

<b>LONDON BOROUGH OF CAMDEN</b>	<b>WARDS:</b> All
<b>REPORT TITLE:</b> Establishment of, and Appointments to, Council Bodies within the Constitution, and Minor Amendments to the Constitution	
<b>REPORT OF:</b> Borough Solicitor	
<b>FOR SUBMISSION TO:</b> Council	<b>DATE:</b> 17 <sup>th</sup> May 2023
<p><b>SUMMARY OF REPORT:</b></p> <p>This annual report outlines the requirements relating to the establishment of bodies within the Constitution for the 2023/24 municipal year. It asks the Council to establish these bodies, agree their terms of reference and appoint Members to them including Chairs, and where shown Vice-Chairs. It also asks the Council to confirm the meeting dates for the bodies for the municipal year and make some minor changes to the Constitution.</p> <p><b>LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION</b> No documents which are required to be listed were used in the preparation of this report.</p> <p><b>CONTACT OFFICER:</b> Andrew Maughan Borough Solicitor 5 Pancras Square London N1C 4AG E-mail: <a href="mailto:andrew.maughan@camden.gov.uk">andrew.maughan@camden.gov.uk</a> Tel: 020 7974 5656</p>	
<p><b>RECOMMENDATIONS:</b></p> <p>That Council:</p> <ol style="list-style-type: none"> <li>i) Agrees to establish the bodies, their size and terms of reference and meeting dates for the 2023/24 municipal year as set out in Appendices A and B;</li> <li>ii) Appoints those nominated by the political groups as set out on the updated version of Appendix B tabled at the meeting and/or announced at the meeting to those bodies, including Chairs and Vice-Chairs as appropriate, for the 2023/24 municipal year (unless otherwise stated);</li> <li>iii) Agrees that the Constitution shall remain unchanged other than those amendments considered by Audit and Corporate Governance Committee and detailed in paragraph 7, and otherwise confirms it as currently published; and</li> <li>iv) Agrees the arrangements for delegations to officers as set out in Appendix A.</li> <li>v) Delegates authority to the Borough Solicitor to make and publish an amended Constitution following the changes made pursuant to iii) above.</li> </ol>	

**SIGNED:**

A handwritten signature in blue ink, appearing to read "Andrew Murray".

Borough Solicitor

**Date:** 4<sup>th</sup> May 2023

## **1. Introduction**

- 1.1. This report outlines the annual requirements relating to the establishment by the Council of the bodies specified within the Constitution (available at <http://www.camden.gov.uk/constitution>) and the appointment of Members to those bodies.
- 1.2. No changes are proposed to the terms of reference of Council bodies, other than as detailed in Paragraph 7 of this report.
- 1.3. The Constitution also sets out the Council's long-standing delegation arrangements, including that matters not reserved to Members or specifically delegated to particular named officers fall to the relevant Executive Director. Executive Directors may in turn authorise officers to take decisions as set out in their internal authorisation schemes; those internal authorisation schemes are published and can be accessed online appended to the [Constitution](#). Members are asked to confirm those ongoing delegation arrangements.
- 1.4. The Council is asked to make some minor amendments to the Constitution as detailed in paragraph 7 of this report. The Audit and Corporate Governance Committee considered these amendments at its meeting on 30<sup>th</sup> March 2023 and had no substantive comments to make on them.

## **2. Political Balance**

- 2.1. The political balance requirements of the Local Government and Housing Act 1989 and the Local Government (Committees and Political Groups) Regulations 1990 apply to any committees and sub-committees established under the Constitution. They also apply to scrutiny committees, which are treated as committees as per the Local Government Act 2000.
- 2.2. Proportionality does not, as a matter of law, apply to the Cabinet or other bodies exercising executive functions. Nor does it currently apply, through Council decisions, to the Health and Wellbeing Board, Licensing Panels, Standards Committee, or the Joint Chairs of Scrutiny Committee. The Council is asked, by agreeing to the allocations in the version of Appendix B which will be tabled prior to the meeting, to agree to continue to disapply proportionality on those bodies for the 2023/24 municipal year.
- 2.3. The Council has a duty when allocating or reviewing the allocation of seats on committees to give effect so far as is reasonably practicable to the following four principles:
  - i) All the seats are not allocated to the same political group;
  - ii) The majority of the seats go to the political group with a majority on the Council;
  - iii) Subject to the above two principles, the total number of seats each group has on all ordinary committees of the Council is in the same proportion as the group's share of the total council elected membership; and

- iv) Subject to the above three principles, the number of seats each political group has on ordinary committees of the Council is in the same proportion as it holds on the Council as a whole.
- 2.4. Committee seats will therefore be allocated in the same proportion, or as near as possible since the split of seats is not exact, as the group's representation on the Council subject to principles (i) and (ii) above.
- 2.5. The allocation of seats may be amended by Council either where there is a genuine mathematical choice, or where no Member votes against any alternative proposed arrangement, though this in effect amounts to disapplying proportionality (see paragraph 3.3). Whilst adhering to the key principles, Camden has traditionally allocated seats in a way that is not strictly proportional following discussions and agreement between the groups. This process is ongoing this year and the final suggested allocation will be circulated to all Members before the meeting.
- 2.6. Appointments made at statutory Council are for the whole municipal year unless otherwise stated.
- 2.7. Each committee, except scrutiny committees, has the power to appoint sub-committees to take responsibility for any of its functions, which are also subject to the rules on political balance. By tradition, Council appoints to the standing sub-committees such as Licensing Panels or the sub-committees of the Audit and Corporate Governance Committee.
- 2.8. Scrutiny committees are entitled to set up time-limited panels (though each committee may only have one panel operating at any time) reporting back to the relevant scrutiny committee. The panels are not formal bodies of the Council and therefore not subject to the proportionality rules, although political balance is encouraged and is the usual custom and practice.

### **3. The Establishment of the Bodies under the Constitution**

#### **3.1. Cabinet**

- 3.1.1. The annual appointment of the Cabinet (one of whom must also be nominated as Deputy Leader) is a matter for the Leader of the Council. The Leader of the Council will be invited to indicate to the Council their intentions in this regard.
- 3.1.2. Formally, and in accordance with the Constitution, the Leader makes these decisions by way of a single-member decision and can at that point also define, and if necessary amend, the terms of the respective portfolios, their titles, delegations to Cabinet Members, Cabinet Advisors, and officers, and the procedural operation of Cabinet.
- 3.1.3. Those decisions are political in nature and entirely at the Leader's discretion; therefore, the Council has agreed that they should not be subject to call-in.

## 3.2. Scrutiny committees

- 3.2.1. The Constitution provides for the appointment of five scrutiny committees, subject to the rules on political proportionality as previously set out, which will have the functions set out in the Constitution as attached at Appendix A. Cabinet Members cannot be appointed to scrutiny committees.
- 3.2.2. The Children, Schools and Families Scrutiny Committee must also include between two and five co-opted parent governors – the Council has previously decided to have three – as well as one Church of England representative and one Roman Catholic representative nominated by the relevant dioceses. These co-optees are voting members in respect of education functions and as such technically they count as non-administration members for the purposes of proportionality.
- 3.2.3. Since these statutory co-optees cannot vote on all matters which the Children, Schools and Families Scrutiny Committee considers, the custom and practice has been to ignore the co-optees in terms of proportionality and consider proportionality only in terms of the councillor members. However, in terms of the rules, this arrangement means that in some previous years technically proportionality has been disapplied. For 2022/23, the make-up of the Committee including the co-opted members was proportional within the rules and therefore proportionality was not disapplied. If Council agrees a different allocation of seats to groups on the Committee this year so that technically it would not conform to the proportionality rules, then it will be considered to be also agreeing to disapply proportionality in line with the practice used in previous years.
- 3.2.4. The Children, Schools and Families Scrutiny Committee has also chosen to have a non-voting Camden Youth Council representative.
- 3.2.5. The Housing Scrutiny Committee has previously chosen to co-opt three non-voting members who are residents of the borough. As they are non-voting members they do not count towards proportionality.
- 3.2.6. The scrutiny committee chairs meet bi-annually as the Joint Chairs of Scrutiny Committee, with terms of reference as set out in Appendix A. In order to ensure that the scrutiny chairs can form the membership, political balance needs to be disapplied (although the sharing of committee chairs amongst the groups means it will likely end up politically balanced as it has been historically).
- 3.2.7. The Council has also established with the London Boroughs of Barnet, Enfield, Haringey, and Islington the North Central London Joint Health and Overview Scrutiny Committee to exercise the functions set out in Appendix A.

### 3.3. Non-Executive Committees

3.3.1. The Constitution currently provides for there to be four non-executive committees, which are proposed to be re-established with the same terms of reference as at Appendix A:

- i) Licensing Committee, which is statutorily required and must have at least 10 but no more than 15 members;
- ii) Planning Committee;
- iii) Pension Committee;
- iv) Audit and Corporate Governance Committee, which has responsibility for carrying out all other non-executive functions that are not reserved to Council. Audit and Corporate Governance Committee also has two independent non-voting members, Fehintola Akinlose and Alan Layton, who do not count towards proportionality. The Council is asked to re-appoint Ms Akinlose and Mr Layton for the duration of the 2023/24 municipal year.

3.3.2. The Licensing Committee has been previously established with five sub-committees – known in Camden as Panels – to make decisions on licensing applications. They are established on the following basis:

- i) As statutorily required, the membership of any Panel cannot exceed three;
- ii) Only members of the main Licensing Committee can be members of a Panel;
- iii) Every member of the Licensing Committee acts as a substitute for each Panel on which they are not ordinarily a member and a substitute can take the place of any Panel member;
- iv) Traditionally, Council makes the appointments to the Panels usually because they are due to meet before Licensing Committee is due to meet;
- v) Proportionality is not applied to the Panels, and the current political breakdown is set out in Appendix B.

3.3.3. The Audit and Corporate Governance Committee has a number of sub-committees dealing with specific non-executive functions:

- i) Accessible Transport Appeals Panel – see paragraph 7;
- ii) Appointments Panel;
- iii) Statutory Officers' Appeal;
- iv) Executive Directors' Appeal;

- v) Performance Review;
- vi) Staff Appeals Panel – see Paragraph 7

3.3.4. By custom and practice, statutory Council has established and appointed to these sub-committees rather than the Audit and Corporate Governance Committee and it is asked to do so again.

### 3.4. Standards Committee

3.4.1. Members will be aware that Standards Committee has, as a result of previous decisions by the Council, been excluded from the usual proportionality rules and it is recommended that this continues - the current division of seats is set out in Appendix B.

3.4.2. The Council's statutorily required Independent Persons, Maggie Redfern and Sue Terry, attend Standards Committee as observers as part of their role of advising on Member conduct. Council is asked to re-appoint them for the 2023/24 municipal year.

### 3.5. Health and Wellbeing Board

3.5.1. The Council is required to have a Health and Wellbeing Board under the Health and Social Care Act 2012, which must include defined non-councillor members, such as a Camden Clinical Commissioning Group representative. The Leader of the Council appoints the councillors who sit on the Board and the rules on proportionality are disapplied as per Council's decision when it was set up.

### 3.6. London Councils

3.6.1. Camden is a member of London Councils, along with the other 32 local authorities in Greater London, and some functions are assigned to London Councils' committees as set out in Appendix A. The Leader appoints the Council's representatives to sit on the London Councils committees.

### 3.7. Other miscellaneous bodies

3.7.1. The Council is required to have the following bodies which are not formal committees within the meaning of the Local Government Act 1972:

- i) Pension Board, where one of the four members of the Board is a councillor, acting as an employer representative and appointed by Council;
- ii) Statutory Panel for Statutory Officer Dismissal, which under Camden's previously agreed arrangements is comprised of the Camden's Independent Persons (see 4.4.2.) plus another council's independent person;
- iii) Standing Advisory Council for Religious Education (SACRE), where the seven local authority members are appointed by Council and, although not a requirement, these appointments reflect the political balance of the Council. The other appointments are delegated to the Executive Director

Supporting People in line with the wishes of the relevant religious denominations.

- 3.7.2. These bodies are listed in the Constitution with appropriate notes to clarify that these are not formally committees of the Council, but statutory bodies in their own right.

#### **4. Delegations to officers**

- 4.1. All matters not reserved to Council bodies as per the Constitution are delegated to the relevant Executive Director to exercise, who may in turn authorise other officers to exercise those functions as per their internal authorisation schemes; those internal authorisation schemes are published and can be accessed online alongside the Constitution. The Leader of the Council decides which executive functions are delegated to officers, and full Council agrees the non-executive delegations. Through agreeing Appendix A, Council is asked to continue these delegation arrangements.

#### **5. Meeting dates**

- 5.1. By custom, Council is asked to agree the programme of meeting dates for the municipal year. This does not impact on the ability of meetings to subsequently be added, cancelled, or rearranged in accordance with the relevant procedures in the Constitution.
- 5.2. The dates set out in Appendix A were drawn up in consultation with the group Whips during early 2023.

#### **6. Appointments to outside bodies**

The Constitution provides that all uncontested appointments to outside bodies are delegated to the Borough Solicitor in consultation with Members. Accordingly there are no recommendations to this meeting in respect of those appointments. A list of Council appointments to outside bodies is available on the website at [www.camden.gov.uk/outsidebodies](http://www.camden.gov.uk/outsidebodies).

#### **7. Minor Amendments to the Constitution considered by Audit and Corporate Governance Committee**

- 7.1 The opportunity is often taken at Annual Council to make some minor amendments to the Constitution. Taking very minor changes to regular Council meetings can take up significant Council time and, as the annual report must in any event be submitted, it is seen as sensible to at this stage make any minor and non-urgent changes. It is important, as the annual Council meeting is primarily ceremonial, that the meeting does not become overly political or the proposals subject to any serious debate. To help ensure this, any Constitutional changes are designed to be simply a tidying up and clarification. They do not therefore seek to make any significant changes in decision making or impact



the rights and duties of Members. The below were taken to Audit and Corporate Governance Committee in advance of their submission here and the Committee had no substantive comments.

7.2 The following are therefore minor changes which are being suggested to annual Council.

### 7.2.1 Call in Procedure

On occasion there has been confusion amongst Members as to whether or not, when calling in a decision, this can only be done if they consider that the decision is outside of the budget or policy framework. This is not the case. Rather the rules mean that *if* those seeking to call in the decision believe that it does lie outside the budget or policy framework this must be clearly stated so that officers can respond. Therefore, the below amendment to the rules is being suggested. In addition, while any suggested alternative course of action must be lawful to be subsequently agreed by Committee and implemented by officers currently unlawful suggestions would not of themselves prevent the call in progressing. As with similar things submitted to him as long as the call in is submitted in time the Borough Solicitor would advise the members submitting it as to how to amend the call in to ensure lawfulness in any proposals.

*During that period, the Proper Officer shall call in a decision for scrutiny by the appropriate Scrutiny Committee if a valid request is received*

*A valid request is one which:*

- a. *is submitted by four members of the Council: and*
- b. *gives reasons in writing for the call-in and outlines an alternative and **lawful** course of action ~~In particular the request must state whether or not those members believe that the decision is outside the policy or budget framework: and~~*
- c. *is submitted to the Proper Officer within 5 working days of the date of the publication*
- d. ***if those members consider that the decision to be called in is outside of the policy or budget framework they must state this and explain in what way it is outside of the framework***<sup>1</sup>

### 7.2.2 Contract Standing Orders

As a result of legislation, and in line with good practice, all contracts that the Council enters into which include the transfer or processing of personal data should be in writing. While officers do comply with this in any event, it would be sensible to amend Contract Standing Orders to reflect this. Therefore, the following amendment is suggested:

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<sup>1</sup> A request for a call in does not have to allege that a proposed decision is outside of the policy or financial framework for it to be called in but if it does so allege this this must be included in the request

*“All contracts of £25,000.00 and over, or which include the transfer or processing of personal data, must be in writing (with those involving personal data including appropriate related clauses) save for contracts made in extreme urgency which must be subsequently confirmed in writing”*

### 7.2.3 Accessible Transport Appeals

As a result of changing practice in the department the number of accessible transport appeals have diminished significantly. The only reference to Accessible Transport Appeals Panels in the Constitution refers to there being more than one panel. It is suggested that this is changed to the singular and when the committees are formed that we appoint to one single panel. It is also proposed that this panel does not have its meeting dates set annually, but rather that meetings are arranged as and when necessary. The Head of Camden Accessible Transport Services will be bringing a report to the Audit and Corporate Governance Committee reviewing current practice and making suggestions about appeals in due course.

### 7.2.4 Declarations of a vacancy in Council seats

There are a number of reasons why a Council seat may become vacant mid-term. The ways in which this might happen and circumstances in which it does happen are strictly laid down in law. There is no real discretion and it is a matter of law and the fact. The legislation directs that the Council declares such a vacancy and the custom and practice in Camden (as elsewhere) is that this falls to the Chief Executive. It is suggested that the Constitution formally records that, pursuant to Part V Local Government Act 1972, the Chief Executive declares vacancies in Camden.

### 7.2.5 Duration of Council Meetings

The Council Procedure rules specify that Council meetings end at 10.00pm. This assumes that all Council meetings begin at 7.00pm and continue without a break for the intervening period. To avoid the need to waive procedure rules in the event of the meeting starting earlier or later than 7pm, it is suggested a clause is added as follows

“...10.00pm, or later or earlier as declared by the Mayor at the commencement of the meeting so as to ensure that the Council has sat continuously for three hours...”

### 7.2.6 Hybrid Meetings

Since the Covid-19 pandemic Members have become familiar with the practice of hybrid meetings, where Members of the committee in question are physically in attendance if they wish to count towards quorum and vote, but guests (including members who are not part of the committee) and officers are able to join the meeting remotely. Members will also be familiar with the agreement of members being sought at the beginning of each meeting to apply these rules. It is suggested that rather than seeking that agreement at the beginning of each

meeting (which we currently do other than for those where we know there are going to be no remote attendees) we instead amend the Constitution so that this procedure applies automatically to all meetings. While difficult to envisage the circumstances, it is suggested that the Chair of the meeting is able to seek to disapply the procedure at the start of a meeting subject to the agreement of the meeting – otherwise they apply should there be remote attendees. Attached (Appendix C) are the rules which will be amended in order to remove specific reference to Covid-19 and then incorporated into the Constitution. It also includes amendments suggested by Audit and Corporate Governance Committee. We will add to the Council procedure rules (which by default apply to all meetings) a clause which states that the rules which are attached apply to all meetings.

The Leader will be asked to amend the Cabinet procedure rules in her annual report to reflect this.

#### **7.2.7 State of the Borough Report**

In commissioning the new State of the Borough report, which is designed to be annual, it was always the intention that this report be submitted to full Council for consideration. It is therefore suggested that the Council's procedure rules be amended to include reference to this report coming directly to Council. This will not prevent scrutiny committees receiving and commenting on this report - it simply eliminates the technical need for one of them to formally refer the report to Council for it to appear on the Council agenda.

#### **7.2.8 Staff Appeals Sub-Committees**

For some years, and even before the Covid pandemic, the number of Staff Appeals that have needed to be determined by the staff appeals sub-committees has been reducing. It is therefore suggested that, rather than appointing four such sub-committees, as has been the case in the past, when the committees are established only one single staff appeals sub-committee is appointed. It is also proposed that this sub-committee does not have its meeting dates set annually, but rather that meetings are arranged as and when necessary.

### **8. Finance Comments of the Executive Director Corporate Services**

The Executive Director Corporate Services has been consulted on the report. There are no direct financial implications arising from the recommendations.

### **9. Legal Comments of the Borough Solicitor**

This is a report of the Borough Solicitor and there are no further legal comments.

**10. Environmental Implications**

There are no environmental implications.

**11. Appendices**

**Appendix A** Terms of Reference of Council committees and municipal schedule of meetings 2023/24

**Appendix B** Membership of Council bodies 2023/24 (updated version with nominations to be tabled prior to the meeting)

**Appendix C** Hybrid Meeting rules to be incorporated into the meeting procedure rules

**REPORT ENDS**