

**MINUTES OF A MEETING OF
THE GOVERNANCE COMMITTEE
Havering Town Hall
13 March 2013 (7.30pm – 9.15pm)**

Present:

COUNCILLORS:

Conservative Group Frederick Thompson (in the Chair), Becky Bennett, Ted Eden, +Georgina Galpin, Steven Kelly, Eric Munday, +Garry Pain and Roger Ramsey

Residents' Group Clarence Barrett and Gillian Ford

Labour Group Keith Darvill and Paul McGeary

Independent Residents' Group Jeffrey Tucker

+ Substitute Members: Councillors Garry Pain (for Robert Benham) and Georgina Galpin (for Michael White)

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

Apologies for absence were received from Councillors Robert Benham and Michael White

There were no disclosures of pecuniary interest

27 MINUTES

The minutes of the meeting held on 16 January 2013 were agreed as a true record and signed by the Chairman.

28 CONFIDENTIAL REPORTING (WHISTLEBLOWING)

The Confidential Reporting Policy - more commonly referred to as the 'Whistleblowing Policy' - formed part of the Council's Corporate Governance Framework and was reviewed and updated by the Officer Governance Group in 2012. Although the updated policy was made available to the Trade Unions, they had made no comment on it.

In the current financial year there had been 15 whistleblowing reports. The figures for the previous four financial years had also been provided and indicated an increase year on year.

The changes made to the policy were:

- 1) A change of ownership from the Council's Monitoring Officer to Group Director Finance & Commerce as most activity under the policy was undertaken within Internal Audit and Human Resources.
- 2) Individuals covered by the policy had been extended to ensure all relevant groups were covered - including volunteers.
- 3) The format of the policy had been updated to make it more reader friendly.

The Committee:

1. **Noted** the contents of the report.
2. **Approved** the updated Confidential Reporting Policy.
3. **Noted** that minor changes to the job titles within the policy might be required following the implementation of the Senior Management Restructure.
4. **Resolved** to delegate authority to make these changes to the Group Director Finance & Commerce.

29 ANNUAL COUNCIL ARRANGEMENTS

Following a review of the different ways in which the Annual Meetings of the Council had been arranged over the past several years, the Committee had been invited to consider whether the arrangements for the Annual Council that had been followed in 2012 should become permanent. This would require amendment of the Council Procedure Rules if agreed.

The new arrangements would provide as follows:

- (a) Other than in the year of the local elections – next due in 2014 – immediately before the main Annual Meeting there would be a brief extraordinary meeting of the Council to deal with nominations for the election of Honorary Freemen (in election years, this would be dealt with at the July meeting of the Council, as at present)
- (b) The Annual Meeting itself would follow on as seamlessly as possible from the extraordinary meeting, and the business to be considered would be:
 - (i) The Election of the Mayor
 - (ii) The appointment of Deputy Mayor
 - (iii) The appointment of Committees and their Chairmen and Vice-Chairmen
 - (iv) The appointment of Member Champions
 - (v) A statement by the Leader of the Council
- (c) A further, ordinary meeting of the Council would be held two or three weeks after the Annual Meeting, at which the business would include:
 - (i) A debate upon the Leader of the Council's statement at the Annual Meeting
 - (ii) Other, ordinary business (Reports, Questions and Motions)

The new Council Procedure Rules to give effect to these arrangements were set out in the Appendix to the report.

The Committee **RESOLVED** to **RECOMMEND** to Council that:

- 1 The proposed new arrangements for the Annual Meeting be approved
- 2 That the changes to the relevant Council Procedure Rules set out in the Appendix to the report be approved.

30 **MEMBERS' QUESTIONS AT COUNCIL MEETINGS**

For many years, 30 minutes had been available at Council for questions about the business of the Council and matters affecting the borough. Members, having given notice of their main question and received the initial answer may then ask without notice a supplementary question. The number of questions put down for answer is invariably over 20 and often near 30, but it was now rare for more than nine or 10 questions to be answered. As well as the number of questions, the complexity of many meant that a considerable amount of research had to be undertaken in a patently short period as questions currently had to be submitted six working days before the Council meeting.

The reduction in the size of the officer structure together with the number and complexity of questions was resulting in answers being completed very close to the Council meeting and often required Cabinet Members to consider the draft replies at very short notice.

To address this problem, the Committee suggested that the notice period for the deposit of questions should be extended to 11 working days before the Council meeting. This would enable answers to be prepared in a comprehensive manner, including sufficient time for Cabinet Members to include their input into the final replies.

The Mayor would still be able to permit the asking of an urgent question where a matter of importance had arisen after the normal closing date for questions. In order that more questions could be answered orally, the Committee also suggested that the number of questions be limited to a maximum of 15. There would be no time limit.

Currently, questions that did not receive an oral answer received a written answer instead. This was appropriate when there was uncertainty about the number of questions that would receive an oral reply. If the Council decided to fix the number of questions that would receive an oral reply then there was no need to have a 'reserve' list that might or might not receive an oral response. It was proposed that once the 15 questions had been submitted, any subsequent questions would be treated as "member enquiries" and would receive a written response in the normal manner.

Vote 1: Proposal to defer the report:

For the motion: Councillors Clarence Barrett, Gillian Ford, Keith Darvill and Paul McGeary.

Against the motion: Councillors Frederick Thompson, Becky Bennett, Steven Kelly, Eric Munday, Roger Ramsey, Ted Eden, Georgina Galpin and Garry Pain. Councillor Jeffrey Tucker abstained.

The motion was **LOST** by eight votes to four.

Vote 2: Proposal to limit the number of questions to 15:

For the motion: Councillors Frederick Thompson, Becky Bennett, Steven Kelly, Eric Munday, Roger Ramsey, Ted Eden, Georgina Galpin, Garry Pain and Jeffrey Tucker.

Against the motion: Councillors Clarence Barrett, Gillian Ford, Keith Darvill and Paul McGeary.

The motion was **CARRIED** by nine votes to four.

Vote 3: Proposal to have a maximum of 15 questions within 30 minutes:

For the motion: Councillors Clarence Barrett, Gillian Ford, Keith Darvill, Paul McGeary, Becky Bennett and Jeffrey Tucker.

Against the motion: Councillors Frederick Thompson, Steven Kelly, Eric Munday, Roger Ramsey, Ted Eden, Georgina Galpin and Garry Pain.

The motion was **LOST** by seven votes to six.

Vote 4: Proposal to return to the original propositions set out in the recommendations (with 15 questions and no time restriction):

For the motion: Councillors Frederick Thompson, Becky Bennett, Steven Kelly, Eric Munday, Roger Ramsey, Ted Eden, Georgina Galpin and Garry Pain.

Against the motion: Councillors Clarence Barrett, Gillian Ford, Keith Darvill, Paul McGeary and Jeffrey Tucker.

The motion was **CARRIED** by eight votes to five

There were already provisions in the Council Procedure Rules to ensure a fair distribution of questions. These provisions would be retained.

The Committee **RESOLVED** to **RECOMMEND** to Council that:

1. Rule 10.2(i) of the Council Procedure Rules (Notice of Questions) be amended to read:

“They have given 11 clear days’ notice in writing to the Proper Officer signed by the Member or by the Group Leader on behalf of that Member” and the timetable in the Appendix to the Rules be amended accordingly.
2. Rule 10.6 of the Council Procedure Rules (Time for Questions) be amended to read:

“Number of Questions

A maximum of 15 questions can be submitted for a Council meeting all of which together with any supplementary questions under rule 10.5 will receive an oral reply at the meeting. Any questions in excess of the maximum number that are submitted will be treated as a Member enquiry and receive a written response.”

31 **CHANGES TO THE COUNCIL’S CONSTITUTION AS A RESULT OF THE HEALTH AND SOCIAL CARE ACT 2012**

The Health and Social Care Act 2012 introduced the largest and most significant change to the NHS since its creation. The Act transfers public health functions back to local authorities with effect from the 1 April 2013. The Act requires the establishment of a Health and Wellbeing Board as an executive committee of the Council also with effect from 1 April 2013.

At its meeting on 11 September 2012, the Committee approved the membership of Havering’s Shadow Health and Wellbeing Board (HWB) in line with legal requirements. The Shadow HWB has been meeting since March 2011 and, at its last meeting in February 2013, agreed to request specific rules of procedure required to comply with all relevant primary and secondary legislation affecting the HWB. These would be incorporated into the recommended changes to the Constitution along with additional changes required to integrate public health functions into the Constitution.

As the public health team transferred to the Council and working arrangements were finalised, it could be possible that further changes would be brought forward to improve practice and delineate roles and procedures.

A sub-committee of the Health and Wellbeing Board - the Health Protection Forum – had been agreed by the Board in February.

The Committee **RESOLVED** to **RECOMMEND** to Council that:

1. The recommended changes to the Council’s Constitution as detailed in Appendix 1 to this report, be adopted.
2. The Membership of the Health and Wellbeing Board as set out in Appendix 2 to this report, be noted.

32 **HEALTH OSC FUNCTIONS**

The Health & Social Care Act 2012 and Regulations recently made under it had changed the way in which the Council scrutinised the work of local NHS bodies, affecting the Council, the Health Overview & Scrutiny Committee (Health OSC) and the scrutiny arrangements that existed jointly with the outer North East London boroughs of Barking & Dagenham, Redbridge and Waltham Forest and the County of Essex (in relation to Epping Forest and Brentwood, both of which looked to hospitals in the North East London sector for health services).

The current powers of the Health OSC, as set out in the Constitution, were:

Health	<ul style="list-style-type: none">• Scrutiny of NHS Bodies under the Council's Health Scrutiny function
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The new Act, and Regulations recently made under it, did not, of themselves, affect that allocation of functions. It was the way in which the functions were exercised that had changed.

Members were aware that issues affecting the provision of health services tended to attract considerable public interest. Locally, the current and future operation of maternity services and accident & emergency services at Queens Hospital had been matters of major concern and had prompted several debates and resolutions at Council and led to the only exercise - to date - of the right of referral to the Secretary of State by the Health OSC (acting on its own behalf and jointly with the Health OSCs of Barking & Dagenham, Redbridge and Waltham Forest and Essex).

Under the new legislation, that referral would have been made on behalf of each Council as a whole rather than by the individual Health OSCs acting on their own initiative. An express purpose of the provisions in the new Act was to ensure that, in future, no Health OSC could act unilaterally and take a position different to that of its appointing Council. Although there was no inconsistency between the Health OSC and the view expressed in resolutions by the Council, it appeared that such inconsistencies had occurred elsewhere. The possibility of that occurring would now be avoided.

The Committee **RESOLVED** to **RECOMMEND** to Council that:

- (i) The Health Overview & Scrutiny Committee (and any successor OSC) continue to carry out the day-to-day health scrutiny functions
- (ii) Responses to any formal consultation by a health service body be reported to the next convenient meeting of the Council for information and, where necessary, endorsement
- (iii) Where the Health OSC considers that a health service proposal should be referred formally to the Secretary of State, it should report upon the matter to the Council and such referral should be made only by resolution of the Council.
- (iv) The Council continue to participate in the activities of the Outer North East London Joint Health OSC and that the Council's Joint Health OSC continue to have authority to enter into other Joint Health O&S arrangements as appropriate.
- (v) The functions of the Health OSC be amended by the insertion - after the current description of the OSC's functions in Section 1.4 of Part 3 of the Constitution of the words:

“(except any referral to the Secretary of State, which is reserved to the Council by resolution)”

33 **APPOINTMENT OF MEMBER CHAMPION FOR THE ARMED SERVICES**

At the Council meeting on 30 January 2013, in response to a Member's question, the Leader of the Council indicated that he supported the proposition that the Council should appoint a Member Champion for Armed Forces veterans. This comment was met with approval from all present at the meeting. Subsequently it was considered that a Champion for the Armed Forces inclusive of currently serving personnel, veterans and youth cadet organisations would be more appropriate.

No specific terms of reference are proposed for this appointment but the Member appointed would be expected to establish and maintain links with the Armed Forces units with which the Council has a relationship such as The Royal Anglian Regiment and HMS Raider as well as the wide number of different veterans' organisations such as the Royal British Legion, the Burma Star Association and the Royal Air Force Association. The role would also provide an opportunity to promote the work of the pre-service youth cadet organisations in the borough and to promote the Armed Forces Community Covenant which Havering signed in 2012.

The Committee **RESOLVED** to **RECOMMEND** to Council that a Member Champion for Armed Forces be appointed, with effect from the Annual Council in May 2013.

34 **APPOINTMENTS TO OTHER ORGANISATIONS – HORNCHURCH HOUSING TRUST**

The Council appoints a number of nominative trustees to the Trust for four year terms of office expiring in sequence over each four year period.

The term of office for both Councillor Eric Munday and Mr Chris Oliver expired at the end of February 2013. Mr Oliver indicated that he did not wish to be re-appointed and it was proposed that Councillor Ted Eden should replace him as the Council's nomination to the Trust.

Councillor Eric Munday indicated that he wished to continue.

Vote 1: Proposal to appoint Councillor John Mylod as he was a Ward Councillor and had expressed an interest in being appointed to the trust:

For the motion: Councillors Clarence Barrett, Gillian Ford, Keith Darvill, Paul McGeary and Jeffrey Tucker.

Against the motion: Councillors Frederick Thompson, Becky Bennett, Steven Kelly, Eric Munday, Roger Ramsey, Ted Eden, Georgina Galpin and Garry Pain.

The motion was **LOST** by eight votes to five.

Vote 2: To appoint Councillor Ted Eden:

For the motion: Councillors Frederick Thompson, Becky Bennett, Steven Kelly, Eric Munday, Roger Ramsey, Ted Eden, Georgina Galpin and Garry Pain
Councillors Clarence Barrett, Gillian Ford, Keith Darvill, Paul McGeary and Jeffrey Tucker abstained. .

The motion was **CARRIED**.

The Committee **RESOLVED** to appoint **Councillor Eric Munday** and **Councillor Ted Eden** as Trustees for the term of office expiring in February 2017.

35 MONITORING OFFICER AMENDMENTS TO THE CONSTITUTION Nr 15

The Committee was informed that as a new Constitution had been adopted effective from 9 May 2010, the numbering system had commenced again from 01/10. This meeting was the first opportunity for the reporting of the most recent amendments made.

The Committee **NOTED** the report and the amendments contained in its appendix.

36 MONITORING OFFICER REPORT

Recent applications of the Constitution have identified a need for two small amendments to delegated powers would assist the delivery of the Council's work.

Staff, other than solicitors, can appear on behalf of the Council at various Tribunals only if they have been duly authorised to do so. While the Assistant Chief Executive has a general delegation to authorise Council staff to appear in Courts and Tribunals, representation of the Council at the Valuation Tribunal on Council Tax support matters is a specialist task and the Governance Committee considers that the Head of Customer Services would be best placed to know which staff were suitably knowledgeable and experienced to represent the Council in Tribunal proceedings.

The Committee **RESOLVED** to **RECOMMEND** to Council that the following amendments to the Constitution and to practice be adopted.

1. That the Head of Customer Services be delegated the power to authorise staff in the particular circumstances relating to Council Tax issues.
2. Part 3.6.2 - Head of Customer Services be amended by:

Adding, after (h) (iii) a new paragraph (iv) to authorise staff to represent the Council on all matters relating to Council Tax support appeals in the Valuation Tribunal service. Current paragraph (iv) will then be renumbered (v).

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CHAIRMAN

Date:

SUBJECT: AMENDMENTS TO CONSTITUTION

Notification No. 15

Date 18th February 2013

Notification of amendments to the constitution

Amendments made by the Monitoring Officer

Part 2, Article 11.02(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 3.6.2	82	Amend: (l)The Benefits Manager is authorised to lay informations on behalf of the Council before the Magistrates Court and to prosecute or defend all actions before the Court in respect of benefit fraud offences To read: (l) The Council Tax, Internal Audit and Corporate Risk Manager is authorised to lay informations on behalf of the Council before the Magistrates Court and to prosecute or defend all actions before the Court in respect of housing benefit and Council tax support fraud offences	Restructure and Legislation Change
Part 3.6.2	82	To move the following powers from the Head of Customer Services and add to Head of Financial & Procurement after (j) Part 3.7.3 (k) To be responsible for the implementation, management and administration of the Council's prosecution policy in relation to housing benefits and Council Tax fraud.	Restructure and Legislation Change

Part and article/ section	Page reference	Substance of amendment / amended wording	Reason for amendment
		<p>To delete</p> <p>(l) To authorise activity under the Regulation of Investigatory Powers Act 2000.</p> <p>Internal Audit & Corporate Risk Manager is authorised to lay informations on behalf of the Council before the Magistrates Court and to prosecute or defend all actions before the Court in respect of benefit fraud offences</p>	
Part 3.6.2	81	<p>From 1st April 2013</p> <p>Head of Customer Services</p> <p>Replace (g), (h), (h)(i), (k)</p> <p>Housing and Council Tax</p> <p>To Read:</p> <p>Housing Benefit and Council Tax Support</p>	Legislation Change
Part 3.6.2	81	<p>Amend:</p> <p>(h) (v) exercising the Council's discretionary powers in relation to the administration of housing and council tax benefits and discretionary housing payments</p> <p>To read</p> <p>(h) (v) exercising the Council's discretionary powers in relation to the administration of housing benefit and council tax support and (for housing benefit) discretionary housing payments</p>	Legislation Change