



City of Westminster

Annual Council Report

Date:	16 May 2018
Classification:	For General Release
Title:	Constitutional Matters
Report of:	Chief Executive and Director of Law
Wards Involved:	Not applicable
Policy Context:	Management of the Council
Financial Summary:	None
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1. Summary

- 1.1 Following the City Council Elections on 3 May 2018, the Chief Executive has received notification from the political groups of the names of the Members which will form the Majority Party and the Minority Party of the Council. These Members will be appointed to serve on Standing Committees, Standing Sub-Committees and subsidiary bodies by the Chief Executive in accordance with notification received by the respective Party Leaders/Whips.
- 1.2 As a result of changes to the Cabinet portfolios notified by the Leader a review of Policy and Scrutiny Committees Terms of Reference has been carried out. Proposals for the revised Committees and their terms of reference are as set out in this report.
- 1.3 The Council is required to confirm the proportional division of seats on the Standing Committees and to note the Members appointed to them. The Committees are required to appoint and confirm the proportional division of seats on their Sub-Committees and subsidiary bodies, and to note the Members appointed to them. The Committees will meet on the rising of the Annual Council Meeting to do this and with the exception of the Westminster Scrutiny Commission appoint their Chairmen, agree the appointment of their Sub-Committees and related matters.
- 1.4 The Joint Committees are detailed in Article 11 of the Constitution. The Council is asked to endorse these.

- 1.5 A minor change to reflect provision for an inflationary increase of 2% to the Basic and Special Responsibility Members Allowances is proposed.

2. Recommendations

- 2.1 That the Standing Committees be established as listed in 2.2 below and their Terms of Reference as set out in Appendix A be approved.
- 2.2 That the Council confirm the proportional division of seats on the Standing Committees as shown in column 3 of Appendix B, circulated separately, as set out below:

Committee	Members	Proportionality	
		Con	Labour
Audit and Performance	4	3	1
General Purposes	4	3	1
Westminster Scrutiny Commission	6	4	2
Family & People Services P&S	8	5	3
City Management & Public Protection P&S	8	5	3
Economic Development, Education, Community and Place Shaping P&S Committee	8	5	3
Housing, Finance and Customer Services P&S	8	5	3
Standards	6	4	2
Pensions Fund	4	3	1
Planning & City Development	19	14	5
Licensing Committee	15	11	4
	90	62	28

- 2.3 That the Council note the Members appointed to the Standing Committees by the Chief Executive following notification received from the respective party Chief Whip under the Local Government (Committees and Political Groups) Regulations 1990 as amended, set out in Appendix B, to be tabled.
- 2.4 That the Council's Constitution, including the Scheme of Delegations to Officers in respect of Non-Executive functions, be endorsed.
- 2.5 That the Joint Committees established in accordance with Section 101 of the Local Government Act 1972, as detailed in paragraph 3.8 below, be agreed.
- 2.6 That the Members Allowances Scheme be amended to reflect a 2% increase in the Basic Allowance and each Special Responsibility Allowance with effect from 1 June 2018 and officers be authorised to amend the Scheme accordingly.

3. Background

3.1 The Local Government and Housing Act 1989 requires local authorities, where Members are divided into political groups, to review periodically the representation of the political groups on their Committees and Sub-Committees to ensure a political balance.

3.2 The following principles apply to the allocation of seats:

- (a) That not all the seats on the body to which appointments are being made are allocated to the same political group;
- (b) That the majority of seats on each Committee are allocated to a particular group if the number of persons belonging to that group is a majority of the authority's membership;
- (c) That, subject to (a) and (b), when allocating seats to a political group, the total number of their seats across all the ordinary committees of the Council must reflect their proportion of the authority's membership; and
- (d) Subject to (a) to (c), that the number of seats on each committee is, as far as possible, in proportion to the group's membership of the authority.

3.3 Sub-Committees are also governed by the political balance rules, but it is not necessary to add up all the Sub-Committee seats and then allocate them in proportion. As far as this is practicable, the allocation of seats on each Sub-Committee should reflect the proportional representation of the political groups on the Council.

3.4 Following the City Council Elections on 3 May 2018 the Conservative and Labour Groups hold, respectively, 41 and 19 of the total of 60 Council seats. The proportion by which seats on Committees should be allocated is 68.33% Majority Group and 31.66% Minority Group. The Chief Whip of the Majority Party has proposed the allocation of committee seats detailed above in paragraph 2.2. On the basis of the 90 committee seats proposed, this equates, with rounding, to 62 Majority Party and 28 Minority Party seats. The Chief Executive and the Director of Law have confirmed that this proposed allocation is in accordance with the proportionality rules. Whilst the membership of the Planning and City Development Committee is slightly contrary to strict proportionality it is considered reasonable given the desire to appoint to it all Members who are appointed to serve on the Planning Applications Sub-Committees a position on the main Committee. For the information of the Council these Sub-Committees are as follows:

Planning (Major Applications) Sub-Committee	7	5	2
Planning Applications (1)	4	3	1
Planning Applications (2)	4	3	1
Planning Applications (3)	4	3	1

- 3.5 Membership of the Council's Standing Committees and Sub-Committees is governed by Standing Order 28 which, in accordance with the Local Government (Committees and Political Groups) Regulations 1990, as amended, provides for Members of Standing Committees and Sub-Committees to be those whose names have been notified to the Chief Executive, who is the duly appointed proper officer for these purposes. The Chief Executive has the delegated power to appoint to all Standing Committees and Sub-Committees in accordance with notifications received from Party officers under the Regulations.
- 3.6 Both political groups on the Council have to notify the Chief Executive of the names of the Members to serve on the Standing Committees, Sub-Committees and subsidiary bodies. It is for the Council to note the Standing Committee memberships as set out in Appendix B to this report, to be tabled, and for the Standing Committees, who are scheduled to meet following this Council meeting, to note their Sub-Committee memberships. In addition the Standing Committees will be asked to appoint their Chairmen and confirm the terms of reference of their Sub-Committees, as set out in the Constitution.
- 3.7 The City Council is required to appoint a Licensing Committee in accordance with the Licensing Act 2003. In accordance with the provisions of the Licensing Act the minimum number of Members who can be appointed to the Licensing Committee is 10 and the maximum 15. The Council, as the busiest Licensing authority, has always appointed the maximum.
- 3.8 The responsibility for the delegation of executive functions sits with the Leader who allocates these to the full Cabinet, a Cabinet Committee, a Cabinet Member or an Officer. The nominated Leader of the Council has confirmed that she is content with the Scheme of Delegations for executive functions to Officers as set out in the Constitution. The terms of reference of the Cabinet, Cabinet Committees and Cabinet Members are set out elsewhere on this agenda.
- 3.9 At present, the constitution of the Planning and City Development Committee consists of 16 members who are also members of the Planning Applications Sub-Committees. It is proposed to establish a new Planning (Major Applications) Sub-Committee to consist of 7 members (5:2) to consider those major planning applications which require determination of the Council as a planning authority. In order to allow those members who sit on the Planning Applications Sub-Committee it is proposed to increase the membership of the Planning and City Development Committee to accommodate all such members.
- 3.10 The City Council has a number of Joint Committees established in accordance with Section 101 of the Local Government Act 1972. These are as follows:
- (a) The London Councils Grants Committee
 - (b) The London Councils Transport and Environment Committee
 - (c) The London Councils – Leaders Committee
 - (d) The North West London Joint Health Overview and Scrutiny Committee

3.11 The Council is asked to endorse the Constitution which can be found on the Council's website: www.westminster.gov.uk. Officers have delegated authority to keep the Constitution up-to-date. The Council is asked to note that revisions to the Constitution will be reported via the General Purposes Committee in the coming months. Otherwise the Constitution is kept up-to-date by Officers under delegated powers.

4. Financial Implications

4.1 Provision has been made in the Council's 2018-2019 budget for an increase in the Members Allowances of 2% - to match the increase being paid to officers. Whilst a fuller review of allowances will take place in the summer will make the present scheme fit for purpose pending the outcome of the fuller review. The change proposed accords with the findings of the Independent Panel. Accordingly, a 2% increase is proposed to the Basic Allowance and each of the Special Responsibility Allowances with effect from 1 June 2018.

5. Legal Implications

5.1 The Council is required to carry out a review of seats at least annually in accordance with the Local Government and Housing Act 1989 and the Local Government (Committee and Political Groups) Regulations 1990. These requirements are reflected in this report.

5.2 The Local Authorities (Members' Allowances)(England) Regulations 2003 provide that the Council may amend its Members' Allowances Scheme in year. It is required to publish the amended scheme and give notice of such amendment in the local press.

**If you have any queries about this report or wish to inspect any of the background papers please contact Mick Steward on
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Appendices:

- Appendix A – Terms of Reference of the Committees
- Appendix B – Memberships of the Standing Committees (*to be tabled*)

WESTMINSTER SCRUTINY COMMISSION

CONSTITUTION

6 Members of the Council (4 nominated by the Majority Party and 2 by the Minority Party), but shall not include a member of the Cabinet.

TERMS OF REFERENCE

- (a) To carry out those duties assigned to the Westminster Scrutiny Commission as set out in the Constitution.
- (b) To carry out the Policy and Scrutiny function in respect of matters within the remit of the Council's non-executive Committees and Sub-Committees, which are within the broad remit of the Committee, in accordance with the Policy and Scrutiny procedure rules.
- (c) To be responsible for the management and co-ordination of the Policy and Scrutiny function.
- (d) To assign tasks to the most appropriate Policy and Scrutiny Committee, where the issue does not sit within the terms of reference of a particular Policy and Scrutiny Committee.
- (e) To scrutinise the work of the Leader of the Council including at public Question and Answer session(s).
- (f) To approve the Annual Report of Policy and Scrutiny activity, as required under the Constitution.

STANDARDS COMMITTEE TERMS OF REFERENCE

CONSTITUTION

6 Members of the Council, 4 Majority Party Members and 2 Minority Party Member.

TERMS OF REFERENCE

- (a) To promote and maintain high standards of conduct by the Members and Co-opted Members of the City Council.
- (b) To advise the City Council on the adoption or revision of a Code of Conduct for Members.
- (c) Advising, training or arranging to train Members and Co-opted Members on matters relating to the City Council's Code of Conduct for Members.
- (d) To assist Members and Co-opted Members to observe the City Council's Code of Conduct for Members.
- (e) To monitor the operation of the Code of Conduct for Members.
- (f) Consider reports referred to the Committee by ethical standards officers or the Monitoring Officer of investigations into alleged breaches of the City Council's Code of Conduct for Members.
- (g) Where necessary, to conduct hearings into allegations of breaches of the said code, and interview officers, Members and others as required.
- (h) Determining whether allegations of breaches of the said code are made out and determining what action, if any, to take in relation hereto including, where it is determined that a breach has occurred, deciding what sanctions, if any, should be applied in relation to the Member or Member concerned (and for the avoidance of doubt, the Committee shall only have power to impose any sanction authorised by law).
- (i) Consider any complaints in respect of Members referred to the Committee under the City Council's "Whistleblowing" procedure and determining the action to be taken, if any.
- (j) To the extent allowed by the Law, granting dispensations in relation to Member and co-opted Member interests as referred to in the Members Code of Conduct.
- (k) To consider, advise and, if appropriate, take action upon other Member conduct issues not otherwise dealt with under these terms of reference.

PENSION FUND COMMITTEE

CONSTITUTION

4 Members of the Council (3 Majority Party Members and 1 Minority Party Member)

TERMS OF REFERENCE

To have responsibility for all aspects of the investment and other management activity of the Council's Pension Fund, including, but not limited to, the following matters:

- (a) To agree the investment strategy having regard to the advice of the Fund Managers and the independent adviser.
- (b) To monitor performance of the Fund and of the individual Fund Managers;
- (c) To determine the Fund management arrangements, including the appointment and termination of the appointment of the Fund Managers, Custodians and Fund Advisers.
- (d) To agree the Statement of Investment Principles, the Funding Strategy Statement, the Business Plan for the Fund, the Governance Policy Statement, the Communications Policy Statement and the Governance Compliance Statement and to ensure compliance with these.
- (e) To approve and publish the pension fund annual report.
- (f) To prepare and publish a pension administration strategy.
- (g) To make an admission agreement with any admission body.
- (h) To ensure compliance with all relevant statutes, regulations and best practice with both the public and private sectors.
- (i) To determine the compensation policy on termination of employment and to make any decisions in accordance with that policy other than decisions in respect of the Chief Executive, Chief Officers and Deputy Chief Officers of the Council (which fall within the remit of the Appointments Sub-Committee).
- (j) To determine policy on the award of additional membership of the pension fund and to make any decisions in accordance with that policy other than decisions in respect of the Chief Executive, Chief Officers and Deputy Chief Officers of the Council (which fall within the remit of the Appointments Sub-Committee).
- (k) To determine policy on the award of additional pension and to make any decisions in accordance with that policy other than decisions in respect of the Chief Executive, Chief Officers and Deputy Chief Officers of the Council (which fall within the remit of the Appointments Sub-Committee).

- (l) To determine policy on retirement before the age of 60 and to make any decisions in accordance with that policy other than decisions in respect of the Chief Executive, Chief Officers and Deputy Chief Officers of the Council (which fall within the remit of the Appointments Sub-Committee).
- (m) To determine a policy on flexible retirement and to make any decisions in accordance with that policy other than decisions in respect of the Chief Executive, Chief Officers and Deputy Chief Officers of the Council (which fall within the remit of the Appointments Sub-Committee). To determine questions and disputes pursuant to the Internal Disputes Resolution Procedures.
- (n) To determine any other investment or pension policies that may be required from time to time so as to comply with Government regulations and to make any decisions in accordance with those policies other than decisions in respect of the Chief Executive, Chief Officers and Deputy Chief Officers of the Council (which fall within the remit of the Appointments Sub-Committee).

CITY MANAGEMENT AND PUBLIC PROTECTION POLICY AND SCRUTINY COMMITTEE

CONSTITUTION

8 Members of the Council (5 Majority Party Members and 3 Minority Party Members).

TERMS OF REFERENCE

- (a) To carry out the Policy and Scrutiny functions, as set out in Article 6 of the Constitution in respect of matters relating to all those duties within the terms of reference of the Cabinet Member for Environment and City Management and the Cabinet Member for Licensing and Public Protection.
- (b) To carry out the Policy and Scrutiny function in respect of matters within the remit of the Council's non-executive Committees and Sub-Committees, which are within the broad remit of the Committee, in accordance with paragraph 13 (a) of the Policy and Scrutiny procedure rules.
- (c) Matters within the broad remit of the Cabinet Members referred to in (a) above which are the responsibility of external agencies.
- (d) Any other matter allocated by the Westminster Scrutiny Commission (WSC).
- (e) To have the power to establish ad hoc or Standing Sub-Committees as Task Groups to carry out the scrutiny of functions within these terms of reference.
- (f) To scrutinise the duties of the Lead Members which fall within the remit of the Committee or as otherwise allocated by the Westminster Scrutiny Commission.
- (g) To scrutinise any Bi-borough proposals which impact on service areas that fall within the Committee's terms of reference
- (h) To oversee any issues relating to Performance that fall within the Committee's terms of reference.
- (i) To have the power to scrutinise those partner organisations whose services fall within the Committee's terms of reference.
- (j) To consider any Councillor Calls for Action referred by a Ward Member to the Committee.

FAMILIES AND PEOPLE SERVICES POLICY AND SCRUTINY COMMITTEE

CONSTITUTION

8 Members of the Council (5 Majority Party Members and 3 Minority Party Member), but shall not include a Member of the Cabinet.

TERMS OF REFERENCE

- (a) To carry out the Policy and Scrutiny functions, as set out in Article 6 of the Constitution in respect of matters relating to all those duties within the terms of reference of the Cabinet Member for Families and Public Health.
- (b) To carry out the Policy and Scrutiny function in respect of matters within the remit of the Council's non-executive Committees and Sub-Committees, which are within the broad remit of the Committee, in accordance with paragraph 13 (a) of the Policy and Scrutiny procedure rules.
- (c) Matters within the broad remit of the Cabinet Members referred to in (a) above which are the responsibility of external agencies and in particular to scrutinise matters relating to the provision of Health Services within Westminster, including the consideration of any reports referred by the local Health Watch.
- (d) To scrutinise the duties of the Lead Members which fall within the remit of the Committee or as otherwise allocated by the Westminster Scrutiny Commission.
- (e) To scrutinise any Bi-borough proposals which impact on service areas that fall within the Committee's terms of reference.
- (f) Any other matter allocated by the Westminster Scrutiny Commission.
- (g) To have the power to establish ad hoc or Standing Sub-Committees as Task Groups to carry out the scrutiny of functions within these terms of reference.
- (h) To oversee any issues relating to Performance within the Committee's terms of reference.
- (i) To have the power to scrutinise those partner organisations that are relevant to the remit of the Committee.
- (j) To consider any Councillor Calls for Action referred by a Ward Member to the Committee.
- (k) To discharge the Council's statutory responsibilities under Section 7 and 11 of the Health and Social Care Act 2001 with regard to any planned substantial developments and variations to NHS services.
- (l) To oversee strategic and accountability issues within local health commissioners and providers.

ECONOMIC DEVELOPMENT, EDUCATION, COMMUNITY AND PLACE SHAPING POLICY AND SCRUTINY COMMITTEE

CONSTITUTION

8 Members of the Council (5 Majority Party Members and 3 Minority Party Members, but shall not include a Member of the Cabinet.

4 co-opted Members with voting rights ie one co-opted representative each from the Church of England and Roman Catholic Diocesan Education Boards and two Parent Governor Representatives. 2 co-opted Members without voting rights, ie 2 Headteachers of Westminster maintained schools.

NB: The voting rights of the co-opted only extend to matters relating to Education.

TERMS OF REFERENCE

- (a) To carry out the Policy and Scrutiny functions, as set out in Article 6 of the Constitution, in respect of matters relating to all those duties within the terms of reference of the Cabinet Member for Economic Development, Education and Community and the Cabinet Member for Place Shaping and Planning.
- (b) To carry out the Policy and Scrutiny function in respect of matters within the remit of the Council's non-executive Committees and Sub-Committees, which are within the broad remit of the Committee, in accordance with paragraph 13 (a) of the Policy and Scrutiny procedure rules.
- (c) Matters, within the broad remit of the Cabinet Members referred to in (a) above which are the responsibility of external agencies.
- (d) Any other matter allocated by the Westminster Scrutiny Commission.
- (e) To have the power to establish ad hoc or Standing Sub-Committees as Task Groups to carry out the Scrutiny of functions within these terms of reference.
- (f) To scrutinise the duties of the Lead Members which fall within the remit of the Committee or as otherwise allocated by the Westminster Scrutiny Commission.
- (g) To scrutinise any Bi-borough proposals which impact on service areas that fall within the Committee's terms of reference
- (h) To oversee any issues relating to Performance that fall within the Committee's terms of reference.
- (i) To have the power to scrutinise those partner organisations that are relevant to the remit of the Committee.
- (j) To consider any Councillor Calls for Action referred by a Ward Member to the Committee.

HOUSING, FINANCE AND CUSTOMER SERVICES POLICY AND SCRUTINY COMMITTEE

CONSTITUTION

8 Members of the Council (5 Majority Party Members and 3 Minority Party Members), but shall not include a Member of the Cabinet.

TERMS OF REFERENCE

- (a) To carry out the Policy and Scrutiny functions, as set out in Article 6 of the Constitution in respect of matters relating to all those duties within the terms of reference of the Cabinet Member for Housing and Customer Services, and the Cabinet Member for Finance, Property and Regeneration.
- (b) To carry out the Policy and Scrutiny function in respect of matters within the remit of the Council's non-executive Committees and Sub-Committees, which are within the broad remit of the Committee, in accordance with paragraph 13 (a) of the Policy and Scrutiny procedure rules.
- (c) Matters within the broad remit of the Cabinet Members referred to in (a) above which are the responsibility of external agencies.
- (d) Any other matter allocated by the Westminster Scrutiny Commission.
- (e) To have the power to establish ad hoc or Standing Sub-Committees as Task Groups to carry out the scrutiny of functions within these terms of reference.
- (f) To scrutinise the duties of the Lead Members which fall within the remit of the Committee or as otherwise allocated by the Westminster Scrutiny Commission.
- (g) To scrutinise any Bi-borough proposals which impact on service areas that fall within the Committee's terms of reference.
- (h) To oversee any issues relating to Performance within the Committee's terms of reference.
- (i) To have the power to scrutinise those partner organisations under a duty to that are relevant to the remit of the Committee.
- (j) To consider any Councillor Calls for Action referred by a Ward Member to the Committee.

PLANNING AND CITY DEVELOPMENT COMMITTEE

CONSTITUTION

19 members of the Council (14 Majority party members and 5 Minority party members). Such members to be members of the Planning Applications Sub-Committees (Nos 1 to 4) and the Planning (Major Applications) Sub-Committee

TERMS OF REFERENCE

- (a) To consider proposed local plan policies (and supplementary planning documents) at appropriate stages of the statutory process for their preparation and adoption and make recommendations to the relevant Cabinet Member.
- (b) To have oversight of the practices and procedures of the Planning (Major Applications) Sub-Committee, Planning Applications Sub-Committees (but not to consider individual planning applications) making recommendations where necessary to officers, Planning Applications Sub-Committees and/or the Cabinet for Planning and Public Realm.
- (c) To consider and recommend a training programme for members of the Planning Applications Sub-Committees.

LICENSING COMMITTEE

CONSTITUTION

15 Members of the Council. 11 nominated by the Majority party and 4 nominated by the Minority party.

TERMS OF REFERENCE

- (a) All matters relating to the discharge by the Authority of its licensing functions as required by Section 7(1) of the Licensing Act 2003.
- (b) To receive reports on Licensing Act 2003 matters, as required by the Council's Policy Statement on Licensing.
- (c) To agree procedures for operation by the Licensing Committee and the Licensing Sub-Committees when conducting hearings and other functions within their terms of reference.
- (d) To establish Licensing Sub-Committees and approve their terms of reference.
- (e) To be responsible for those matters more fully set out in the terms of reference of the Licensing Sub-Committee and to determine any matter referred to it by a Licensing Sub-Committee.
- (f) To consider any reports which are required by Statute to be submitted to the Licensing Committee.
- (g) To be responsible for the delegation to Officers of licensing functions as defined by the Licensing Act 2003 and the other functions included within these Terms of Reference.
- (h) Procedures for the conduct of business at the Officer Panel and the Licensing Sub-Committees, including all matters in respect of the processing of applications.
- (i) Non-executive matters in respect of the Council's Street Markets and all other non-executive Street Trading matters.
- (j) Non-executive matters in respect of licensing functions within these terms of reference and those of the Licensing Sub-Committees.
- (k) The grant, approval, review, refusal, revocation, renewal, transfer of variation of any licence, registration, certificate, consent, permit, approval of permission, except where such function is within the terms of reference of a Cabinet Member or such specific matter is being discharged by a Licensing Sub-Committee.
- (l) All non-executive functions relating to the Gambling Act 2005.