



# Haverling

L O N D O N B O R O U G H

## GOVERNANCE COMMITTEE AGENDA

**7.30 pm**

**Tuesday  
17 January 2012**

**Town Hall,  
Main Road, Romford**

Members 13: Quorum 4

**COUNCILLORS:**

**Conservative Group  
( 8)**

**Residents' Group  
( 2)**

**Labour Group  
( 2)**

**Independent  
Residents' Group  
( 1)**

Frederick Thompson  
(Chairman)  
Becky Bennett (Vice-  
Chair)  
Robert Benham  
Osman Dervish  
Steven Kelly  
Eric Munday  
Roger Ramsey  
Michael White

Clarence Barrett  
Gillian Ford

Keith Darvill  
Paul McGeary

Jeffrey Tucker

**For information about the meeting please contact:  
Grant Söderberg 01708 433091  
grant.soderberg@haverling.gov.uk**

## 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 & SUBSTITUTE MEMBERS**

(If any) - receive

### **3 DECLARATIONS OF INTEREST**

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 (Pages 1 - 6)**

To approve as a correct record the minutes of the Committee held on 9 November 2011, and to authorise the Chairman to sign them.

### **5 ANNUAL MEETING OF THE COUNCIL - REVIEW OF MEETING ARRANGEMENTS (Pages 7 - 10)**

Members are invited to consider whether to make further changes to arrangements for Annual Council.

### **6 PUBLIC ACCESS TO THE COUNCIL CHAMBER - FURTHER REVIEW OF ARRANGEMENTS (SECOND REPORT) (Pages 11 - 14)**

Members are invited to consider further arrangements for public access to meetings in the Chamber and decide what additional security measures might be necessary.

### **7 APPOINTMENT OF NOMINATIVE TRUSTEE TO THE ROMFORD COMBINED CHARITY (Pages 15 - 16)**

Members are reminded about the forthcoming end of tenure of the present Member and are invited to consider whom to appoint as a replacement trustee.

### **8 AMENDMENTS TO THE CONSTITUTION - FINANCE PROCEDURE RULES (Pages 17 - 32)**

Members are invited to consider the amendments to the Finance Procedure Rules and decide whether to recommend those changes to Council.

**9 URGENT BUSINESS**

To consider any 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.

**Ian Buckmaster  
Committee Administration &  
Member Support Manager**

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# Public Document Pack Agenda Item 4

**MINUTES OF A MEETING OF THE  
GOVERNANCE COMMITTEE  
Town Hall, Main Road, Romford  
9 November 2011 (7.30 - 9.15 pm)**

**Present:**

**COUNCILLORS**

<b>Conservative Group</b>	Frederick Thompson (Chairman), Becky Bennett (Vice-Chair), Robert Benham, Steven Kelly, Michael White, Frederick Osborne, Garry Pain and Billy Taylor
<b>Residents' Group</b>	Clarence Barrett and Gillian Ford
<b>Labour Group</b>	Keith Darvill and Paul McGeary
<b>Independent Residents Group</b>	Jeffrey Tucker

There were no declarations of interest.

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

**8 MINUTES**

The Minutes of the meeting held on 7 September 2011 were approved as a correct record and signed by the Chairman.

**9 PROPOSED NEW PARLIAMENTARY CONSTITUENCIES - WHETHER COUNCIL TO COMMENT**

The Boundary Commission for England had recently published proposals for new Parliamentary Constituencies for Havering, two of which would be wholly within the borough, with a third partly covering Havering and parts of eastern Barking & Dagenham. Members were asked to consider those proposals and their context and invited to comment on whether the Council should formally respond to them.

In discussion, Members expressed differing views as to whether the Council should provide a response to the Boundary Commission or not, during the course of which, opinions about the impact on the configuration of the constituencies and the impact the proposed changes were likely to have on various parts of the borough were expressed and reasons advanced for either accepting the proposals as presented or recommending changes to minimise the effect of boundary movement as far as possible, leaving the population in the most affected area under consideration within the historic Romford identity.

A proposal to accept the Boundary Commission recommendation that the wards in the south of the borough should be brought back to form a borough constituency and therefore maintain the historic alignment of the borough's borders was **LOST** by 3 votes to 10.

In favour: Councillors Clarence Barrett, Keith Darvill and Jeffrey Tucker,  
Against: Councillors Frederick Thompson, Becky Bennett, Robert Benham, Steven Kelly, Fred Osborne, Garry Pain, Billy Taylor, Michael White, Gillian Ford and Paul McGeary.

There was an alternative proposal: that the Boundary Commission recommendations be challenged and that the Chadwell Heath Ward (Barking and Dagenham) should be joined to Brooklands and Mawney wards for the purpose of Parliamentary elections - on the grounds that this would affect the fewest number of residents and prevent a confusion of identity for residents on the west of the borough be put to the Commission. The proposal was **CARRIED** by 8 votes to 2.

In favour: Councillors Frederick Thompson, Becky Bennett, Robert Benham, Steven Kelly, Fred Osborne, Garry Pain, Billy Taylor, Michael White. Against: Councillors Keith Darvill and Jeffrey Tucker. Councillors Clarence Barrett, Gillian Ford and Paul McGeary abstained.

**RESOLVED:**

**To RECOMMENED TO COUNCIL that:**

The Boundary Commission for England be advised that, while the Council recognised the statutory requirement to balance electorates within the electoral quota, in its view the Commission was wrong to disregard both existing, strong local community ties and the fact that there had been significant change to constituency boundaries as recently as May 2010; and accordingly the Council urged that:

- (a) The Hornchurch & Upminster constituency should retain its existing boundaries, on the grounds that it has an existing electorate within the electoral quota;
- (b) The Romford Constituency should retain its existing boundaries within the borough and that the Chadwell Heath ward of the Borough of Barking & Dagenham should be added to it in order to achieve an electorate within the electoral quota, on the grounds that:
  - i. the Brooklands ward contains a significant proportion of the Romford Town Centre area and it would be wholly inappropriate for such a significant area to be within a constituency known only as "Dagenham North";

- ii. there are several major public facilities particularly associated with Romford in Brooklands Ward, such as The Queens Hospital and Romford Greyhound Stadium and it would be wholly inappropriate for such facilities to be within a "Dagenham North" constituency; and
  - iii. Chadwell Heath is considered part of Romford for Post Office purposes and, indeed, is often thought erroneously to be part of Havering; and
- (c) The Dagenham & Rainham Constituency should retain its existing boundaries, other than Chadwell Heath ward, and that further wards from Barking & Dagenham should be added to it (rather than Havering wards) in order to bring its electorate within the electoral quota.

10 **TRANSFORMATION OF SERVICE DELIVERY - MOVING TO ELECTRONIC DELIVERY OF COUNCIL, CABINET AND COMMITTEE AGENDAS AND REPORTS**

As part of the broader programme for transforming the delivery of services, Committee Administration had now begun using Committee Process Management software which had the potential to streamline decision-making through the electronic publication of Council, Cabinet and Committee agendas and reports rather than continuing to use mainly paper-based approaches.

This report provided Members with details of progress to date, indicated forthcoming improvements and sought approval of the strategy for future development.

**RESOLVED:**

**That**

- 1 Progress with the transformation of production arrangements for Council, Cabinet and Committee meeting documents be **noted**.
- 2 The general roll-out of tablet PCs to Members and officers be **endorsed**, subject to the cost thereof being met from existing budget provision and that a further report on the precise costs and savings be submitted in due course.
- 3 The Committee Administration & Member Support Manager explore with other services improved means of presenting information to Members, using electronic production of documents and the

projection facilities in the Council Chamber and Committee Rooms.

11 **PUBLIC ACCESS TO THE COUNCIL CHAMBER - FURTHER REVIEW OF ARRANGEMENTS**

Members were reminded that current seating arrangements had been in place since 1997/8 and that there was a statutory right of access for members of the public for any matter other than those where confidential or exempt business was to be conducted.

Recently there had been several incidents during which business had been interrupted and Members felt exposed to personal risk. Proposals were now submitted to avoid the recurrence of such disturbances whilst ensuring that the public's statutory rights of access remained and also that no-one was unlawfully discriminated against.

A proposal that members of the public (especially the frail or disabled) be allowed into the Chamber was **LOST** 3 votes to 9.

In favour: Councillors Clarence Barrett, Keith Darvill and Paul McGeary. Against: Councillors Frederick Thompson, Becky Bennett, Robert Benham, Steven Kelly, Fred Osborne, Garry Pain, Billy Taylor, Michael White and Gillian Ford. Councillor Jeffrey Tucker abstained.

**RESOLVED:**

**That**

- 1 For Council and Cabinet meetings, with immediate effect:
  - a. The seating in the lobby at the rear of the Members' area and at the side area of the Chamber be reserved for Civic guests, press, officers and vulnerable people who have difficulties preventing use of the stairs to the balcony
  - b. Members' guests be seated in the gallery at the side of the Chamber rather than at the rear of the Members' area
  - c. Members of the public be seated in the balcony (or, if need be, an overspill room).



- 2 A further report be submitted to the Committee about seating arrangements at meetings of the Regulatory Services Committee to the next meeting.

## 12 **KEY DECISIONS**

Members were invited to consider revisions to the definition of what constituted “significant” when deciding whether or not an Executive Decision was a “Key” Decision.

If an Executive Decision was a Key Decision, certain administrative processes must then be followed which would otherwise not be needed and the intention had been to define what constituted a Key Decision in such a way as to avoid unnecessary bureaucracy.

Members expressed the opinion that the issue as to what constituted a “Key Decision” required further examination and in particular, they directed that a study be undertaken to provide them with an understanding about how this was treated in other boroughs.

The Committee agreed to defer the matter to allow further research to be undertaken about how Key Decisions were treated in other councils.

## 13 **AMENDMENTS TO THE CONSTITUTION**

The Monitoring Officer submitted the following constitutional amendments to the Committee to amend the powers of the following:

Cabinet Members,  
The Head of Regeneration, Policy and Planning,  
The Assistant Chief Executive, Legal and Democratic Services and  
The Head of Development and Building Control

### **RESOLVED:**

**To RECOMMEND TO COUNCIL** that the changes outlined in the Monitoring Officer’s report be accepted.

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**Chairman**

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## GOVERNANCE COMMITTEE

17 January 2012

## REPORT

**Subject Heading:**

**ANNUAL MEETING OF THE COUNCIL –  
review of meeting arrangements**

**CMT Lead:**

Ian Burns  
Acting Assistant Chief Executive  
01708 432442

**Report Author and contact details:**

Ian Buckmaster  
Committee Administration & Member  
Support Manager  
ian.buckmaster@havering.gov.uk  
01708 432431

**Policy context:**

To review the arrangements for the  
Annual Meeting

**Financial summary:**

There are no significant direct financial  
implications

**The subject matter of this report deals with the following Council Objectives**

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

**SUMMARY**

This report is submitted as requested by the Committee, to review the arrangements for the Annual Meeting of the Council.

**RECOMMENDATION**

That the Committee **RECOMMEND** to the Council:

- 1 The changes, if any, to be proposed in the arrangements for the Annual Meeting of the Council.
- 2 That the conferment of civic awards be dealt with before the Leader's Statement.
- 3 That the Monitoring Officer be authorised to make all consequential changes to the Council's Constitution.

**REPORT DETAIL**

**Arrangements for the Annual Meeting**

- 1 In January 2011, the Committee reviewed arrangements for the meetings of the Council. It was agreed, among other things, that the arrangements for the Annual Council should be changed.
- 2 For some years, it had been the practice for the Annual Meeting to be concerned solely with civic and "housekeeping" matters: the election of the Mayor, the conferment of civic awards, the appointment of Committees and their Chairmen etc, and receiving a statement relating to the work of the year ahead from the Leader.
- 3 Members were concerned that the absence of other, ordinary business from the Annual Meeting meant that there was a four month gap in dealing with such business, as Council did not otherwise meet between the end of March and the end of July.
- 4 It was therefore agreed that the Annual Meeting should revert to dealing with ordinary business as well as the business customarily dealt with at it and that, to facilitate doing so, the meetings should start at 7pm rather than 7.30pm, with a break between "Annual Meeting" business and ordinary business.
- 5 In the event, the volume of ordinary business presented at the Annual Meeting this year was such that it was not possible to move to the debate of Members' motions until after 10pm, leaving insufficient time in some Members' view to ensure that a proper debate would follow. Those motions were therefore withdrawn and debated, in amended forms, at the July meeting.
- 6 At its meeting in September 2011, the Committee agreed to look again at the Annual Meeting arrangements and this report is submitted accordingly.

- 7 The holding of the Annual Meeting is a statutory requirement. It is the meeting at which the Mayor must be elected and, customarily, other appointments are dealt with. It tends to be more of a civic event than other Council meetings.
- 8 It was agreed when the Annual Meeting arrangements were reviewed that meetings would start at the earlier time of 7pm. Unlike ordinary meetings, the Council Procedure Rules allow Annual Meetings to continue indefinitely, until all business is finished. That does not preclude the Mayor deciding, as a matter of principle, that once the meeting has been going for some time it might be appropriate to shorten the time allowed for debate.
- 9 There are several options that the Committee may wish to consider:
- To hold an ordinary meeting a short time following the Annual Meeting, say by no later than mid-June: this could be done by -
    - convening two separate meetings: the Annual Meeting for civic business only, and a subsequent ordinary meeting
    - convening the Annual Meeting with ordinary business and adjourning (to a pre-arranged date) at some convenient point during the meeting, determined at the time
    - convening the Annual Meeting with ordinary business and adjourning (to a pre-arranged date) at a specific point in the meeting, such as on completion of the civic business and Leader's statement(there are no obvious risks to these possible approaches but there would clearly need to be agreement as to when the second meeting would take place).
  - To leave the arrangements as they are: there would continue to be a mixture of "Annual Meeting", civic business and ordinary business. The risk would be that the amount of business likely to need to be transacted would require the meeting to continue until a very late hour.
  - To revert to the previous practice of having no ordinary business at the Annual Meeting, with the meetings either side, as now, in March and July (the risk then being that there would be a four-month gap between successive meetings for ordinary business).
  - To revert to the previous practice of having no ordinary business at the Annual Meeting but to put the March meeting back to, say, mid-April, and bring the July meeting forward to early in that month. That would reduce the gap between meetings by a month or so, although the gap between the January meeting and the next would increase from two months to around two and a half to three months and there would also be a greater gap between the July and September meetings.
- 10 The Committee is requested, therefore, to indicate what (if any) change in the Council's Constitution it wishes to propose to Council.

**Conferment of civic awards**

- 11 The Council Procedure Rules (CPRs) provide for the conferment of civic awards at certain meetings. Other than in the year of municipal elections, the Council is invited to consider the conferment of the Honorary Freedom of the Borough at the Annual Meeting. The CPRs currently specify that this be done as part of the ordinary business of the Council, following the completion of the civic business and receipt of the Leader's Statement.
- 12 The conferment of the Honorary Freedom is, however, clearly a civic matter rather than one for ordinary business and, accordingly, it is suggested that the order of business at the Annual Meeting be altered, so that the conferment is dealt with immediately before the Leader's Statement.

**IMPLICATIONS AND RISKS**

**Human resources implications and risks**

No implications or risks for human resources arise from this report.

**Equalities implications and risks**

No implications or risks for equalities arise from this report

**Information and Communications Technology Implications**

No implications or risks for ICT arise from this report.

**Financial implications and risks**

The current cost of servicing Council meetings is met from within existing resources. No significant financial implications or risks are expected as a result of this report.

**Legal implications and risks**

The Council has a statutory obligation to meet in May for the Annual Meeting. Noting in the report departs from that.

The format and conduct of Council meetings is a matter within the Council's control.

**BACKGROUND PAPERS**

There are no background papers

# GOVERNANCE COMMITTEE

17 January 2012

# REPORT

<b>Subject Heading:</b>	<b>PUBLIC ACCESS TO THE COUNCIL CHAMBER – further review of arrangements (second report)</b>
<b>CMT Lead:</b>	Ian Burns Acting Assistant Chief Executive 01708 432442
<b>Report Author and contact details:</b>	Ian Buckmaster Committee Administration & Member Support Manager ian.buckmaster@havering.gov.uk 01708 432431
<b>Policy context:</b>	Members of the public have a statutory right to attend meetings of Council, Cabinet and Committees. The limited accommodation available in the Council Chamber means that public use of some areas of it must be restricted.
<b>Financial summary:</b>	There are no financial implications

## SUMMARY

At the last meeting, the Committee agreed changes to the rules about the admission of the public to areas of the Council Chamber for Council and Cabinet meetings, following then recent incidents of disruption.

This report now deals with the admission of the public to meetings of the Regulatory Services Committee and Highways Advisory Committee and to Licensing Sub-Committee hearings.

**RECOMMENDATIONS**

That the public continue to be admitted to the Council Chamber and gallery for meetings of the Regulatory Services and Highways Advisory Committees and Licensing Sub-Committee hearings but that arrangements be made to install the security measures referred to in this report as soon as practicable.

**REPORT DETAIL**

- 1 The Committee is reminded that there is a statutory right of access by members of the public to all meetings, other than those where confidential or exempt business is to be transacted. That right is, however, not absolute: the Council has no obligation to admit the public when numbers are so large that they cannot all reasonably be accommodated – for example, where the numbers are in excess of those permitted access in accordance with a fire risk assessment.
- 2 Moreover, in the event of a meeting being disrupted, there is a common law right to exclude those causing the disruption and, if judged necessary, any member of the public in attendance.
- 3 Several incidents have occurred recently: in particular, a meeting of the Regulatory Services Committee was seriously affected by disorder, to the extent that police assistance was required when the personal safety of some Members and officers was compromised.

**Proposed new arrangements**

- 4 Although rare, from time to time, very large numbers of people attend meetings of the Committees and Sub-Committee: occasionally, indeed, more people attend than can safely be accommodated. Although it would be open to the relevant Chairman to exclude the public at that point, Chairmen have always preferred that some form of overspill arrangement be made, or that people attending for a specific application to be dealt with be asked to wait outside the Chamber (usually in a Committee Room) until the item in which they are interested is reached.
- 5 Accordingly, it would be impracticable to restrict public attendance to the balcony alone, or for that matter to the gallery.
- 6 Recognising this, at the Committee meetings it is already standard practice for Members and officers to use only the two rows of seats nearest the centre of the Chamber; the public are allowed to sit in the outer rows and in the other seats around the Chamber. Slightly different arrangements apply at Licensing Sub-Committee hearings, where Members sit at the dais and the inner two rows of seats are used by officers and applicants/applicants' advisers.



- 7 The disruption at the recent Regulatory Services Committee meeting that led to this review left some Members and officers concerned for their safety. Although there does not appear to have been direct contact between the Members in the second row of seats and the public sitting immediately behind them, there was certainly the potential for such contact; and there has been direct contact in similar circumstances in the past.
- 8 Moreover, even if such contact does not have hostile intent, it is possible for members of the public sitting behind Members as they do at present to interrupt or distract, or to seek to communicate with Members. Aside from any risk of violence or other inappropriate contact, the ability of the public to appear to be able surreptitiously to contact Members during quasi-judicial proceedings leaves the Members, and the Council, open to accusations of improper influence that would be difficult to refute, especially in the course of judicial review of a decision or an Ombudsman's investigation.
- 9 It is proposed, therefore, to install a demountable, physical barrier between the second and third rows of seats. The precise form of barrier has not yet been determined but would probably consist of a timber or transparent plastic "shield", which would be attached to the third row desks (probably one "shield" per desk). The "shields" would be high enough to act as a barrier but not so high as to obscure views. The "shields" would be installed only for specific meetings and removed when not required.
- 10 In addition, the two access aisles leading from the rear of the Chamber to the front row of seats would be closed between the second and third rows. Since the aisles are essential escape routes in case of fire or other emergency, the barrier would need to be easily removable. Again, the precise form of barrier has yet to be determined but the principal options are either for a "rope with hooks" or a bar-style gate.
- 11 It is recognised that neither measure would prevent a determined individual from attacking Members and/or officers but it is considered that they should be sufficient to deter those whose emotions have not got the better of them.

### **Financial Implications and Risks**

There are no specific financial implications or risks arising from this report.

The cost of installing "shields" and barriers will be met from existing budget provision. No costing has yet been made, pending the outcome of this report. If the Committee authorises the installation of security measures, estimates will be obtained in the usual way and a decision whether or not to proceed made in consultation with the Chairman of the Committee.

### **Equalities and Social Inclusion Implications and Risks**

No implications or risks have been identified. The Chamber areas are as reasonably accessible by disabled people as practicable given the design and construction of the Town Hall.

### **Environmental Implications and Risks**

There are no implications or risks for the environment.

### **Legal Implications and Risks**

The Local Government Act 1972 obliges the Council to admit the public to meetings, except when confidential or exempt information is being dealt with. Case law has modified the absolute obligation to the extent that the right of access is exercisable only when those seeking access can be physically accommodated in the room.

Nothing in the existing designation policy affects the right of persons to have access to meetings at which they can be physically accommodated, nor is it likely that any change proposed and agreed will affect their rights. Where necessary, the Council provides overspill accommodation at which the events of a meeting can be viewed and heard by CCTV and audio links.

### **Human Resources Implication and Risks**

There are no implications or risks for Human Resources. The availability of clear guidelines on the use of the different areas within the Chamber assists staff deal with awkward situations.

The Council has an obligation to protect the health and safety of Members, officers and members of the public attending meetings. In the event of disruption, the measures proposed should deter any individual intent on mischief.

### **BACKGROUND PAPERS**

There are no background papers

# GOVERNANCE COMMITTEE

# REPORT

17 January 2011

**Subject Heading:**

**APPOINTMENT OF NOMINATIVE  
TRUSTEE OF ROMFORD COMBINED  
CHARITY**

**CMT Lead:**

Ian Burns, Acting Assistant Chief  
Executive – Legal and Democratic  
Services

**Report Author and contact details:**

Ian Buckmaster, Committee  
Administration & Member Support  
Manager, 01708 432431  
[ian.buckmaster@havering.gov.uk](mailto:ian.buckmaster@havering.gov.uk)

**Policy context:**

None applicable

**Financial summary:**

There are no financial implications

## The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input type="checkbox"/>

The Romford Combined Charity is a small, local charity which makes grants for the relief of poverty etc. It has seven Trustees: one *ex officio* - the Vicar of St Edward's CofE Church, Romford (who chairs the Trustees); four nominative - appointed for four year terms by the Council; and two co-optative - who are co-opted for five year terms by the other five Trustees.

The term of office of Councillor Osman Dervish, who succeeded Ms Christine Hunnabale (a former Clerk of the Trustees), has expired. Councillor Dervish is not eligible for re-appointment.

At its meeting in October 2010, the Committee asked the Charity to consider alternative arrangements for its administration. Hitherto, the Charity had been administered by Council staff in the course of their normal duties but Members considered that that time for that could no longer be spared.

The Charity made enquiries of the Havering Housing Trust (a charity having a similar background) but, after consideration, the Trust declined to become involved with the Charity. Enquiries are now in hand of other charitable organisations as to whether they would be willing to administer the Charity.

### **IMPLICATIONS AND RISKS**

#### **Human resources implications and risks**

No implications or risks for the human resources arise from this report.

#### **Equalities implications and risks**

No implications or risks for the environment arise from this report

#### **Financial implications and risks**

No financial implications or risks arise from this report.

#### **Legal implications and risks**

No legal implications or risks arise from this report.

### **RECOMMENDATION**

- 1 That a nominative Trustee be appointed in succession to Councillor Osman Dervish.
- 2 That the current position regarding the administration of the Charity be noted.

### **BACKGROUND PAPERS**

The Charity's deed of trust.

# GOVERNANCE COMMITTEE

# REPORT

17 January 2012

<b>Subject Heading:</b>	AMENDMENTS TO THE CONSTITUTION – Finance Procedure Rules
<b>CMT lead:</b>	Ian Burns Acting Assistant Chief Executive, Legal & Democratic Services – 2442
<b>Report Author and contact details:</b>	Ian Buckmaster Committee Administration & Member Support Manager – 2431
<b>Policy context:</b>	Constitutional amendments
<b>Financial summary:</b>	There are no relevant financial implications

**The subject matter of this report deals with the following Council Objectives**

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

**SUMMARY**

1. While the Monitoring Officer has the power to make amendments to the Constitution in certain limited circumstances 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.
2. Part 3 Section 1 paragraph 1.2 of the Constitution provides that this Committee will
  - a. monitor and review the operation of the Constitution to ensure that the views and principles of the Constitution are given full effect

- b. make recommendations to the Council about amending the Constitution
3. Recent applications of the Constitution have identified a number of areas where small amendments or additions to various delegated powers would assist the delivery of the Council's work.

## RECOMMENDATIONS

That the Committee **RECOMMEND** to Council that the revised Financial Procedure Rules be adopted.

## REPORT DETAIL

- 1 The Financial Procedure Rules (in Part 4 of the Council's Constitution) were revised and updated in 2010, as part of the review of the Constitution then undertaken.
- 2 A further review has recently been completed and the Committee is now invited to approve the revised version, as set out in the appendix.

## IMPLICATIONS AND RISKS

### **Financial implications and risks:**

There are no specific financial implications

### **Legal implications and risks:**

There are no relevant legal implications

### **Human Resources Implications and risks:**

There are no relevant HR implications

### **Equalities implications and risks:**

There are no relevant equality implications

## BACKGROUND PAPERS

There are none.

# Financial Procedure Rules

## Introduction

### 1 Status of Financial Procedure Rules

The Financial Procedure Rules provide the framework for managing the Council's financial affairs. They provide the platform on which the implementation of the Council's Budget Framework is based.

The Financial Procedure Rules ensure that there are rules to govern how the Council's money and other assets are looked after and how its spending is controlled. This enables the Council to ensure that it makes the most effective use of the resources available to it in delivering value for money services to the local community.

The Financial Procedure Rules focus on an overview of the key financial areas and responsibilities. Details, clarifying and explaining the processes involved, are set out in greater depth in the Council's Financial Framework. The Financial Framework sets out the detailed procedures that need to be followed and provides more detailed guidance than the Rules.

The Rules identify the responsibilities for financial matters within the Council. They apply to every member and officer of the Council and anyone acting on its behalf. Compliance with both the Rules and the Financial Framework is a requirement for all Council employees.

CMT members are responsible for ensuring that they and all staff in their services are aware of the existence and content of the Council's Financial Procedure Rules and other internal regulatory documents and that they comply with them.

The Group Director Finance & Commerce is responsible for issuing advice and guidance to underpin the Financial Procedure Rules that Members, officers and others acting on behalf of the Council are required to follow.

The Group Director Finance & Commerce is responsible for maintaining a continuous review of these Rules and for submitting any additions or changes necessary to Council for approval. The financial limits contained within these Procedure Rules will be subject to an annual review by the Group Director Finance & Commerce.

The Group Director Finance & Commerce is also responsible for reporting, where appropriate, breaches of the Rules to the Council and/or to Cabinet.

**In these rules, the term "Responsible Officers" means the Group Directors, Assistant Chief Executive and Heads of Service, whilst "CMT members" means the Group Directors and Assistant Chief Executive.**

## APPENDIX

### 2 Financial Responsibilities

The Group Director Finance & Commerce has statutory duties in relation to the financial administration and stewardship of the authority. This statutory responsibility cannot be overridden. The statutory duties arise from:

- (a) Section 151 of the Local Government Act 1972
- (b) The Local Government Finance Act 1988
- (c) The Local Government and Housing Act 1989
- (d) The Accounts and Audit Regulations 1996.

The Group Director Finance & Commerce is responsible for:

- (a) the proper administration of the authority's financial affairs
- (b) setting and monitoring compliance with financial management standards
- (c) advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
- (d) providing financial information
- (e) preparing the budget
- (f) treasury management.

Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer (the Group Director Finance & Commerce) to report to the Council, Cabinet and external auditor if the authority or one of its officers:

- (a) has made, or is about to make, a decision which involves incurring unlawful expenditure
- (b) has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the authority
- (c) is about to make an unlawful entry in the authority's accounts.

Section 114 of the 1988 Act also requires:

- (a) the Chief Finance Officer to nominate a properly qualified member of staff (the Head of Financial & Procurement) to deputise should he or she be unable to perform the duties under section 114 personally
- (b) the authority to provide the Chief Finance Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out their duties under section 114.



## **APPENDIX**

### **Financial Planning & Financial Management**

#### **3 Accounting and Accounting Policies**

The Group Director Finance & Commerce is responsible for:

- (a) selecting accounting policies and ensuring that they are applied consistently
- (b) determining the accounting procedures and records for the Council and how accounting information will be compiled and maintained
- (c) the operation of the Council's accounting systems, the form of accounts and the supporting financial records
- (d) approving the use and operation of all financial systems.

Any changes made by Responsible Officers to the existing financial systems or the establishment of new systems within their services must be approved by the Group Director Finance & Commerce. However, the Responsible Officers will ensure the proper operation of financial processes in their own services.

#### **4 Budgets**

The form and content of revenue and capital budgets will be determined by the Group Director Finance & Commerce.

The Group Director Finance & Commerce is responsible ensuring that the following are prepared in compliance with the budget framework:

- (a) a revenue budget on an annual basis
- (b) a Medium Term Financial Strategy on a three-yearly basis (or such other basis as Cabinet determines)
- (c) a Capital Strategy on an annual basis
- (d) a Treasury Management Strategy on an annual basis, but subject to ongoing review and revision where appropriate.

Responsible Officers must ensure that budget estimates:

- (a) reflect agreed service plans
- (b) reflect the Medium Term Financial Strategy and Capital Strategy
- (c) are prepared in line with guidance issued by the Group Director Finance & Commerce.

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No expenditure can be incurred unless:

- (a) it is contained within the Council's approved budget (subject to virement rules), or
- (b) external funding sufficient to meet it is available and approval has been given via an executive decision.

It is the responsibility of the Group Director Finance & Commerce to advise Cabinet and/or Council on prudent levels of reserves for the Council.

### 5 **Budget Management**

The Group Director Finance & Commerce is responsible for providing appropriate financial information to enable budgets to be monitored effectively. Responsible Officers must monitor and control expenditure against budget allocations and report to CMT on the overall position on a regular basis, highlighting material variances where these occur.

The Responsible Officers control income and expenditure within their services and produce forecasts and monitor financial performance, taking account of financial information provided by and in accordance with guidance issued by the Group Director Finance & Commerce. They must ensure that officers responsible for budget management are appropriately trained and competent.

The Responsible Officers must report on variances within their own areas. They should also take any action necessary to avoid exceeding their budget allocation. There is no authority to spend in excess of such allocation.

The Group Director Finance & Commerce must be consulted by Responsible Officers as soon as they become aware of any matters in their service areas, which could materially affect the Council's budget and which cannot be contained within existing approved budgets of the service area.

The Group Director Finance & Commerce is responsible for ensuring that Cabinet is suitably informed of the financial position during the course of the year.

The Responsible Officers are responsible for all expenditure funded through grants from external departments and bodies, and for ensuring that monies are expended in a timely manner and in accordance with grant conditions. No commitment should be given to incurring expenditure beyond that contained within approved budget allocations.

### 6 **Budget Virements**

Budget virements are required when a change to Council policy and/or service delivery requires resources to be reallocated, or when additional resources are received, or to meet any anticipated budgetary shortfalls.

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Revenue virements are subject to the following authorisation process:

- (a) Virements in excess of £1 million will require Cabinet approval.
- (b) Virements between £500,000 and up to £1 million will require approval by the relevant Cabinet Members.
- (c) Virements between £250,000 and up to £500,000 that are key decisions will require approval by the relevant Cabinet Members.
- (d) Virements between £250,000 and up to £500,000 that are not key decisions will require approval by the CMT member and the Group Director Finance & Commerce.
- (e) All other virements will need to comply with procedures specified by the Group Director Finance & Commerce.

Capital virements are subject to the following authorisation process:

- (a) Virements in excess of £1 million will require Cabinet approval.
- (b) Virements between £500,000 and up to £1 million will require approval by the relevant Cabinet Members.
- (c) Virements between £250,000 and up to £500,000 between CMT members will require approval by the relevant Cabinet Members.
- (d) Virements between £250,000 and up to £500,000 within a single CMT member's service area will require approval by the CMT member and the Group Director Finance & Commerce.
- (e) All other virements will need to comply with procedures specified by the Group Director Finance & Commerce.

The definition of a Key Decision is set out in Executive Procedure Rules. All virements are subject to those Rules. All virements in excess of £500,000 are key decisions, whilst a revenue virement between £250,000 and £500,000 may be a key decision.

The cumulative value of virements for the year should be considered when deciding whether the various thresholds have been reached. The Group Director Finance & Commerce will take the final decision as to whether a number of smaller virements need to be grouped together for threshold calculation purposes.

### 7 **Closedown of Accounts**

The Group Director Finance & Commerce will make arrangements to close the accounts in accordance with legislative arrangements, the overall strategy and their duties/powers as Chief Finance Officer.

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The Group Director Finance & Commerce is responsible for ensuring that the annual statement of accounts is prepared in accordance with *The Code of Practice on Local Authority Accounting in the United Kingdom 2011 – based on International Financial Reporting Standards (IFRSs)* or such version of the Code that supercedes this.

The Group Director Finance & Commerce is responsible for establishing procedures for carrying forward under- and overspendings on budget headings, and for their subsequent use.

The Group Director Finance & Commerce is responsible for establishing procedures for the creation and use of earmarked reserves.

The relevant Cabinet member will consider and agree the setting up of any specific earmarked reserves, including the purpose for which they have been created.

### **Risk Management and Control of Resources**

#### **8 Internal control**

The Group Director Finance & Commerce is responsible for:

- (a) establishing adequate systems to monitor and control the Council's financial transactions
- (b) ensuring that such systems are adequately maintained and reviewed
- (c) advising on effective systems of internal control and giving advice and guidance accordingly
- (d) ensuring compliance with all applicable statutes and regulations, and other relevant statements of best practice
- (e) ensuring that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.

It is the responsibility of Responsible Officers to:

- (a) maintain and promote sound arrangements for internal control, including appropriate authorisation arrangements
- (b) comply with the advice and guidance of the Group Director Finance & Commerce
- (c) ensure that they take due account of risk in the management of their functions
- (d) ensure that they allocate resources to appropriately manage that risk.

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### 9 Risk management

The Group Director Finance & Commerce is responsible for:

- (a) reviewing and making recommendations on the Council's approach to risk management, including the risk management strategy
- (b) promoting the strategy throughout the Council
- (c) advising and instructing Responsible Officers accordingly.

Responsible Officers will ensure the regular identification, review and management of risk within their services, having regard to the Council's risk management strategy and associated advice and instructions from the Group Director Finance & Commerce and other specialist officers (e.g. crime prevention, business continuity, health & safety).

They are also responsible for promoting and implementing the risk management strategy within their service areas, for ensuring that service risk registers are compiled and regularly reviewed, and for taking appropriate mitigating action to reduce risk levels within their area.

### 10 Insurances

The Group Director Finance & Commerce is responsible for ensuring that proper insurance exists where appropriate.

Responsible Officers shall consult the Group Director Finance & Commerce and the Assistant Chief Executive Legal & Democratic Services on:

- (a) any terms of any indemnity that the Council is requested to give
- (b) appropriate contract conditions for contractors to indemnify the Council and suitable minimum insurance levels for inclusion in contracts
- (c) appropriate indemnities and minimum insurance cover for partnership arrangements.

Responsible Officers will be responsible for ensuring that they acquire additional professional indemnity insurance for any areas of work that they take on voluntarily, and for ensuring that staff in their service areas are similarly insured.

### 11 Treasury management and trust funds

The Council has adopted CIPFA's *Code of Practice for Treasury Management in Local Authorities (the CIPFA code)*.

The Group Director Finance & Commerce is responsible for:

## APPENDIX

- (a) implementing and monitoring the Council's treasury management policy and statement and ensuring its compliance with the CIPFA code.
- (b) controlling all money in the hands of the Council
- (c) all decisions on borrowing, investment or financing, provided these are in accordance with the CIPFA Code
- (d) holding in custody all securities, other than title deeds, contracts legal agreements mortgages, and trust funds, which are the property of or in the name of the Council or its nominees
- (e) acting as the Council's registrar of stocks, bonds and mortgages.

Investments must be made only in the name of the Council or its approved nominees.

All trust funds must be in the name of the Council. The Group Director Finance & Commerce must be informed of all trust funds administered by employees as part of their Council duties.

All employees acting as trustees by virtue of their official position shall deposit for safe-keeping, all securities etc. relating to any trust fund, with the Assistant Chief Executive Legal & Democratic Services unless the deed otherwise provides.

### 12 **Internal and external audit**

The Group Director Finance & Commerce is responsible for arranging for a continuous audit examination of accounting, financial and other operations of the Council.

The Group Director Finance & Commerce is responsible for ensuring:

- (a) the maintenance of an adequate and effective internal audit function that is sufficient in its coverage and independent in its planning and operation
- (b) that the Internal Audit & Corporate Risk Manager has direct access to the Chief Executive, all levels of management and the Audit Committee and the Value Overview & Scrutiny Committee
- (c) that the internal auditors are trained to comply with professional good practice.

The Audit Commission is responsible for appointing external auditors to the Council to review and report upon:

- (a) the financial aspects of the Council's corporate governance arrangements

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- (b) the Council's financial statements, to be satisfied that the statement of accounts presents fairly the financial position of the Council, and its income and expenditure for the year in question and complies with the legal requirements
- (c) aspects of the Council's arrangements to manage its performance, including the preparation and publication of specified performance information.

The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenues & Customs, who have statutory rights of access.

The Group Director Finance & Commerce or their authorised representative, including the appointed external auditor, or other external body, shall have authority to:

- (a) enter at any time any Council premises or land (subject to the rights of any occupier)
- (b) have unrestricted access to all records, documents and correspondence relating to any financial and other transactions of the Council where so required in connection with normal audit work
- (c) remove and /or secure any record, document and correspondence of the Council as considered necessary
- (d) make site visits during the course of a contract and examine any records or information relating to the contract, and examine contract final accounts and review supporting records and documentation in order to form a view on the accuracy of such accounts
- (e) have unrestricted access to employees and require and receive such information and explanations as are necessary concerning any matter under examination
- (f) require any employee of the Council to produce cash, stores or any other Council property under that employee's control.

It is the responsibility of Responsible Officers to:

- (a) ensure that internal auditors, external auditors, and other authorised inspectors, are given access at all reasonable times to premises, personnel, documents, records and assets, and are provided with any information and explanations that they consider necessary for the purposes of their work
- (b) consider and respond promptly to requests for information and to recommendations in audit reports

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- (c) ensure any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.

To ensure the independence of the Council's external auditors, Responsible Officers should not seek or receive personal financial or tax advice from them. Any other officers who may receive such advice from the Council's external auditors, or who may also act as director for another audit or advisory client of them, should advise the Group Director Finance & Commerce.

### 13 **Preventing fraud & corruption**

The Group Director Finance & Commerce is responsible for ensuring an annual review is undertaken of the anti-fraud & corruption policy and strategy and for advising the Audit Committee and Responsible Officers on its implementation.

The Group Director Finance & Commerce is responsible for ensuring an annual review is undertaken of the anti-money laundering policy and strategy and for advising the Audit Committee and Responsible Officers on its implementation.

Responsible Officers are responsible for notifying the Group Director Finance & Commerce (or the Head of Internal Audit, Insurance & Corporate Risk Manager) immediately of any suspected irregularities (including fraud), and to instigate the authority's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.

### 14 **External arrangements**

The Group Director Finance & Commerce will ensure that the accounting arrangements adopted in relation to partnerships and joint ventures are subject to financial control procedures which reflect those of the Council.

CMT members have a responsibility to take appropriate professional advice when entering into partnership arrangements and to ensure that any such arrangements do not impact adversely on Council services.

Responsible Officers are also responsible for ensuring that any governance arrangements comply fully with the Constitution and the Financial Framework, and that any negotiations are in accordance with the Contract Procedure Rules.

CMT members are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

Responsible Officers are responsible for ensuring that appropriate management arrangements are put in place to deal with the ongoing governance of any partnerships, taking into account financial and legal advice.



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CMT members must ensure that all financial risks have been fully appraised and appropriate mitigation is taken before contracts and other relationships are entered into, and that arrangements exist to continue to manage risks throughout the duration of the relationship.

CMT members will ensure that appropriate exit strategies are in place for partnership arrangements where these are time-limited.

The Group Director Finance & Commerce is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.

### Financial Systems & Procedures

#### 15 Banking arrangements and cheques

The Group Director Finance & Commerce is responsible for:

- (a) the operation of the Council's bank accounts and associated procedures
- (b) any arrangements that need to be made with the Council's bankers, including the withdrawal of funds or transfer from one account to another
- (c) making proper arrangements for the ordering, safe custody, use, and control of cheques (except those for authorised imprest and advance accounts).

The Group Director Finance & Commerce must be notified of all bank accounts operated by any of the Council's employees in connection with the business of the Council or unofficial funds held by the Council.

Cheques on the Council's main banking and National Giro accounts shall bear the pre-printed signature of the Group Director Finance & Commerce or be signed by the Group Director Finance & Commerce or other officer authorised by them to do so.

Cheques over £100,000 in amount must also be counter-signed by the Group Director Finance & Commerce or designated Officers.

The Responsible Officers will ensure that all financial transactions are processed through the Council's main banking account, unless approval has been given by the Group Director Finance & Commerce for other arrangements to be in place.

#### 16 Purchasing of and payments for works, goods and services

The procurement of works, goods and services is governed by the Contract Procedure Rules, which set out the procedure and, dependent on the procurement process, the relevant financial limits. Any procurement must comply with the Contract Procedure Rules and any more detailed procedures laid down in the Procurement Framework.

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Purchasing arrangements should comply with any advice, guidance and instructions issued by the Group Director Finance & Commerce.

Payment arrangements should comply with any advice, guidance and instructions issued by the Group Director Finance & Commerce.

Petty cash and imprest arrangements should comply with any advice, guidance and instructions issued by the Group Director Finance & Commerce.

### **17 Financial administration of contracts**

For contracts with a value in excess of £156,000, Responsible Officers shall have in place and document adequate systems and procedures in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.

The Responsible Officers will ensure that all such systems and procedures, and any exceptions from them, are approved by the Group Director Finance & Commerce.

For all other contracts, the Responsible Officers will maintain systems and procedures as specified by the Group Director Finance & Commerce.

### **18 Payments to employees and Members**

All payments to employees or former employees and Members of the Council shall be made under the direction of the Head of Shared Services in consultation with the Group Director Finance & Commerce, to include salaries, pensions, compensation and other emoluments, travelling & subsistence, expenses claims, and travel loans.

Responsible Officers will notify the Group Director Finance & Commerce as soon as possible of all matters affecting such payments, in accordance with any procedures specified by the Group Director.

### **19 Taxation**

The Group Director Finance & Commerce shall maintain and make available up to date guidance on the proper treatment and accounting for VAT and shall ensure that the net VAT payments are fully and promptly recovered from HM Revenue & Customs. The Group Director Finance & Commerce shall prepare and implement a timetable for the preparation and submission of VAT claims

Responsible Officers shall comply with the timetable and associated procedures for VAT claims. They shall also ensure that the VAT implications of fees and charges levied by the Council, capital projects, all purchasing transactions and any consideration of alternative means of service provision are properly considered and recorded after due consultation with the Group Director Finance & Commerce.

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### **20 Income**

The Group Director Finance & Commerce shall approve all procedures for the collection of monies due to the Council regardless of the services within which they are collected.

The Responsible Officers will establish appropriate and secure arrangements for ensuring that the income receivable, in their services, is promptly identified, billed and collected; through the corporate debtors service, or by staff in the service area. All income and VAT must be correctly accounted for.

Where the corporate system is not used, systems and processes for identifying, billing and collecting income require approval from the Group Director Finance & Commerce.

The level of fees and charges should be kept under review by Responsible Officers. Charges shall be reviewed at least annually to coincide with the approval of the revenue budget.

Any changes to fees and charges within a financial year shall be made as soon as practicable, subject to approval by the relevant Cabinet member.

### **21 Write off of irrecoverable debts**

Responsible Officers shall ensure that every effort is made to recover debts due to the Council. The corporate debtor system/service should be used as appropriate.

No material arrangement should be made to any procedures for billing or recovery of monies due to the Council without prior consultation and agreement with the Group Director Finance & Commerce.

Write off of debts can only be approved by the Group Director Finance & Commerce in accordance with any limits set within the Constitution and where it can be demonstrated that all cost effective efforts have been made to recover the debt and the appropriate procedures for recovering debt have been followed.

### **22 Safeguarding and controlling assets**

The Responsible Officers will ensure that records and assets are properly maintained and securely held.

The Responsible Officers will ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

### **23 Administration of Private Funds**

Private Funds are defined as financial assets held in an official capacity by Council officers on behalf of third parties such as trust funds, voluntary

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grant aided funds or receivership accounts. Where private funds exist in connection with Council activities, the appropriate Assistant Director/Head of Service must ensure appropriate procedures are in place to manage such a fund.

The administration of these funds must comply with any guidance issued by the Group Director Finance & Commerce. Financial records should be maintained to a standard so as to achieve an unqualified audit, and relevant year end treatment applied.

Responsible Officers shall ensure that finance and legal advice is sought to ensure that legal issues are considered and tax responsibilities defined. A comprehensive risk appraisal must be carried out prior to entering into any form of private fund arrangement and due consideration should be given to any necessary measures to safeguard both the funds and the Council's interests.