

LONDON BOROUGH OF CAMDEN	WARDS: All
REPORT TITLE: Establishment of, and Appointments to, Council Bodies within the Constitution, and Minor Amendments to the Constitution	
REPORT OF: Borough Solicitor	
FOR SUBMISSION TO: Council	DATE: 15 th May 2024
<p>SUMMARY OF REPORT:</p> <p>This annual report outlines the requirements relating to the establishment of bodies within the Constitution for the 2024/25 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, make some minor changes to the Constitution and agree those and the Constitution as a whole.</p> <p>LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION No documents which are required to be listed were used in the preparation of this report.</p> <p>CONTACT OFFICER: Andrew Maughan Borough Solicitor Town Hall Judd Street London WC1H 9JE E-mail: andrew.maughan@camden.gov.uk Tel: 020 7974 5656</p>	
<p>RECOMMENDATIONS:</p> <p>That Council:</p> <ol style="list-style-type: none"> i) Agrees to establish the bodies, their size and terms of reference and meeting dates for the 2024/25 municipal year as set out in Appendices A and B; ii) Appoints those nominated by the political groups as set out on the updated version of Appendix C circulated before and tabled at the meeting and/or announced at the meeting to those bodies, including Chairs and Vice-Chairs as appropriate, for the 2024/25 municipal year (unless otherwise stated); iii) Agrees that the Constitution shall remain unchanged other than those amendments considered by Audit and Corporate Governance Committee and those reviewed by the Democratic Review Group detailed in paragraph 7, and otherwise confirms it as currently published; and iv) Agrees the arrangements for delegations to officers as set out in Appendix A. v) Delegates authority to the Borough Solicitor to make and publish an amended Constitution following the changes made pursuant to iii) above. 	

SIGNED:

A handwritten signature in blue ink, appearing to read "Andrew King". The signature is fluid and cursive, with a long horizontal stroke at the end.

Borough Solicitor

Date: 2nd May 2024

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 30th March 2023 and had no substantive comments to make on them. In addition, while discussing the operation of the Council at its meeting on 22nd April 2024 the cross-party Democratic Review Group suggested some further minor amendments which are now put before Council.

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.
- 2.3. As members are aware, following the resignation of Councillor Gio Spinella a by-election was held in the Frognaal Ward on Thursday 2nd May 2024. The by-election is due to be counted on the 3rd May and the result at the date of writing this report is unknown. Officers will consider what, if any, impact the results of the election have had on proportionality, and this will be confirmed in writing to all members in due course. The blank version of Appendix C which is attached reflects the current calculation.
- 2.4. The Council is asked, by agreeing to the allocations in the version of Appendix C (which will reflect any changes following the by-election) which will be circulated prior to the meeting, to agree to continue to disapply proportionality

on the Health and Wellbeing Board, Licensing Panels, Standards Committee and the Joint Chairs of Scrutiny Committee for the 2024/25 municipal year.

- 2.5 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.
- 2.6 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.
- 2.7 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.
- 2.8 Appointments made at statutory Council are for the whole municipal year unless otherwise stated.
- 2.9 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.
- 2.10 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 2023/24, 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 2024/25 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 C.

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
- ii) Appointments Panel;
- iii) Statutory Officers' Appeal;
- iv) Executive Directors' Appeal;
- v) Performance Review;
- vi) Staff Appeals Panel

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 C.

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 2024/25 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 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 Children and Learning 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 B were drawn up in consultation with the group Whips during early 2024.

6. Appointments to outside bodies

6.1 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.

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. Subsequently, the Democratic Review Group met on the 22nd April to discuss arrangements at Council. Emerging from that meeting were some minor proposals which were considered appropriate to bring straight to Council for agreement. They are separately identified below.

7.2 Borough Solicitor's Delegation.

Current Wording

15.03 of the Constitution sets out the Borough Solicitor's current delegation with regards to legal proceedings. This states as follows: 15.03 Legal proceedings The Borough Solicitor is authorised to: - Institute, defend or participate in any legal proceedings other than in the case of offences under the Health and Safety at Work Act 1974 (as amended) which are instituted by an authorised inspector; Impose a financial penalty as an alternative to instituting legal proceedings; and When urgent, so any delay would be prejudicial to the interests of the Council, to make a decision to settle any legal proceedings, in consultation with the relevant Cabinet Member(s) and the Executive Director Corporate Services. In any case where such action is necessary to give effect to decisions of the Council or in any case where the Borough Solicitor considers that such action is in the Council's best interests.

Proposed new wording

The Borough Solicitor is authorised to: -

1. Institute, defend or participate in any legal proceedings or impose a financial penalty as an alternative to legal proceedings in any case where such action is necessary to give effect to a decision of the Council or otherwise the Borough Solicitor consider such action to be in the Council's best interests
2. To authorise other officers to exercise the powers in 1 above in the Borough Solicitor's name and also to note where officers have statutory power to do so in their own right to be recorded in the Borough Solicitor's scheme of delegation [here](#).
3. When urgent, so any delay would be prejudicial to the interests of the Council, to make a decision to settle, stay or otherwise compromise any legal

proceedings, in consultation with the relevant Cabinet Member(s) and the Executive Director Corporate Services.

Reasons for proposed change

There are a number of areas of legal activity within the Council which are undertaken not by the legal department but by other parts of the Council. The officers who undertake these areas of activity are experienced and such work being undertaken outside of the legal department is neither unusual nor surprising to the courts. This includes for example rent recovery cases and applications for certain warrants. In addition, some officers, Health and Safety being the most notable example, are by statute authorised to bring prosecutions in their name. The above change will mean that there is a clear audit trail for these matters via the Borough Solicitor. Except where separately authorised directly by statute all legal activity authority flows through him and is recorded in his scheme of delegation which is also on the web site but can be updated without the need for further decision by the Council. As the proceedings are in his name he can also if necessary intervene at any time should he consider that this is in the best interests of the Council.

7.3 Sealing of Council's Deeds

Current wording in the Constitution

15.05 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Borough Solicitor. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be added to those documents which in the opinion of the Borough Solicitor should be sealed. The adding of the Common Seal will be witnessed by the Borough Solicitor or some other person authorised by him/her

Proposed new wording

The Common Seal of the Council will be kept in a safe place in the custody of the Borough Solicitor. A decision of the Council, or of any part of it, including made by an officer with delegated authority will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be added to those documents which in the opinion of the Borough Solicitor should be sealed. The adding of the Common Seal will be witnessed by the Borough Solicitor or some other person authorised by him/her. The Common Seal of the Council may be affixed either by physical means or by such electronic means as the Borough Solicitor may from time to time authorise. The affixing of an electronic seal shall be of the same legal effect as affixing the Common Seal of the Council physically.

Reason for proposed change

Changes to the provisions covering sealing are proposed to keep up with advances in technology and to enable electronic sealing in the future. This is something the legal service is actively looking at.

7.4 Changes discussed at Democratic Review Group – suggested amendments to Council Procedure Rules in red

Deputations and Petitions

27.5 The Mayor will decide whether the deputation or the petition is to be received or not, or whether the deputation or the petition should be heard by another body. In deciding whether or not to redirect a deputation or a petition to another body **and/or whether to accept it at all**, the Mayor will amongst other things consider

1. Whether the matter could benefit from an in-depth analysis which could be provided at Council
2. Whether it is of wide interest to the Borough
3. Whether the deputation or petition has already been aired recently at another Council body.
4. **The business that the meeting needs to complete and the time any deputation/s would take**
5. **Who the deputation is from, taking into account that deputations are intended primarily for constituents to bring issues to the attention of the Council.**
6. **That the Council does not accept deputations from serving politicians or those who are actively seeking election**
7. **Timing in relation to the electoral cycle and, in particular, whether the meeting is taking place in or close to the pre-election period**

A maximum of three deputations or petitions will be taken at each Council meeting with the mayor deciding which to accept with an overall maximum time allocated to deputations and petitions of 30 minutes.

Reasons for change

The list of factors to be taken into account by the Mayor has been added to, to include what has been custom and practice. As before, the list is not exhaustive.

7.5 Members' Allowance Scheme

Band 7

Cabinet Advisors/**Associate Cabinet Members** (x4)

Articles

Cabinet Advisors/**Associate Cabinet Members**

The Leader will appoint up to four cabinet advisers **or Associate Cabinet Members** each municipal year. The Leader will decide, in consultation with their Cabinet, the policy area in which the Cabinet Advisor will focus their

recommendation-making and the area in which the Associate Cabinet Members will focus their time and attention and give assistance to the relevant Cabinet Member. Neither the Associate Cabinet Members nor the Cabinet Advisors will sit as part of the Executive nor will they have any decision making powers. The Leader has the right to remove any Cabinet Advisor or Associate Cabinet Member from their respective positions at any time.

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

Appendix B - Municipal schedule of meetings 2024/25

Appendix C - Membership of Council bodies 2024/25 (updated version with nominations to be circulated, reflecting any changes following the by-election, prior to the meeting)

REPORT ENDS