being constituted where the proper Officer receives notice in writing. The Council is being asked to agree the definition that is the definition under Regulation 8.

Existing paragraphs 3.3 to 3.6 become paragraphs 3.4 to 3.7, with:

- (i) the number of SRAs assuming single occupancy being 49 as compared to 54 Councillors (91%) in new paragraph 3.4 (old paragraph 3.3).*
- (ii) new paragraph 3.6a (old paragraph 3.5a) being amended to £117 per meeting for all statutory co-optees, pending a review.*

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SCHEME

The Scheme appended to the report will be amended accordingly to agree to the recommendations and the changes above as appropriate.



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	9 MAY 2007	5

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: COUNCIL CHAMBER AND COMMITTEE ROOMS – availability and bookings policy

SUMMARY

This report invited the Committee to review the policy on the availability of the meeting accommodation at the Town Hall for use for meetings, both internal and external. The Committee is requested to consider approval of new guidelines for the letting of rooms, including the Council Chamber.

RECOMMENDATIONS

- 1 That Council be **RECOMMENDED** to add to section 3.9.2 of the Constitution a new paragraph 30 (duties of the Manager of Committee and Overview & Scrutiny Support):

To manage day to day the letting of meeting accommodation at the Town Hall, including applications for lettings at concessionary rates, in accordance with guidelines agreed by the Governance Committee
- 2 That, other than formal meetings of Council, Cabinet or Committees to which the relevant Procedural Rules apply, all lettings of the meeting accommodation terminate at 10.30pm.
- 3 That, for the avoidance of uncertainty, the Committee agree explicitly that no meeting accommodation at the Town Hall shall be available:

- For “surgery” purposes by a Member, Member of Parliament, Member of the European Parliament or Member of the Greater London Authority
 - For use by any candidate for election to the Council, Parliament, the European Parliament, the Greater London Authority
- 4 That the guidelines for lettings set out in Appendix 2 to this report be approved as a replacement of the existing arrangements for letting meeting accommodation at the Town Hall.
- 5 For consideration as to whether the availability of meeting accommodation should be actively marketed rather than, as at present, external bookings be accepted only if requested, bearing in mind that the limited availability of parking spaces may prove a deterrent to outside users.

REPORT DETAIL

1 Introduction

- 1.1 There is a heavy demand for use of the Council Chamber and Committee Rooms at the Town Hall, during both the normal working day and in the evening. Occasionally, competing demands mean that decisions are needed as to which meeting should have priority. The Council’s policy for such arrangements was last reviewed some time ago, since when there have been a number of changes, not least the creation of the new Committee Room 3 and the installation in Committee Rooms 1, 2 and 3 of a variety of ICT facilities.
- 1.2 This meeting accommodation is put to a variety of uses. Apart from official Council/Cabinet/Committee meetings and associated gatherings such as Group Meetings, the rooms are used for a variety of officer meetings, for some training sessions and for informal discussions; although they are not generally available for letting to non-Council users, a series of outside organisations that have been regular users of rooms in the Town Hall continue to make use of them. There is also a need for the Council to accommodate statutory processes such as school appeals and Planning Inquiries.
- 1.3 This variety of uses creates conflicting demands and resolving such conflicts in the absence of a defined policy can lead to difficulties. In view of the close association of the meetings accommodation with Members’ activities and requirements, its management is delegated to the Assistant Chief Executive (Legal & Democratic Services) and day to day control of bookings etc is undertaken on her behalf within Democratic Services.
- 1.4 This report seeks approval of a new policy and the conferment of discretion for day-to-day management of the accommodation intended to assist in resolving conflicts when they arise, without the need for arbitrary decisions to be made.

2 The accommodation available

- 2.1 The Council Chamber is the largest room available at the Town Hall, with a seating capacity of around 120 people (the fire certification specifies the maximum number permitted as equivalent to the number of seats: there is NO “standing room only”). As Members will be aware, its refurbishment in 1997/98 included the installation of a range of ICT facilities (some of which is now in need of upgrading, about which a further report will be submitted in due course).
- 2.2 There are also four Committee Rooms (CRs). Of them, CR 3 is both largest and most flexible: opened out as one room, its capacity nears 100 seats but when divided into two smaller rooms, 3A and 3B, its capacity is somewhat lower: neither room can comfortably accommodate as many as 50. The room has ICT facilities including the Sympodium, a specialised mobile rostrum for use when giving presentations using a computer generated graphical information (CGI) system.
- 2.3 CRs 1, 2 and 4 are smaller and less flexible: 1 and 2 have rudimentary ICT facilities (projector and connecting and power cables) but 4 has none.
- 2.4 The competing demands often mean that rooms are booked for purposes for which they are not suitable. For example, CR 4 is often sought for large gatherings even though its capacity is limited to about 10-12 people while both CR 1 and CR 2 have to be used for hearings such as school appeals, involving normally no more than 6 people, when their capacity can be up to 25 people, depending how the furniture is laid out.
- 2.5 New tables have recently been provided in CR3A by Democratic Services to improve the room’s flexibility for “Select Committee”-style Overview & Scrutiny Committee meetings, which will become increasingly important as overview & scrutiny develops further (though other users may find the resulting changes less helpful).
- 2.6 It is also important to bear in mind that, unlike many Town Halls, there is no “assembly hall” or the like at Havering. The Town Hall meeting accommodation is thus not suitable for large public gatherings: it is purpose-built for use for Committee and Council meetings only and other uses, such as training or public inquiries, can only be conducted within the parameters of what is available.
- 2.7 The booking of accommodation is quite separate from arranging for refreshments to be available. Hot and cold beverages (and where sought, biscuits) are available from the Town Hall Pantry, while buffets are arranged through approved contractors such as “Snackbox”.

3 Current policy issues

- 3.1 As mentioned earlier, current policy for use of the rooms is in need of review. There is a number of “guiding principles” (of which the principals follow, in no particular order) but no consolidated written policy:
- No room may be booked more than six months in advance (other than for Council/Cabinet/Committee meetings)
 - For a series of meetings, only two bookings can be accepted at a time (the remainder are provisionally booked, subject to later confirmation)
 - Internal users are not charged for their use of any room
 - External users are generally charged: however, there are concessions that result in some external users being charged at a lower rate and a few not being charged at all (see section on external users below)
 - The meeting facilities at the Town Hall are not actively marketed (although the original intention in 1998 was that the Council Chamber would be, that intention was overtaken by later events)
 - The Council Chamber and Committee Rooms are not available for use by Members for “advice surgeries” but they may be used for meetings with constituents, individually or in groups, about specific issues
 - The Chamber and most CRs are reserved on Monday evenings for Group Meetings
 - CR3 (and its two constituent rooms, 3A and 3B) is not available for outside letting in any circumstances
- 3.2 Members should also be aware that the recent changes to the car parking arrangements at the front of the Town Hall are having an effect. There are now only four visitors’ parking spaces, available on a “first come, first served” basis. Members will be aware that there is limited “pay and display” parking but that it is frequently full. Accordingly, the meeting accommodation cannot be marketed as having access to parking facilities.
- 3.3 In allocating rooms for meetings where there are conflicting demands, generally rooms are available on a “first come, first served” basis with no attempt to prioritise (other than in the obvious case of Committee meetings and the like).
- 3.4 Members should be aware that the principal external daytime use of accommodation is now the Planning Inspectorate for planning inquiries and hearings, unless it is clear in advance that an inquiry will require larger accommodation than can be made available at the Town Hall; roughly 15 such hearings take place a year. Planning hearings must be given priority as the Council has an obligation to make accommodation available and there is very little leeway over the date and time, which is set by the Inspectorate. No charge can be levied for this use and ancillary rooms are often required as well as the main room in which the inquiry takes place.
- 3.5 The largest single internal user (Member meetings aside) is Democratic Services for school appeal hearings. For most of the year, school appeals are held once or twice a month but in the school summer term numerous appeals for entry into Year 7 secondary education and for Reception Infants classes are heard. School appeals require at least two rooms, as there is an obligation

now to make a waiting room available to parents. Again, no charge is levied for this use.

4 External users

4.1 The Council previously agreed a list of external users who had use of rooms at concessionary rates. Some organisations have since ceased to use the Town Hall for various reasons and, of those then listed, only the following still use the rooms:

Pensioners' Forum
(Staff) Christian Fellowship
National Union Teachers
UNISON

4.2 Since that list was compiled in 1997, Romford Police have been informally added as concessionary users, on the basis that the Council is now in close working partnership with them. The Council Chamber is used regularly as a venue for senior police officers' meetings with their front-line officers for team briefings and the like. No charge is levied for the police use of the Chamber.

4.3 The use of rooms by the Havering Arts Council, Havering Museums Trust, Havering Theatre Trust, the Rotary Club Youth Speaks competition and the Town Twinning Association is arranged on their behalf by staff. These uses are treated as effectively internal meetings and are not charged for. It would seem appropriate to add these users specifically to the list of (external) concessionary users.

4.4 There are other regular users of the accommodation but they are charged according to the agreed scale of charges (see appendix 1).

4.5 The availability of meeting accommodation is not actively marketed. If an enquiry is made about their availability, the enquirer is advised of the scale of charges and of what facilities are provided; and, if the room is needed on the basis available, a booking is accepted and an invoice raised for it.

5 New policy

5.1 Consideration is now invited of proposed new policy guidelines for the accommodation. A system of prioritisation is needed to assist the staff in Democratic Services who deal with bookings, to ensure that arbitrary decisions are not made when competing demands for accommodation are made, and also to ensure that scarce meeting accommodation is not tied up for purposes that are more suitably held elsewhere.

5.2 Appendix 2 sets out draft guidelines for Members' consideration and approval.

5.3 Electoral law requires that local authorities make available on request to candidates "rooms" for public meetings on request. Although many Town Halls incorporate halls that are available for public events, Havering Town Hall has no such facility and neither the Chamber nor individual CRs would be suitable

for such a use. There is nothing in the legislation that requires the Council to make facilities at the Town Hall available, since the obligation to provide “a room” can be discharged by arranging for accommodation in a school or social hall to be made available. Accordingly, a specific policy decision that no room at the Town Hall can be made available for election meetings is now suggested.

- 5.4 Members may also wish to consider whether there are any other types of meeting that they would not wish to accommodate.
- 5.5 It would be helpful to specify a time by which meetings should terminate. The Town Hall Keeping staff evening shift ends at 11pm and, in order to allow them reasonable time to clear the building after meetings end, it is suggested that all meetings be required to end no later than 10pm, other than formal meetings of Council, Cabinet and Committees to which the relevant Procedure Rules in the Constitution apply (in practice, only Council and Regulatory Services Committee meetings regularly continue beyond 10pm; others occasionally do so but this can usually be foreseen and accommodated). Members will wish to bear in mind that overtime payments will arise if staff have to remain beyond 11pm.
- 5.6 Members are also asked to indicate whether the availability of rooms should be actively marketed, or the current practice of accepting bookings if sought, continued.

6 Financial implications and risks

- 6.1 No charges are raised for internal uses of the meetings accommodation at the Town Hall, so any change in lettings policies would have no direct financial effect. Other than where an agreed concession applies, lettings to external organisations are charged according to the agreed fees and charges table (see Appendix 1). Annual income from such charges is modest, at around £1,250 (and the evidence is that the recent reduction in public parking spaces at the Town Hall has reduced its attraction as a venue for external users).
- 6.2 There are costs of staff time in managing booking processes and configuring room furniture to users’ requirements but such costs are not generally directly related to individual bookings. Overtime payments can be triggered if the Town Hall continues to be occupied beyond 11pm.
- 6.3 It is good practice, when managing any accommodation, to maximise income, and to charge all users, properly to account for costs; where a subsidy is agreed, it is good practice for this subsidy to be shown in the form of a grant, again for transparency. Where, however, values are small, the benefit of this approach needs to be matched against the cost of the administration involved.

7 Legal Implications and risk

- 7.1 There are no general legal implications or risks. The meeting accommodation is private and the Council is under no obligation to make it available to external users. The specific issue about electoral meetings is referred to in paragraph 5.3 above.
- 7.2 If the Council does make accommodation available to external users, then it must ensure that all relevant non-discrimination legislation is complied with.

8 Human Resource Implications and risk

- 8.1 There are no general implications. Some staff-oriented activities are carried out in lunch time periods in the accommodation – for example, the Christian Fellowship and *Tai Chi* classes arranged by the Occupational Health Service. Subject to the availability of accommodation, it would be the intention to continue accepting such bookings (and, where relevant, to consider them for lettings at a concessionary rate or free of charge).

**Cheryl Coppel
Chief Executive**

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Background Papers

Correspondence with external organisations

Charges for use of rooms, with effect from 1 April 2007

Room	Use	£
Council Chamber	Monday-Friday: whole day	283
	Monday-Friday: half day	142
	Weekends: whole day	397
	Weekends: half day	197
	Evenings (Fridays and weekends only) (after 6pm)	171
Committee Rooms * (per hour) (at any time)	CR1	21
	CR2	21
	CR4	16

*** CR3 is not available to external users**

Havering Town Hall: meeting accommodation usage guidelines

The meeting accommodation at Havering Town Hall comprises the Council Chamber and four Committee Rooms. The primary use of the accommodation is for formal business meetings involving Members of the Council meeting in Council, Cabinet or Committee. All other uses are subordinate to that primary use.

The Council has obligations to make accommodation available for non-meeting purposes such as school appeals and public inquiries, which thus need to have priority over most other uses.

When available, it is convenient and appropriate for Members and/or staff to meet in the Town Hall for meetings that facilitate the proper conduct of the Council's business. Such meetings would include internal management meetings (such the Strategic Management Team, Leader's Briefing and departmental management teams), meetings with strategic partners (for example, the Havering Strategic Partnership, or the Community Safety Partnership) and *ad hoc* meetings.

If not required for Council purposes, accommodation can be hired by external organisations. External users are charged according to the scale of charges agreed by the Council each year, other than the organisations referred to below that have been granted lettings free of charge. Other organisations may apply for concessionary-rate lettings; such applications will be considered in accordance with the criteria set out below.

Bookings are dealt with by Democratic Services at the Town Hall.

Meeting accommodation is available for use as follows:

Type of meeting	Priority for accommodation
Scheduled Council, Cabinet and Committee meetings	1
Non-scheduled Council, Cabinet and Committee meetings	2
Meetings arising from statutory obligations	3
Member/SMT-level internal meetings	4
Pre-booked external organisations' meetings	5
Partnership meetings at Member/SMT/HoS-level	6
Partnership meetings below Member/SMT/HoS-level	7
Other Council business meetings	8
Staff training sessions (<i>but only if suitable accommodation is not available at CEME</i>)	9
External organisations' meetings	10

Accommodation will be booked on a "first come, first served" basis except that, where rooms have been fully allocated or a specific room has already been booked, the order of priority above will be used to determine whether:

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- (a) the booking can be accepted; and
- (b) an already booked meeting can (or should) be moved to another room, time and/or date and, if so, which.

Meetings of a higher priority shall have precedence over those of a lower priority.

The Manager of Committee and Overview & Scrutiny Support shall have authority, in the event of demand exceeding availability, to determine which booking shall be accepted or to re-arrange a booking if one of greater priority cannot be accommodated at another time or in another room.

Other than scheduled meetings of Council, Cabinet or Committees, no booking may be made more than six months in advance, nor may more than two meetings of a series be booked (although other meetings in a series may be booked on a provisional basis subject to confirmation at a later date).

Bookings by staff must be made by, or with the clear authority of, a manager of third tier status or above.

Other than Council, Cabinet or Committee meetings (to which specific procedure rules apply), all lettings shall cease at 10pm.

Concessionary bookings

Letting charges for the following bookings are waived:

- (Staff) Christian Fellowship
- Havering Arts Council
- Havering Museums Trust
- Havering Theatre Trust
- Metropolitan Police Borough Command Unit (when needed for operational purposes)
- National Union Teachers Branch Committee
- Pensioners' Forum
- Rotary Club Youth Speaks
- UNISON Branch Committee

Other external lettings may apply to the Manager of Committee and Overview & Scrutiny Support for a concessionary letting. In considering the application, regard shall be had to the following points:

- The extent to which the organisation has operational links to the Council
- Whether the organisation is commercial, public service or charitable in nature
- Whether the persons likely to attend the event have special requirements – e.g. because of age, disability or other vulnerability – that would justify a concessionary letting
- The nature of the event, e.g. whether it is commercial or offered as a public service
- Whether the event is taking place on a single occasion or as part of a series

If such a concession is agreed, the Manager of Committee and Overview & Scrutiny Support shall be authorised to determine what level of charge, if any, is to be made for the letting.

The fact that a user has a concessionary letting does not confer any priority for its letting.

Political meetings

There are constraints on the extent to which Council-owned accommodation may be used for political purposes. While Council business has an inevitable political element to it, there is a distinction between what is properly Council business, and that which is party political: the Council cannot do anything that tends to suggest support for any particular political party.

In order to avoid any possibility of confusion, since the meeting accommodation at the Town Hall is not suitable for large public gatherings, no room at the Town Hall shall be available for use by any candidate in any election.

No room at the Town Hall shall be available for Members' constituency "surgeries", nor shall any room be made available to Members of Parliament, Members of the European Parliament or Members of the Greater London Authority for similar purposes. This does not preclude the holding of Group Meetings by the Groups of Members having statutory recognition as such, nor the holding of meetings with groups of constituents or with organisations about issues of local importance.

Meetings arranged by Members

Members booking rooms for meetings about matters of local importance will be expected to be present and to be responsible for ensuring that those attending comply with all appropriate security and safety (including fire safety) arrangements and that they conduct themselves in an appropriate manner. The Council reserves the right to exclude individuals whose behaviour is inappropriate.

If a meeting has been advertised as open to the public, no individual or group of people may be excluded from it other than on grounds of misbehaviour or disregard of safety requirements.

If such meetings lead to the formation of groups or associations of local people pursuing a common aim, whether or not the Members in question are involved, such groups will be treated as outside organisations and, if they wish to book the use of meeting accommodation at the Town Hall, will be expected to pay the appropriate charge.

Governance Committee, 9 May 2007



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	9 th May 2007	6

SUBJECT: REVIEW OF THE COUNCIL'S STANDARDS COMMITTEE

SUMMARY

The Administration has requested a review of the Council's Standards Committee and this report sets out their proposals.

RECOMMENDATIONS

Following consultation with the Administration:

1. That this Committee recommend Annual Council to appoint a Standards Committee of 3:1:1:1 and two Independent Members.
2. That this Committee recommend to Annual Council that the Standards Committee be recommended to appoint a Sub-Committee of 2:1 and one Independent Member to determine hearings.
3. That this Committee recommend to Annual Council that the Chairman of the Standards Committee be a Councillor.
4. That this Committee recommend to Annual Council that the Chairman of the Sub-Committee be appointed at each meeting such chairmanship to last until the end of the following meeting to enable decisions to be taken by the Chairman in hearing pre-meetings.

5. That this Committee determine which of the Independent Members it wishes to recommend to Council to appoint and the term of appointment.
6. That the Committee note that the Monitoring Officer will issue an amendment to correct the current errors in the Constitution concerning the numbers of councillors, numbers of Independent Members and the existence of a Sub-Committee in so far as any of those matters are not overridden by the above recommendations.

REPORT DETAIL

1. On the 26th April 2006 this Committee agreed to recommend to Annual Council on 24th May 2006 to appoint four Independent Members to the Standards Committee. Jennifer Spearman and Debra Collard were appointed by Council for a term of two years ending at the meeting of Annual Council in 2008 and Tracey Moran and Jack Knowles were appointed for a term of four years ending at the meeting of Annual Council in 2010. The current make up of the Standards Committee is 12 being 5:1:1:1 plus the four Independent Members. The current make up of the Sub-Committee which deals with hearings is 5 being 2:1 plus two Independent Members. The Chairman and Vice Chairman were appointed as Independents at the 2006 Annual Council.
2. The rationale for these decisions related to the legislation and guidance issued on Standards Committee. Basically at least 25% of the Committee must by law be Independent. Independent Members may only be recruited following advertisement in one or more local newspapers and the completion of an application form and they must be appointed by full Council. The Guidance recommends that they should not serve more than two terms although the term is not defined and it has previously been accepted that a term could relate to the life of the Council i.e. 4 years. Hearings must be determined within 3 months of a report from an Ethical Governance Officer of the Standards Board and there has already been established case law that this 3 months is absolute in all but the most exceptional of cases. What Annual Council therefore agreed in May 2006 was a margin of error. They agreed one more Independent than was absolutely necessary so that if an Independent Member resigned, the Standards Committee remained quorate. If there is no margin of error then it needs to be recognised that should the Council lose an Independent Member, urgent recruitment would need to take place and if necessary an Extraordinary Council either to deal with the appointment or to reduce the Councillor Members to ensure that the Committee is quorate. The Sub-

Committee which deals with hearings only has two Independent members on it. A further rationale for the decision of Annual Council was to phase the recruitment of Independent Members so that there was experience amongst the Independent Members. Members of this committee at the time asked whether it was possible to have a reserve list of Independent members and paragraph 4.5 of the report to this Committee on 26th April states that this is not possible.

3. For the sake of completeness there is set out below a summary of the main points of the legislation and guidance for Members information.

Legislation

- (i) Standards Committees do not have to be politically balanced
- (ii) Only one member of the Executive can be on the Standards Committee and this cannot be the Leader
- (iii) At least 25% of the whole membership of the Committee must be Independent
- (iv) Standards Committees can form Sub-Committees to deal with hearings since the legislation to specifically allow this was introduced
- (v) A meeting of the Standards Committee and Sub-Committee is not quorate unless at least one Independent member is present
- (vi) The Committee must contain at least two members of the Council and one Independent
- (vii) The Committee cannot be chaired by the one member of the Executive

Guidance

- (i) Standards Committees for hearing purposes should contain 3 or 5 members
 - (ii) The Chair should be one of the Independents
 - (iii) All hearings must be determined within 3 months. This has now been tested in the High Court by way of Judicial review and only in exceptional circumstances can the period be extended.
 - (iv) Standards Committees must not be whipped.
4. The difficulties which have arisen in this authority in part are related to the fact that this Council has chosen to have a politically balanced Standards

Committee. This has meant that it has had a larger committee and required a larger number of Independent members. On the current numbers of the Committee it must have 3 Independent Members. In accordance with the Guidance and also practically it needs to have between 3 and 5 members to undertake hearings. Members' attention is drawn to the Appendix 1 from which it is noted that a majority of London Boroughs have a much smaller Standards Committee thereby not requiring a Sub-Committee. Havering have had an Independent Chairman and Vice Chairman since the Local Government Act 2000 introduced Standards Committees.

5. In the light of Appendix 1 which shows that Havering's Standards Committee is larger than those of many of the other London Boroughs, the Administration would wish to review the composition of the committee.
6. Members need to be aware that the Local Government and Public Involvement in Health Bill which is likely to become law on in July 2007 includes as Section 134 an amendment to the legislation making it a requirement that the Chair is one of the Independents. The legislation when enacted will also mean that it will fall to the Standards Committee of the Council to undertake a "first sieve" of complaints with onward referral to the Standards Board of the most serious cases. Guidance will be issued as to how this will work but it will mean that the Standards Committee of this Council is very likely to be much more busy than previously.
7. If Members of this Committee wish to have a politically balanced Standards Committee then this can be agreed by Council as a majority vote. If the Standards Committee is not politically balanced then the vote needs to be nem con, with no member voting against. A politically balanced Standards Committee, on the basis on the current numbers of other committees could be achieved as shown on the table in Appendix 2.
8. Should Members of this Committee decided they wish to recommend to the Council that there are fewer Independent members then provided they comply with the legislation as to 25% and appreciate that reducing to the minimum number has the potential to cause problems in the longer term, then this is a matter for them. Although Council appointed for a fixed term of two and four years respectively, this decision was made a year ago and if Council wishes to remove the four Independent members and re-appoint some of them for a different term then it can do so. What this Committee needs to determine however is who is to be appointed and for what term. This could be by way of a short interview process for all four Independent Members to be undertaken by some members of the Governance Committee. If this is to be the process then it will need to be conducted in time for a recommendation to be made to Annual Council.
9. Members should be aware that following the absence of the Monitoring Officer the Constitution was not amended after Annual Council in May 2006. Accordingly the Constitution contains errors in relation to Standards

Committee in respect of both the number of Councillor members and the number of Independent Members and the absence of any reference to the Sub-Committee. The Monitoring Officer is able to correct this as a Monitoring Officer amendment and will take this action dependent on the outcome of this meeting and any report to Annual Council.

10. The composition of any Sub-Committee is a matter for the main Committee itself but in 2006 this Committee and Council made recommendations to Standards on the composition of the Sub-Committee which the Committee followed.

Financial Implications & Risks

A reduction in the number of Independent members would achieve a saving of £117 per meeting in respect of each Independent Member. A move to a Councillor Chairman would require an alteration to the Members' Allowance Scheme. Given that there is impending legislation to require an Independent Chairman the allowance is not likely to be required for the full year. On the basis of the provision of a Special Responsibility Allowance in line with adjudication and Review and Governance Committees; the cost would be £7,650. This would also increase the cost of the Members Allowance Scheme by the same amount. The actual cost of Members Allowances depends on who receives SRA's as only one SRA can be received per councillor. Should therefore any additional costs over that provided for as part of budget setting be incurred, the costs will be met from the contingency.

Human Resource Implications and Risks

Recruitment of Independent members is prescribed by legislation and must follow an advertisement in one or more local newspapers and the completion on an application form. Of necessity if there are more applicants than positions there needs to be some sort of selection for recommendation of the most suitable candidates to full Council

Legal Implications and Risks

Many of the legal issues are covered in the detail of the report. The legislation and guidance around Standards Committees is highly prescriptive.

The Local Government and Public Involvement in Health Bill will require there to be an Independent Chairman of the Standards Committee once the legislation is implemented.

There is a reputational risk given that the Council has appointed Independent members to 2008 and 2010 respectively and a decision to reduce the number of

Independents may result in difficulties in recruiting good quality persons at a later stage.

There is a real risk that if there is no margin of error in the number of Independent Members that the Standards Committee will become inquorate in the event of one resigning and therefore unable to fulfil its statutory duty to undertake hearings making it susceptible to judicial review. This would necessitate urgent recruitment and may, depending on the time of year, necessitate an Extraordinary Council meeting. Depending on which Independent Members remain a recruitment exercise might need to begin again this Autumn. The last recruitment exercise took four months from start to finish.

Hearings are the most important part of the duties of the Standards Committee. It is important that both the Members appointed to the Standards Committee and the Independent Members are of the highest quality and are fully conversant with all the legislation, regulations and have the ability to conduct hearings fairly and impartially and are therefore competent to sit in judgement on matters which are capable of affecting a Councillor's reputation and livelihood.

Cheryl Coppel
CHIEF EXECUTIVE

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Background Papers

E-mails and papers relating to the composition of other Standards Committees

STANDARDS COMMITTEES IN OTHER BOROUGHES

Boroughs	No of Councillors	No of Independents	Independent Chairman	Independent Vice Chairman	Sub Committees		Additional Comments
					Councillors	Independent Members	
Redbridge	5	2	1	1	0	0	
Waltham Forest	4	3			0	0	7 members, in the ratio of 2:1:1, with 3 independent members Not subject to pro-rata allocations Chair to be appointed at first meeting
Barking & Dagenham	3	1			0	0	
Hammersmith & Fulham - Standards	3	3			0	0	
Kensington & Chelsea	3	2	1		0	0	5 years tenure of office
Enfield	4	2	1	1			
Croydon	4	5	1				
Bromley	3	4	1				
Havering	10	4	1	1	3	2	
Barnet	9	3					
Harrow	6	4					
Haringey	8	4					
Hillingdon	5	2					
Hounslow	4	2					
Kingston upon Thames	5	3					
Lambeth	3	6	1	1			

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Boroughs	No of Councillors	No of Independents	Independent Chairman	Independent Vice Chairman	Sub Committees		Additional Comments
					Councillors	Independent Members	
Merton	8	4					
Richmond	4	4	1	1	2	3	Essentially 5, or 3 Members, with a majority of Independent Members. Just to update on Standards Committee itself, this is now 11 Members, of whom 6 independent (inc Chair) and the rest split 3 to 2 between the two parties on the authority. In practice I am inclined to go for 5 rather than 3 on anything high profile.
Southwark	5	4					
Sutton	2	5					
Tower Hamlets	2	5					1 from majority and one from the largest minority group
Wandsworth	5	2					
Islington	2	4					
Westminster	2	2					Our Standards Committee is only 4 strong, so no we don't have sub committee.

Note: Guidance on Standards Committee determinations recommend a small number of members (3 or 5) take part in the determination as it is fairer and more efficient to hold a meeting before a small group

STANDARDS COMMITTEE: SIZE AND POLITICAL BALANCE

The table below shows the political balance implications for the Standards Committee of various possible membership sizes.

- It is assumed that all Groups are to be represented on the Committee: the possible combinations of size and balance would be different were that not the case. The overall balance of the Council requires that, although numerically small, the Rainham and Wennington Group be allocated six Committee seats, and Labour four; although there is no external requirement as to specifically which Committees these seats are taken from, the agreed position is that they be Governance, Licensing, Regulatory Services and Standards.
- The LGA 2000 requires “at least 25%” of the “membership of the Committee” to be Independent Members (IMs). This means that their numbers relate to the overall size of the Committee (Councillors plus IMs) rather than being proportionate to the number of Councillors.
- When calculating the “at least 25%”, unless that is a whole number, the number must be rounded up to the nearest higher whole number, since there cannot be “part persons”: so, 2 is 2 but 2.25 must become 3. Rounding down is not permissible.

Based on the table used for calculating political balance generally, the figures are therefore:

Con	Res	RWR	Lab	Total Cllrs	Statutory minimum of IMs	Total membership
3	1	1	1	6	2	8
4	1	1	1	7	3	10
5	1	1	1	8	3	11
6	1	1	1	9	3	12

For comparison, the current figures are:

Con	Res	RWR	Lab	Total Cllrs	IMs	Total membership
5	1	1	1	8	4	12

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MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	9 May 2007	7

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: AMENDMENTS TO THE CONSTITUTION

SUMMARY

1. Part 2 Article 15.02(c) of the Constitution authorises the Monitoring Officer to amend the Constitution to correct errors or to comply with any legal requirement or to reflect organisational changes to the Council's structure, the Monitoring Officer shall have power to amend the Constitution to correct errors or to comply with any legal requirement or to reflect organisational changes to the Council's structure, to insert recommendations made pursuant to a written report agreed by Council, to clarify the Constitution, insert obvious omissions or to comply with any accepted recommendations made by District Audit, the Audit Commission, the Standards Board and/or any other government appointed inspection regime.
2. Power to clarify the Constitution, insert obvious omissions or to comply with accepted recommendations of external bodies shall only be exercised after first giving five working days' notice to Group Leaders.
3. If the Monitoring Officer makes any such amendment to the constitution, he or she must notify the Governance Committee accordingly at the first reasonable opportunity.
4. Other amendments are dealt with under Part 1 Article 4.02 paragraph (a) of the Constitution, which provides that only the Council will exercise the function of adopting and changing the Constitution.

5. Part 3 Section 1 paragraph 1.2 of the Constitution provides that this Committee will
 - monitor and review the operation of the Constitution to ensure that the views and principles of the Constitution are given full effect
 - make recommendations to the Council about amending the Constitution
6. Consideration of the Constitution has revealed a number of areas where alterations/amendments require review and upon which member decision is needed. For ease, the recommendations have been framed positively but are for Members' consideration as to whether they wish to recommend the proposed amendments to the Constitution to Council.

RECOMMENDATIONS

1. Delete reference in the constitution to Lead Member Form A decision in Part 3 Section 2 paragraph 14 on the consideration and recommendation of service plans
2. To consider whether a maximum number should be placed on special meetings of Area Committees
3. To consider the recommendations of the Standards Committee arising from its meeting of 20th December 2006
4. To amend the Scheme of Delegation to provide for named postholders to take and issue proceedings in the name of the ACE Legal & Democratic Service
5. To amend the Scheme of Delegation to incorporate amendments required by Trading Standards set out in the body of the report.

REPORT DETAIL

1. Service Planning

Part 3 Section 2 paragraph 14 of the Constitution is as follows:

Paragraph 14 'to consider and recommend the service plan or plans in respect of the portfolio allocated'

In practice Lead Members are consulted on the Service Plans but do not formally sign them off on a Lead Member decision – Form A. It is suggested that the practice is accurately reflected by deleting the reference

to service plans from paragraph 14 and inserting a provision in Part 3 Section 3 paragraph 3.3.1 General powers of Group Director as follows:

8. To consult with the Lead Member on Service Plans

Paragraph 14 in Section 2 would then read:

14. To consider and recommend plans in respect of the portfolio allocated.

2. Area Committees

Chairman of Area Committees have been encouraged to take responsibility for the work of their respective committees. Some have taken this very seriously and have arranged special meetings to consider certain matters.

As there are nine Area Committees there is a limit to how many special meetings can be accommodated. It is therefore suggested that a new paragraph is inserted within the constitution limiting this number.

This could appear in Part 4 Section 3 paragraph 2(c) as follows:

- (c) Special meetings

The number of special meetings of each Area Committee during any municipal year shall be limited to X.

3. Standards Committee

This matter arose from a case reported to Standards Committee on 20th December. The relevant minute is attached as an Appendix.

Use of language.

Consideration arose in relation to Case No. SBE14742-06 and the minutes are annexed hereto. The Standards Committee recommended that Governance Committee consider

- (a) the use in debate of un-Parliamentary language be prohibited; and
- (b) the powers of the Mayor from the Chair to move the procedural motions:
 - (i) that the Member be not further heard; or
 - (ii) that the Member leave the meeting be made more explicit, in order to ensure that the Mayor's ability to control debate is not in question

The committee is asked to consider the following amendments to the Council Procedure Rules.

19.2 Unparliamentarily Language

The use in debate of unparliamentarily language is prohibited and any use of it will be considered to be offensive under rules 19.3 below:-

19.3 Member not to be heard further

- (i) If a Member, disregarding any ruling of the Mayor, behaves in an improper or offensive manner or deliberately obstructs business, any Member, including the Mayor, may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

- (ii) If the motion is carried, the Member named in it shall immediately be seated and be silent.

It is considered that unparliamentarily language is language which breaks the rules of politeness such as insulting or rude language and accusations of lying, being drunk or misrepresenting other's words. Offensive words have been identified over the years in relation to this.

4. Legal Proceedings

Our attention has been drawn to a recent Crown Court case relating to a London Borough. The case called into question the legality of the decision making procedures employed in relation to the commencement and conduct of legal proceedings.

The matter turns upon the Scheme of Delegation which in the case of that London Borough gives the Head of Legal Services the delegated authority to institute legal proceedings. In the Crown Court case it was found that the decision had not been made personally but by a member of staff. In practice this would happen in all boroughs. There was no discretion to sub-delegate.

In this authority there is an ability to constitutionally sub-delegate and the ACE Legal & Democratic Services has always used the power under Part 3 Section 3 paragraph 3.1.6 to delegate to certain legal staff the ability:

3.9.2 Assistant Chief Executive Legal & Democratic Services

- 1 To prepare or approve the form and content of all legal documentation on behalf of the Council.

- 2 To lay information, complaints and claims on behalf of the Council for the purpose of any proceedings before the Magistrates' Court, County Court and other courts and tribunals, including all civil and criminal proceedings.

- 3 To defend all legal proceedings brought against the Council and to take any steps that are in his or her opinion expedient to that end.

The issue is around Section 101(2) which does not empower officers to sub-delegate decision making powers. In all the circumstances and given that

even the sub-delegation may be called into question it is recommended that the Constitution is amended to enable 3.9.2 paragraph 1 all Legal Managers, Principal and Assistant Solicitors in the name of the ACE Legal & Democratic Services to:

3.9.2 Assistant Chief Executive Legal & Democratic Services, all Legal Managers, Principal & Assistant Solicitors (in the name of Assistant Chief Executive Legal & Democratic Services)

- (i) To prepare or approve the form and content of all legal documentation on behalf of the Council.
- (ii) To lay information, complaints and claims on behalf of the Council for the purpose of any proceedings before the Magistrates' Court, County Court and other courts and tribunals, including all civil and criminal proceedings.
- (iii) To defend all legal proceedings brought against the Council and to take any steps that are in his or her opinion expedient to that end.

It should also be noted that the potential difficulties set out above would apply equally to staff within the authority who make decisions on prosecutions (other than legal staff) for example finance, trading standards, education welfare, etc., that they are not delegating decision making and if they are, they may need to consider specific delegations to specific officers.

5. Trading Standards

Appendix F in Part 7 of Section 3.

As from 1st April 2007 Trading Standards have a statutory duty to enforce the Copyright Designs and Patents Act 1988. The proposal is that the "T" is deleted from the first column of the entry relating to this Act in the Appendix. The application of the "T" requires any decision to prosecute to be taken with Lead Member approval. The reason for this is that the Act is one which Trading Standards do not have a statutory duty to enforce and therefore some Member involvement is considered appropriate before proceedings commence.

The new duty may have significant implications as it means the Council have a statutory duty to enforce unlawful copying of all media, e.g. mp3 and video downloads from the internet

Additionally the Fraud Act 2006 has created new dishonesty offences and repealed others under the Theft Act etc. It is possible that Trading Standards may need to consider prosecution under these provisions as they have in the past under the Theft Act, even though they do not have a statutory duty to enforce these provisions. It may be used in connection with some of the investigations that Trading Standards continue to

enforce. . Accordingly it is proposed that this Act is added to the list of Statutes in Appendix F but with a T” in the first column next to that entry

As from 1st June 2007 Part 5 Housing Act 2004 will come into force requiring the production of home information packs by vendors of properties for sale. The enforcement of these provisions is to be the responsibility of every local weights and measures authority, which in Havering, falls to the Trading Standards department. Accordingly an extra line needs to be inserted into Appendix F referring to Part 5 of the Housing Act 2004.

As from 1st July 2005 Trading Standards have had a duty to enforce and carry out a yearly review of the sale of spray paint under part 6 of the Anti social Behaviour Act 2003 as amended by the Clean Neighbourhoods and Environment Act 2005. It is proposed that the Anti Social Behaviour Act is added to Appendix F.

Section 3 Part 3.6.2 para 20.

The second proposal is to amend the Constitution to allow senior Trading Standards Officers to charge offenders at police stations without the normal requirement to seek authorisation from the Assistant Chief Executive Legal and Democratic Services to institute proceedings .

The main intended use of this delegated power is to deal with itinerant street traders who are arrested and taken to the police station, where they may be charged if the custody sergeant considers it appropriate to do so.

Currently there are a number of cases where itinerant traders, typically Chinese selling unlawfully copied DVDs are identified during investigations, but as Trading Standards officers do not have powers of arrest cannot deal with the offender immediately. If a prosecution is being considered significant time will be required to compile a file of evidence and if proceedings are brought then there is a strong probability that the offender will be untraceable and the costs involved wasted.

If approved the power will be exercised sparingly, however, will be useful on occasions when the police arrest a suspect who has typically been engaging in sales of unlawfully copied material .At the police station the custody sergeant has responsibility for the management of the suspect and any charges that may be brought .He may telephone the Trading Standards Department to consider whether to bring a charge. If the Trading Standards officer considers there is sufficient evidence to bring a charge he must attend the police station and read out the charge. The sergeant then has to decide whether to give the suspect bail in consultation with the Trading Standards officer. If he decides against bail then typically the suspect will be remanded in custody overnight and then required to appear before the Magistrates Court first thing the following morning. If the defendant pleads guilty then he will be dealt with immediately. This has considerable advantages as it means that the offender will be sentenced and the Trading Standard officers will not have

to prepare a prosecution file etc. If the defendant pleads Not Guilty to the charge then there will be no ultimate saving as a prosecution file will have to be prepared and the risk that the defendant will be untraceable.

This practice has been used successfully in other London Boroughs. A note about the procedure is appended to this report.

It is proposed that Section 3 **Part 3.6.2 para 20 be amended** accordingly an additional amendment to this clause is also necessary for the reasons explained at para 4 above. The paragraph should read:

“20. The Head of Technical Services, the Trading Standards Manager, the Principal Officer (Operations) and the Principal Officer (Fair Trading and Quality)

To exercise the powers and duties of the Council on matters relating to trading standards, consumer protection and metrology, including:

- (i) making such test purchases of goods and services as may be expedient for effective enforcement
- (ii) exercising and enforcing the enactments listed in Appendices E and F , including any regulations made under those enactments

This function must be exercised subject to the Assistant Chief Executive Legal & Democratic Services or the Legal Manager (Community Services) authorising the institution and conduct of any legal proceedings except in such circumstances where a potential defendant is being held at a police station and the custody sergeant requests that the Trading Standards officer consider charging the individual. In such exceptional circumstances the power to charge the offender be limited to the Trading Standards Manager, the Principal Officer (Operations) and the Principal Officer (Fair Trading and Quality). This procedure will only be used when dealing with itinerant persons where charging by way of summons would not be effective”

Financial Implications and Risks

None

Equalities and Social Inclusion Implications and Risks

None

Human Resource Implications and Risks

None

Legal Implications and Risks

The Monitoring Officer has limited powers to make Constitutional amendments. Others fall to be considered by this committee before being recommended to Council.

The Report detail contains a number of areas where consideration is required to proposed amendments and any legal implications are contained within the relevant detail.

The risks involved are set out in the report should there be any. The risks of this committee not considering amendments in that the Council's Constitution will not be updated and therefore over time will not be fit for purpose and compliant with the statutory requirements.

CHERYL COPPELL
Chief Executive

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Background Paper List

E-mail correspondence

APPENDIX

Briefing Note Charging Offenders at Police Stations

What is “Charging” an offender

It is simply a means of ensuring that a person attends Court on a certain time on a certain date to answer the allegations made against him/her.

A person charged is either remanded in custody or taken to Court at the earliest possible time or given Police bail.

Advantages of Charging Offenders

In straightforward cases can reduce paperwork and unnecessary investigation work.

Offenders are brought to justice quickly reducing costs.

No need to look for defendants to serve summons.

Failure to attend court automatic breach of bail and a separate offence will be committed.

Requirements for Charging

Proper devolved authority to institute proceedings Section 222(1) LGA Act 1972

Devolution of authority to charge to experienced Senior Officers of Trading Standards Service will attend police station at request of enforcement officers.

Procedures in place to request higher authority if required by telephone.

Cases Suitable for Charging

Should be considered in all straight forward cases where the defendant is in custody or in the bail system from a prior arrest.

Where there has been an admission at interview

Street traders with unverifiable address.

How to Charge

Officer with authority to sign the charge sheet to be at police station.

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Decision to prosecute should not be taken by investigating officer.

A review of available evidence required by charging officer for a decision to be made.

Information for Charging

Summary of case to be produced by investigating officer, which can be used as advanced information.

Interview with defendant to have taken place.

Trading Standards to carry out visual examination of DVD's by use of their experience they confirm they are counterfeit.

Senior officer agrees to offences.

Custody sergeant prepares charges with the assistance of the TS Authorised officer to charge.

T S Officer signs for charging and accepting charge TS Officer must read the charge to defendant (case law)

With for example of DVD sellers they can be held in Custody for court the same or next day.

TS officer and Police to decide if bail is suitable.

If you decide to refuse bail reason to be given to Custody sergeant to be remand straight to court.

Court Procedure

Attendance at court by investigating and charging officer.

Inform Court officer this is a non cps matter

Ensure matter is listed if not copy of charge to be taken to the listing office

Have copies of charge, case summary, to serve on defence for advance information.

Custody record for unused information.

To highlight how useful this procedure would be as this briefing note was being drawn up Romford Police contacted us in relation to a Chinese DVD seller they had in custody.

They requested our assistance in this case; if we had the above procedures in place we could have had the defendant in court the next morning.

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However we had to decline immediate action in this matter and the Police had to look for alternative procedures.

Federation against Copyright Theft (FACT) run a half day course for enforcement staff to enable them to identify counterfeit products.

This will back up the enforcement officer's statement in court proceedings. In the event of a not guilty plea then full FACT identification can take place.

As a service we need to have an amendment in the council's constitution to allow us to charge.

Conclusion

This will be a very useful tool in the enforcement this service carries out. As we now are involved in more intellectual property crime and the cold calling involving itinerant traders, quick effective systems to bring these offenders to justice are needed.

Governance Committee, 9 May 2007



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	9 May 2007	8

REPORT OF THE MONITORING OFFICER

SUBJECT: AMENDMENTS TO THE CONSTITUTION – made by the Monitoring Officer

SUMMARY

Part 2 Article 15.02(c) of the Constitution authorises the Monitoring Officer to amend the Constitution to correct errors or to comply with any legal requirement or to reflect organisational changes to the Council's structure.

The constitution provides that this committee must be notified of any such amendment at the first reasonable opportunity.

RECOMMENDATIONS

That this report be noted.

REPORT DETAIL

The Monitoring Officer has the ability to make limited amendments to the Constitution as set out in the summary above.

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Amendments to the Constitution were made by the Monitoring Officer since 1st May 2002 and this latest amendment is Amendment No. 27 dated 28th March 2007.

In addition to the Constitutional requirements the Monitoring Officer has determined that she will notify Group Leaders as soon as any Monitoring Officer amendments are made to the Constitution. The notification will then appear in Calendar Brief so that all members are aware of the amendments. The notification of the amendments will be numbered so there is no confusion.

The meeting of this committee is the first opportunity for the reporting of the most recent amendments made and the committee is requested accordingly to note the amendments made.

Financial Implications None

Equalities Implications None

Environmental Implications None

CHRISTINE DOOLEY
Monitoring Officer

Staff Contact: Christine Dooley
Telephone: 01708 432484

Background Papers
Email correspondence

Notification No. 27

Date 28th March 2007

Notification of amendments to the constitution

Amendments made by the Monitoring Officer

Part 2, Article 15.02(c) of the constitution provides that the Monitoring Officer has a limited authority to amend the constitution. The Monitoring Officer is authorised to amend the constitution to correct errors or to comply with any legal requirement or to reflect organisational changes to the Council's structure. The Governance Committee must be notified of any such amendment at the first reasonable opportunity.

In accordance with this authority, the Monitoring Officer gives notice of the following amendments to the constitution:

Part and article/ section	Page reference	Substance of amendment / amended wording	Reason for amendment
Part 3 Section 3 Para 29(iii)	136	Delete Investment and replace with Pensions	Correction
Part 3 Section 3 Para 3.9.3.3	136	Move paragraph 3 to new paragraph 3.9.2.30 and renumber	Correction
Part 3 Section 7 Appendix C & D	168 & 172	Replace Appendix C and D with the Appendices attached hereto [Note: see annex following]	New Legislation and Correction
Part 3 Section 3 Para 3.8.2.1	129	Replace £120,000 with £138,000 for motor insurance, insert £140,000 for liability insurance (Annual update of insurance)	Organisational Change
Part 4 Section 8 Para 6	299	Replace Education in the heading and in (a) and (b) with Children's Services	Correction
Part 2 Article 10	29	Amend 9 Councillors to 6 throughout	Correction
Part 1	2	Amend Five Overview Scrutiny Committee to Eight	Correction
Part 1	3	Amend Six Area Committees to Nine	Correction

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Part and article/ section	Page reference	Substance of amendment / amended wording	Reason for amendment
Part 2 Article 6.05	18	<p>Paragraph 6.05 be replaced with the following wording</p> <p>6.05 Joint scrutiny of health service</p> <p>The Health Overview & Scrutiny Committee is authorised pursuant to Regulation 7 of the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 to establish together with the health overview & scrutiny committees of one or more other local authorities a joint overview & scrutiny committee.</p> <p>Any such joint overview & scrutiny committee shall have such terms of reference, and shall exist for so long, as the appointing overview & scrutiny Committees may agree</p>	Correction agreed by Governance Committee on 20 th March 2007

These are the appendices referred to in the entry relating to Part 3, Section 7

Appendix C

Enactments enforceable by Head of Housing & Health

This appendix sets out those enactments which the Head of Housing & Health has delegated authority to enforce. The Head of Housing & Health may authorise his or her staff to enforce these enactments and to authenticate, on the Council's behalf, any notice, certificate or other document required to be issued in relation to the enactments. See Part 3 of this constitution, section 3.7.4, function 57.

Enactment	Relevant provisions and notes
Agriculture (Miscellaneous Provisions) Act 1968	Part I
Animal Boarding Establishments Act 1963	
Animal Health Act 1981	
Betting Gaming & Lotteries Act 1963	
Breeding of Dogs Act 1973	
Building Act 1984	<ul style="list-style-type: none"> • sections 59 to 69 (relating to drainage of buildings and to sanitary conveniences) • section 70 (food storage accommodation in existing houses) • section 76 (relating to defective premises)
Caravan Sites Act 1968	
Caravan Sites Control & Development Act 1960	
Cinemas Act 1985	
Clean Air Act 1993	
Clean Neighbourhoods & Environment Act 2005	Parts 3, 5, 6 & 7
Control of Pollution Act 1974	section 13 (Part III, sections 60 to 62 and regulations made under section 78 (sulphur content of fuel oil)) and 1990
Dangerous Wild Animals Act 1976	
Environment Act 1995	
Environmental Protection Act 1990	Parts I, II (Sections 33, 34 & 59), IIA, III, IV and VIII (Section 150)
Essex County Council Act 1922	Part IV (Massage and Special Treatment)
European Communities Act 1972	<ul style="list-style-type: none"> • Common Agricultural Policy (Wine) Regulations 1973 • any other regulations that may be

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Enactment	Relevant provisions and notes
	made
Factories Act 1961	
Fire Safety and Safety of Places or Sport Act 1987	
Food Act 1984	
Food Safety Act 1990	
Food and Environment Protection Act 1985	Part III
Gambling Act 2005	
Game Act 1831	
Gaming Act 1968	
Greater London Council (General Powers) Act 1967	(registration of hairdressers, etc.)
Greater London Council (General Powers) Act 1973	section 31
Greater London Council (General Powers) Act 1979	(control of brown tail moth)
Greater London Council (General Powers) Act 1984	(registration of certain sleeping accommodation)
Greater London Council (General Powers) Act 1986	
Guard Dogs Act 1975	(licensing of guard dogs' kennelling)
Health Act 2006	Part I, Chapter I (smoke- free premises, places and vehicles)
Health and Safety at Work, Etc. Act 1974	(other than in respect of requirements imposed upon the Council as employers)
Housing Act 1985	
Housing Act 2004	
Housing (Construction and Regeneration) Act 1996	
Hypnotism Act 1952	
Landlord and Tenant Act 1985	
Late Night Refreshment Houses Act 1969	
Licensing Act 1964	sections 78 and 79
Licensing Act 2003	
Local Government and Housing Act 1989	
Local Government (Miscellaneous Provisions) Act 1976	<ul style="list-style-type: none"> • section 15 (survey of land for the purposes of compulsory purchase) • section 16 (power to serve notices – requisition for information) • section 20 (provision of sanitary conveniences at places at

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Enactment	Relevant provisions and notes
	entertainment) <ul style="list-style-type: none"> • section 35 (power to require the removal of obstructions from private sewers)
Local Government (Miscellaneous Provisions) Act 1982	<ul style="list-style-type: none"> • sections 14 to 16 • section 17 (exercise powers relating to entry in relation to registered premises in the Council's area) • section 29 (exercise powers of entry; each Environment Health Officer authorised to act) • Schedule 3 (sex establishments)
London Government Act 1963	
London Local Authorities Act 1990	Part III (street trading) (licensing of night cafes)
London Local Authorities Act 1990	
London Local Authorities Act 1991	Part II, Part III and section 23
London Local Authorities Act 1995	
London Local Authorities Act 1996	
London Local Authorities Act 2000	
Medicines Act 1968	(such orders and regulations as the Council may be appointed to enforce)
Mobile Homes Act 1983	
Noise Act 1996	sections 2 to 9
Noise & Statutory Nuisance Act 1993	(loudspeakers in streets)
Offices, Shops and Railway Premises Act 1963	
Performing Animals (Reg) Act 1925	
Pet Animals Act 1951	
Poisons Act 1972	
Pollution Prevention & Control Act 1999	
Prevention of Damage by Pests Act 1949	
Private Places of Entertainment (Licensing) Act 1967	
Protection from Eviction Act 1977	
Public Health Act 1936	
Public Health Act 1961	
Public Health Control of Disease Act 1984	
Rag Flock and Other Filling Materials Act 1951	
Refreshment Houses Acts 1869 and 1967	

Enactment	Relevant provisions and notes
Rent Act 1977	(provisions relating to certificates of disrepair pursuant to section 27 and schedule 6)
Riding Establishments Acts 1964 and 1970	
Shops Act 1950 – 1965	
Sunday Entertainments Act 1932	
Sunday Observance Act 1780	
Sunday Theatre Act 1972	
Sunday Trading Act 1994	
Theatres Act 1968	
Town & Country Planning Act 1990	Sections 215-219 Powers to deal with land adversely affecting amenity of the neighbourhood.
Wildlife and Countryside Act 1981	
Young Persons (Employment) Acts 1938 and 1964	
Zoo Licensing Act 1981	

Appendix D

Enactments enforceable by Head of Housing & Health: licensing and registration of premises or persons

This appendix sets out those enactments under which the Head of Housing & Health has delegated authority to license and register premises or persons for the council's Environmental Health function. The Head of Housing & Health may authorise his or her staff to license or register these premises or persons. See Part 3 of this constitution, section 3.7.4, functions 45, 46, 47 and 57.

Licensing matter	Enactment
Animal boarding establishments	Animal Boarding Establishments Act 1963
Butchers	Food Safety Act 1990
Caravan Sites	Caravan Sites and Control of Development Act 1960
Dangerous wild animals	Dangerous Wild Animals Act 1976
Dog-breeding premises	Breeding of Dogs Act 1973
Establishments for massage and special treatment	London Local Authorities Act 1991
Gambling	Gambling Act 2005
Game dealers	Game Act 1831
Guard dog kennels	Guard Dogs Act 1975
Licensing	Licensing Act 2003

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Housing	Housing Act 2004
Night cafes (until 24.00 hours 23 November 2005)	London Local Authorities Act 1990
Pet shops	Pet Animals Act 1961
Public entertainment (until 24.00 hours 23 November 2005)	London Government Act 1963
Riding establishments	Riding Establishments Act 1964
Sex establishments	Local Government Miscellaneous Provisions Act 1982
Street trading	London Local Authorities Act 1990

Registration matter	Enactment
Food premises	Food Safety Act 1990
Hairdressers' and barbers' establishments	Greater London Council (General Powers) Act 1967, section 21

