

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA**ADMINISTRATION COMMITTEE - 21 JUNE 2006****REPORT OF THE DIRECTOR OF LAW AND ADMINISTRATION****AMENDMENTS TO THE CONSTITUTION****1. LICENSING - AMENDMENTS TO DELEGATED AUTHORITY****BACKGROUND**

- 1.1 Changes to the Constitution in respect of delegated powers for licensing are recommended to reflect the restructuring of the Business Groups previously agreed by Council. The whole licensing function should be assigned to the new Head of Licensing and Business Improvement and removed from the delegated powers of the Director of Waste Management and Leisure. Changes are also recommended to the delegated powers of the Director of Transportation and Highways to remove the ability to object to applications as the Director is not a responsible authority. The recommended new delegations are set out in Appendix A.
- 1.2 On 5 June 2006 the Regulation and Enforcement Review Committee, having regard to the report of the Director of Transportation and Highways on the anticipated increase in applications for tables and chairs licenses, agreed that the Street Trading Licenses Sub-Committee be authorized to hear urgent applications for such licenses and that its name be accordingly changed to the Street Trading and Tables and Chairs Licensing Sub-Committee. The Committee agreed a procedure for hearing tables and chairs license applications. That procedure should be reproduced in the constitution at Part 4 B which sets out hearing procedure rules. On the advice of the Director of Law and Administration the Committee further recommended that its own terms of reference in the constitution be clarified by expressly including the words "Tables and chairs on the highway" in the list of matters for which it may issue a license in paragraph 3.B.14(b)12 of the constitution.
- 1.3 In Part 3.B.09 of the Constitution (terms of reference of the Licensing Committee) paragraph 3 refers to the delegation of power to the Director of Environmental Health. This should refer to the Head of Licensing and Business Improvement (Appendix B).
- 1.4 The Director of Environmental Health should retain the powers to issue a permit, consent, approve, register, inspect or licence

premises or persons in respect of (a) caravan sites and (b) sales of goods by competitive bidding. These matters have therefore been removed from the powers delegated to the Head of Licensing and Business Improvement as set out in Appendix A and will be transferred to those delegated to the Director of Environmental Health.

RECOMMENDATION

- 1.5 The Administration Committee is asked to recommend the Council to approve the changes to the Constitution set out in Appendices A and B.

FOR DECISION

2. STATUTORY OFFICER POSTS

- 2.1 The Council is required under the Children Act 2004 to appoint Directors of Children's Services and Adult Services. The Committee is asked to recommend to the Council to appoint Mrs Anne Marie Carrie as statutory Director of Children's Services and Ms Jean Daintith as statutory Director of Adult Services.

FOR DECISION

3. PROPOSED CHANGES TO THE AUDIT COMMITTEE'S TERMS OF REFERENCE

3.1 Voting rights

- 3.1.1 The Audit Committee was established by the Council at its meeting on 25 January 2006. The terms of reference set out on page 93 of the Constitution include the following:

(a) Membership

1. *Four Councillors including the Chairman of the Committee, who will not be a member of the Executive or the Chair of a Scrutiny Committee. The Chairman of the Audit Committee will have a significant and relevant financial background. Membership of the Committee shall include a maximum of two independent members who will be co-optees. All members will be voting members."*

- 3.1.2 Legal advice is that the independent members should not have voting rights. Approving the council's accounts is more than advisory and is a decision-making role. Co-opted members of this Committee do not have a legal power to make decisions.

3.1.3 The Committee is therefore asked to recommend the Council to remove voting rights from the co-opted members of the Audit Committee.

3.2 Quorum

3.2.1 At present, page 94 of the Constitution states that:

"the quorum necessary for the transaction of business shall be two members, one of whom will be a Councillor member".

3.2.2 It is proposed to amend this to state:

"the quorum shall be two Councillor members for voting purposes and two members, including co-opted members, for other matters."

as it is anticipated that it will only be the Accounts where the Audit Committee will vote.

FOR DECISION

4 CO-OPTEEES' AND MEMBERS' ALLOWANCES

4.1 Co-opted members can claim an annual allowance in respect of attendance at conferences and meetings. The constitution states that the annual allowance is calculated with reference to the number of anticipated meetings per year at a standard rate per meeting. The current rates are set out below:

Co-optees' allowances (1 April 2006 – 31 March 2007)

Post	Committee	Amount per year
Independent Members	Standards Committee	£564
Independent Panel Members	Fostering Panel	£1,306
Chairman	Fostering Panel	£4,104
Independent Panel Members	Adoption Panel	£1,306
Chairman	Adoption Panel	£4,104
Independent Members	Investment Committee	£435
Independent Members	Family and Children's Services OSC	£762

- 4.2 Allowances have not yet been set for the two co-opted members of the recently established Audit Committee, nor for the Chairman.
- 4.3 It is therefore proposed that the Chairman of the Audit Committee receive an annual Special Responsibility Allowance of £4104, in line with that awarded to the Chairman of the Regulation and Enforcement Review Committee. It is also proposed to introduce revised allowances for co-opted members on other committees to bring them into line with allowances currently paid to the Fostering and Adoption Panel members.
- 4.4 The Administration Committee is asked to consider introducing the revised allowances set out below and to make a recommendation to Council accordingly:

Proposed allowances

Post	Committee	Amount per year
Chairman	Standards Committee	£2,000
Vice-Chairman	Standards Committee	£1,306
Chairman	Audit Committee	£4,104
Independent Members	Audit Committee	£2,000
Chairman	Fostering Panel	£4,104
Independent Panel Members	Fostering Panel	£1,306
Chairman	Adoption Panel	£4,104
Independent Panel Members	Adoption Panel	£1,306
Independent Members	Investment Committee	£1,306
Independent Members	Family and Children's Services OSC	£1,306

FOR DECISION

5. PLANNING SERVICES COMMITTEE - COMMITTEE AND POOL MEMBERSHIP

- 5.1 It is proposed that the membership of the Planning Services Committee be reduced from seven to five members (four Majority Party, one Minority Party). As this Committee has a number of new Members and as the decision making process becomes more complicated and more regularly challenged, it is necessary to ensure that the majority of Members sitting on such a Committee are

sufficiently well trained and experienced to minimize the risk of legal challenge.

- 5.2 It is proposed that the size of the 'pool' of Members from which each Committee membership is drawn should remain unchanged at 21, but that specific reference to the need to adhere to a ratio between the Party Groups on the pool (as opposed to on the Committee itself that is called on each occasion) be deleted. Currently the ratio of Members appointed stands at 16:5, with the Minority Party given one more place than the agreed ratio, if applied to the pool, would allow.
- 5.3 The Administration Committee is invited to recommend Council that paragraph 3.B.13 (a) **Membership** (on page 112 of the Constitution) be amended to read as follows:

'Five Council members (four majority party, one minority party) drawn from a 'pool' of 21.'

FOR DECISION

6. DELEGATED AUTHORITY OF THE DIRECTOR OF PERSONNEL AND GENERAL SERVICES REGARDING REDUNDANCY/EARLY RETIREMENT.

- 6.1 Part Three C- paragraph 5 (a) - (c) of the Constitution (page 126) gives the Director of Personnel and General Services delegated authority to:

5. To approve early retirement or redundancy and the payment of termination benefits to employees where the:

(a) employee's termination is not the subject of a dispute;

(b) 'pay-back' period is five years or the number of years to normal retirement, whichever is the lower of the two; and

(c) reorganisation and job deletion has been approved by the relevant Cabinet Member(s).

- 6.2 The Committee is asked to recommend Council to delete this paragraph and replace it with the following to reflect the practice that was approved by the Cabinet on 30 May 2002 but was never changed in the constitution:

"To approve the payment of termination benefits to employees where redundancy and/or early retirement has been approved by the relevant Cabinet Member(s)."

FOR DECISION

Gifty Edila
Director of Law and Administration

Local Government (Access to Information) Act 1985 - Background papers used in the preparation of this report: None

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