


<p>London Borough of Hammersmith & Fulham</p> <p>FULL COUNCIL</p> <p>23 January 2019</p>		
REVIEW OF THE CONSTITUTION		
Report of the Leader of the Council – Councillor Stephen Cowan		
Open Report		
Classification: For Decision Key Decision: No		
Wards Affected: None		
Accountable Director: Rhian Davies, Monitoring Officer		
Report Author: Kayode Adewumi, Head of Governance and Scrutiny		Contact Details: Tel: 020 8753 2499 E-mail: kayode.adewumi@lbhf.gov.uk

1. EXECUTIVE SUMMARY

- 1.1 This report asks Council to approve changes to the Pensions Board terms of reference and the Licensing Sub-Committee's terms of reference.

2. RECOMMENDATIONS

- 2.1 That the changes to the Pensions Board's terms of reference, as set out in Appendix 1 of the report, be agreed.
- 2.2 That the changes to the Licensing Committee and Licensing Sub-Committee's terms of reference, as set out in Appendix 2 of the report, be agreed.

3. REASONS FOR DECISION

- 3.1 The Council's Monitoring Officer is required to review the Council's Constitution each year to ensure that its aims and principles are given full effect in accordance with Article 15 of the Constitution.

4. INTRODUCTION AND BACKGROUND

- 4.1 The Constitution sets out how the Council operates, how decisions are made and the procedures that are followed to ensure business is conducted in an efficient, transparent, and accountable manner.
- 4.2 The Monitoring Officer has a duty to keep the Constitution under review and has delegated authority to amend the Constitution where there has been a change in law, job title, structure, rearrangement of job responsibilities or for general administrative convenience. All extensive changes to the Constitution, however, must be approved by Full Council.

5. PROPOSALS AND ISSUES

Pensions Board – Terms of Reference Changes

- 5.1 This amendment is proposing the following changes:
- To increase the Employee Representatives fixed term of office from two years to four years (with the start date remaining as July 2015).
 - To increase the Employer Representatives fixed term of office from two years to four years with a start date of May 2018 to synchronise with the LBHF Council election cycle.
- 5.2 The Public Service Pensions Act 2013 required Pensions Boards to be established for all public service pension schemes. The role of each Pensions Board is to help to ensure each scheme complies with governance and administration requirements.
- 5.3 Pensions Boards need to have an equal number of Employer Representatives and Employee Representatives. They may also have other types of members, such as independent experts. All Pensions Board members have a duty to act in accordance with scheme regulations and other governing documents.
- 5.4 The levels of expertise and continuity required from all members of the Pensions Board has resulted in the original requirement for representatives to serve a fixed term of office of just two years has proved impractical. It is therefore recommended that the term of office for both Employer Representatives and Employee Representatives be increased to four years. There is no conflict with the Public Service Pensions Act 2013 regarding this proposal.
- 5.5 The changes to the fixed term of office will strengthen the continuity and resilience of the Pensions Board by ensuring that the entire membership of the Board does not stand down all at once.
- 5.6 The selection process of the Employee Representatives requires all active, deferred and pensioners to be contacted to self-nominate. Being such a large

group of stakeholders it is more appropriate and cost effective to engage with them within a four-year cycle rather than the shorter two-year period.

Licensing Committee and Sub-Committee – Terms of Reference Changes

- 5.7 This recommendation is proposing the following change:
- To add the following line to the terms of reference for both the Licensing Committee and Licensing Sub-Committee: “To determine applications in relation to special treatments.”
- 5.8 While the committees have previously had the powers to consider special treatment licenses, this change provides greater clarity for members, officers, businesses, and residents.

6. EQUALITY IMPLICATIONS

- 6.1 The equalities implications of this decision have been considered to be neutral.
- 6.2 Implications verified/completed by: Kayode Adewumi, Head of Governance and Scrutiny – Tel: 020 8753 2499

7. LEGAL IMPLICATIONS

- 7.1 It is important to note that the Local Government Act 2000 requires the Council to have and maintain a Constitution. The Monitoring Officer is satisfied that the Council’s Constitution continues to fulfil its stated purposes, as set out in Article 1 of the Constitution.
- 7.2 Implications verified by: Rhian Davies, Monitoring Officer – Tel: 020 7641 2729

8. FINANCIAL IMPLICATIONS

- 8.1 There are no direct financial implications.
- 8.2 Implications completed by: Kayode Adewumi, Head of Governance and Scrutiny – Tel: 020 8753 2499

9. BUSINESS IMPLICATIONS

- 9.1 There are no direct business implications.
- 9.2 Implications completed by: Kayode Adewumi, Head of Governance and Scrutiny – Tel: 020 8753 2499

LOCAL GOVERNMENT ACT 2000
LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT
None.

List of Appendices

Appendix 1 – Pensions Board Terms of Reference

Appendix 2 – Licensing Sub-Committee Terms of Reference

Pensions Board Constitution and Terms of Reference

Members

The Pension Board shall consist of six members and be constituted as follows:

- Three employer representatives comprising one from an admitted or scheduled body and two nominated by the Council; and
- Three scheme member representatives whether from the Council or an admitted or scheduled body.

The process for selecting non-Council nominated employer members of the Pension Board is set out in a separate document “Selection of Pension Board members”.

Quorum

The Pension Board shall be quorate when three Pension Board Members are in attendance.

Role of the Local Pension Board

The role of the local Pension Board is defined by section 5 of the Public Service Pensions Act 2013 and regulation 106 of the Local Government Pension Scheme (LGPS) Governance Regulations 2013. It is to assist the administering authority (the Council) with:

- Securing compliance with the LGPS Governance regulations and any other legislation relating to the governance and administration of the LGPS
- Securing compliance with any requirements imposed by the Pensions Regulator in relation to the scheme and
- Ensuring effective and efficient governance and administration of the scheme-recommendations to the Pensions Sub-Committee.

Membership:

Chair of the Board

The Chair and Vice Chair of the Board will be appointed by members of the Board as the first business at their first meeting.

Substitute Members

Each Scheme Member representative may agree a nominate substitute at the first meeting who would act in the Board member's absence.

Each Employer representative is there on behalf of the employer so may be replaced by the nominating body with another individual representing the same employer.

Periods of Office

Each Board Member shall be appointed for a fixed period of **four years**¹ ~~two years,~~ which can be extended for a further two-year period subject to re-nomination.

¹ Note: additions are highlighted in yellow. Subtractions are marked with a line through them.

Termination

Each Board member should endeavour to attend all Board meetings during the year and is required to attend at least two meetings each year. In the event of consistent non-attendance by any Board member, then the membership of that Board member should be reviewed by the other Board members with advice from officers.

Other than by ceasing to be eligible as set out above, a Board member may only be removed from office during a term of appointment by the unanimous agreement of all the other Board members present at the meeting.

A Board member may choose not to continue in their role, and so shall notify the Board accordingly following which the process for a replacement shall start.

Board Meetings:

Frequency of meetings

The Board shall as a minimum meet twice a year, and where possible, should aim to do so four weeks before the Pensions Sub-Committee meets. Meetings shall take place at a time and place agreed by the Pensions Board on an annual basis.

Voting Rights

Each Board member will be entitled to vote and where a vote is taken the matter will be decided by a majority of the Board members present and voting but it is expected that the Pension Board will as far as possible reach a consensus. In the event of an equality of votes, the Chair will have a second and or a casting vote.

Notice and Circulation of Papers

The papers for each Board meeting shall be circulated to all Board members one calendar week in advance of each meeting. The papers shall be published on the Council's website unless they contain material considered to be exempt or confidential, as defined by the Local Government Act 1972 and subsequently agreed as such by the Board.

Minutes

Minutes of all non-confidential or non-exempt parts of the Board's meetings shall be recorded and published on the Council's website.

Secretariat Service

Council officers will provide the Board with the secretariat services required.

Role of Advisers:

Access to Council advisers

The Board may request that one of the Council's advisers attends a Board meeting to provide advice or information to the Board. The request should be submitted to the Monitoring Officer.

Appointment of advisers specifically for the Board

If the Board requires advice outside that already provided to the Council, then the request should be made to the Pensions Sub-Committee and Council officers.

Budget and Expenses:

Budget

An annual budget will be agreed by the Board for professional advice, training or other purposes if such matters are required and Officers being authorised to incur expenditure to implement the programme.

Expenses

Each Board member may claim, upon production of the relevant receipts, travel expenses directly incurred in the work of the Pension Board.

Additional policies relating to the Board Operations:

Code of Conduct

The role of Pension Board members requires the highest standards of conduct and therefore, all Board members are required to abide by the Pension Board Code of Conduct.

Conflict of Interests

The Board is required to always act within these terms of reference. Board members should abide by the separately prepared Conflicts Policy and keep the policy under review.

Knowledge and Understanding

All Board members are required to have sufficient knowledge and understanding of pensions matters to undertake their roles. Board members are expected to comply with the separate policy on knowledge and understanding and maintain appropriate records.

Reporting:

Annual report on activity

The Pension Board should prepare an annual report on its activities and its compliance with these terms of reference and the associated policies. This report should be addressed to full Council each year, in the first six months of the financial year, reporting on the activities of the Pension Board for the previous financial year. Such a report will be submitted to the Pension Sub-Committee for noting prior to submission to Council.

Reporting Recommendations

If the Pension Board determines that it wishes to make recommendations to the Pension Sub-Committee, such recommendations should be reported to the next meeting of the Pension Sub-Committee. The Pension Sub-Committee's response to the recommendation will be reported to the next meeting of the Pension Board.

Licensing Committee Terms of Reference

Members

12 voting councillors
There shall be no ex-officio members

Quorum

6 members of the Committee

Political proportionality

9 Administration members
3 Opposition members

Co-opted Members

None

1. Sub-Committees

- 1.1 The Committee may establish Sub-Committees comprising 3 members drawn from the parent Committee, and may delegate any, or all, of its functions to such Sub-Committees or to an Officer, subject to any statutory restrictions.

2. Statutory status

- 2.1 The Licensing Committee is constituted as Licensing Committee under s6 of the Licensing Act 2003 in respect of licensing and related functions under that Act, and as an ordinary committee under s101 of the Local Government Act 1972 in respect of its licensing, regulatory and registration functions.

3. Operational Matters

- 3.1. In the event of an equality of votes, the Chair of the Committee shall have a second or casting vote.
- 3.2. A member may consider any matter affecting their Ward, or in which they (or their spouse/partner) has a personal interest (but not a prejudicial interest), provided the interest is disclosed in the usual manner in line with the provisions of the Members' Code of Conduct (This provision takes over the administrative arrangements set out in paragraph 23.4 of the Council's Statement of Licensing Policy, January 2011, revised July 2012).
- 3.3. Ward Councillors may attend meetings where permitted under the Code of Conduct to make representations on behalf of their constituents.
- 3.4. Meetings will take place during the Municipal Year on dates and times as notified and as required.

4. Decision-Making Powers

- 4.1. All matters relating to the discharge of the Council's licensing and related functions under the Licensing Act 2003, (other than the adoption of the

Licensing Policy, which shall be a matter for Full Council), shall be discharged by the Licensing Committee.

- 4.2. The Committee (or any Sub-Committee established for the purpose) shall consider all matters relating to the discharge by the licensing authority of its licensing and related functions under the Licensing Act 2003, with a view to promoting the licensing objectives, viz.:
 - The prevention of crime & disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 4.3. The Committee (or any Sub-Committee) shall have regard to the Statement of Licensing Policy published by the licensing authority, and to any Guidance issued by the Secretary of State.
- 4.4. To consider and resolve all other matters relating to the licensing, certification and registration functions of the Council undertaken by the Director of Environment Health.
- 4.5. To hear appeals against decisions made by officers carrying out delegated functions in respect of the matters set out in paragraph 3.4.
- 4.6. To hear and determine all applications for full or partial waivers of the rule of Management No. 1A (for small establishments) or 3a (for large establishments) relating to striptease/activity which could require a Sex Establishment licence if the Council has so resolved.
- 4.7. To make regulations prescribing standard conditions to be attached to street licences, to revoke, to refuse to grant, to refuse to renew and to make or vary the conditions attached to a street trading licence.
- 4.8. To designate streets as prohibited or licence streets.
- 4.9. To determine applications in relation to special treatments.

Licensing Sub-Committee

Terms of Reference

Members

3 voting councillors, drawn from the membership of the Licensing Committee
There shall be no ex-officio members

Quorum

2 members of the Sub-Committee

Political proportionality (Where applicable)

2 Administration members
1 Opposition member

Co-opted Members None

1. Statutory status

- 1.1 The Licensing Committee is constituted as Licensing Committee under s6 of the Licensing Act 2003 in respect of licensing and related functions under that Act, and as an ordinary committee under s101 of the Local Government Act 1972 in respect of its licensing, regulatory and registration functions

2. Operational Matters

- 2.1. In the event of an equality of votes, the Chair of the Sub-Committee shall have a second or casting vote.
- 2.2. A member may consider any matter affecting their Ward, or in which they (or their spouse/partner) have a personal interest (but not a prejudicial interest), provided the interest is disclosed in the usual manner in line with the provisions of the Members' Code of Conduct. (This provision takes precedence over the relevant arrangements set out in paragraph 23.4 of the Council's Statement of Licensing Policy, January 2011, and revised July 2012).
- 2.3. Ward Councillors may attend meetings where permitted under the Code of Conduct to make representations as interested parties themselves, or on behalf of their constituents, where permitted by the relevant legislation.
- 2.4. Meetings will take place during the Municipal Year on dates & times as notified and as required.

3. Decision-Making Powers

- 3.1. All matters relating to the discharge of the Council's licensing and related functions under the Licensing Act 2003, (other than the adoption of the Licensing Policy, which shall be a matter for Full Council).
- 3.2. The Sub-Committee shall consider all matters relating to the discharge by the licensing authority of its licensing and related functions under the Licensing Act 2003, with a view to promoting the licensing objectives, viz.:

- The prevention of crime & disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 3.3. The Sub-Committee shall have regard to the Statement of Licensing Policy published by the licensing authority, and to any Guidance issued by the Secretary of State.
- 3.4. To consider and resolve all other matters relating to the Licensing, Certification and Registration functions of the Council (i.e. matters other than those under the Licensing Act 2003).
- 3.5. To hear appeals against decisions made by officers carrying out delegated functions in respect of the matters set out in paragraph 3.4.
- 3.6. To hear and determine all applications for full or partial waivers of the Rules of Management No. 1A (for small establishments) or 3a (for large establishments) relating to striptease/activity which could require a Sex Establishment licence if the Council has so resolved.
- 3.7. To make regulations prescribing standard conditions to be attached to street licences, to revoke, to refuse to grant, to refuse to renew and to make or vary the conditions attached to a street trading licence.
- 3.8. To designate streets as prohibited or licence streets, where the determination of the matter could not wait until the subsequent meeting of the Licensing Committee.
- 3.9. To determine applications in relation to special treatments.