

PART 3 – B

1. RESPONSIBILITY FOR NON-EXECUTIVE COUNCIL FUNCTIONS

The Council has delegated the responsibilities and functions to the Committees and Sub-committees named below and to the Chief Executive. These Committees may consider and decide any matter of relevant non-executive business referred to the Committee by a Sub-committee or a Director. Meetings will commence at 7.15pm and end at 10.15pm with the exception of the Planning Applications Committee, Licensing Sub-Committee and Appeals Committee meetings, which are not subject to the three hour guillotine.

1A Except for matters reserved to Members or other decision makers all other matters relating to the Council's non-executive functions are delegated to the Chief Executive and Head of Paid Service

1.1 The Standards Committee

(a) **Membership:** 12 Members; 8 Council members (other than the Mayor or Leader) and 4 independent members.

(b) **Role and Functions:**

(i) Promotion and maintenance of high standards of conduct within the Council

- To promote and maintain high standards of conduct by Councillors, co-opted members, independent members and church and parent governor representatives;
- To assist Councillors, co-opted members, independent members and church and parent governor representatives to observe the Members' Code of Conduct and other relevant codes;
- To consider proposals to change the Constitution and to advise the General Purposes Committee and the Council of any ethical governance issues considered to arise from them.
- To monitor and advise the Council about the operation of its Code of Conduct in the light of best practice, changes in the law, guidance from the Standards Board and Audit Commission and recommendations of case tribunals under section 80 of the Local Government Act 2000

- To grant dispensations to Councillors, co-opted members, independent members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct.
- (ii) Assistance to members and co-opted members, independent members and church and parent governor representatives
- To ensure that all Members of the Council have access to training in all aspects of the Member's Code of Conduct, that this training is actively promoted, and that Members are aware of the standards expected from local Councillors under the Code.
 - To monitor progress of the Council's Member Development Programme for elected Members
- (iii) Enforcement of the Members' Code of Conduct
- To approve details of the publicity to be issued relating to the Committee's arrangements for handling the initial assessment, review and local determination of complaints and the subsequent monitoring of public awareness and carrying out publicity from time to time.
 - To deal with any reports from a case tribunal or interim case tribunal and any report from the Monitoring Officer on any matter which is referred by the Ethical Standards Officer to the Monitoring Officer.
 - To receive complaints relating to alleged breaches of the Members' code of conduct by Councillors and other persons subject to the code.
 - To establish a sub-committee to carry out the initial assessment of complaints in accordance with the Standards Committee (England) Regulations 2008.
 - To establish a sub-committee to review the initial assessment of complaints in accordance with the Standards Committee (England) Regulations 2008.
 - To deal with any complaints which have been considered by a sub-committee to merit investigation in accordance with the Local Government Act 2000 and the Standards Committee (England) Regulations 2008.
 - To approve the release to any person who is the subject of a complaint considered by a sub-committee to merit investigation of a summary of the complaint.

- To hear complaints against Councillors, independent members and voting co-optees referred back from the Standards Board for England.
- To hear complaints against Councillors, independent members and co-optees arising from alleged breaches of Codes and Protocols falling outside the jurisdictions of the Standards Board for England.
- Monitoring the operation of the Council's code of conduct and the maintenance and content of the Monitoring Officer's register of Members' interests.
- To establish a sub-committee to consider and determine requests to grant dispensations to members in accordance with the Standards Committee (Further Provisions) (England) Regulations 2009.

(iv) Advising the Council on ethical governance matters

- To monitor and review the operation of the Council's Constitution as required by Article 15.1 of this Constitution;
- To be consulted by the Monitoring Officer on ways in which the Constitution could be amended in order to better achieve the purposes set out in article 1 as required by Article 15.1;
- To refer changes to the Constitution to the General Purposes Committee jointly with the Head of Paid service and the Monitoring in accordance with Article 15.2 of the Constitution.
- To advise the Council on ethical and corporate governance issues, and in particular upon the Council's Annual Governance Statement, Corporate Code of Governance and performance indicators so far as they relate to ethical conduct and the Members' Code of Conduct.

(v) Other Functions

- To monitor amendments to and the operation of the Staff Code of Conduct.
- To monitor and receive an annual report on the operation of the Regulation of Investigatory Powers Act 1998;

- To maintain an overview of complaints handling and Ombudsman investigations.
- To determine (under s. 3A of the Local Government and Housing Act 1989) applications by Council employees for exemption from political restriction.
- To determine the publicity other than advertisement in a local newspaper which will be used to invite and encourage applications to become independent members of the Standards Committee.
- To assist in the appointment of independent members.

1.2 **Appointments Committee**

(a) **Membership:** 10 Members

(b) **Functions:**

- (i) To recommend the appointment of a Chief Executive and Head of Paid Service to the Council
- (ii) To interview and appoint Chief Officers, and Officers at director level or equivalent and the Monitoring Officer and to approve statements specifying:
 - the duties of the Officer concerned and
 - any qualifications or qualities to be sought in the person to be appointed and
 - to make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it and
 - to make arrangements for a copy of the statements mentioned in sub paragraph (ii) to be sent to any person on request and
 - to make arrangements to shortlist applicants for these posts and agree the assessments to be sat by shortlisted applicants.
- (iii) To determine the terms and conditions on which officers hold office (including the terms of dismissals), restructures, exits, statutory discretion's relating to termination payments, reorganisations involving changes to staff responsibilities at Deputy Chief Officer and above.
- (iv) All other staffing matters that have not been delegated to any other decision maker.
- (v) (Amended May 18 2005)

1.3 **Planning Applications Committee** (amended by Council 28.04.04)

(a) **Membership:** 15 Members

(b) **Functions:**

- (i) To hear and determine all applications received under the Town and Country Planning Acts, including heads of terms of any ancillary agreements
- (ii) To hear and determine objections to new Tree Preservations Orders
- (iii) To exercise the Council's functions in relation to planning control and building control
- (iv) To consider the implications of changes in legislation and powers relating to control over development and building control, and related enforcement matters
- (v) To develop an annual work programme, set targets and a review mechanism through the year
- (vi) To ensure all the work of the committee promotes the Council's commitment to equality of opportunity for Councillors, staff and the local community
- (vii) To ensure the work of the committee meets the needs and aspirations of the local community and is responsive to the wishes of the community at large
- (viii) To arrange for the discharge of any of its functions by the Director of Environmental Services

1.3A **Licensing Committee** (established 28.04.04)

(a) **Membership:** 10 Members

(b) **Functions:**

- i) To discharge on behalf of the Council all of its licensing functions which are not reserved to full Council pursuant to the provisions of the Licensing Act 2003 and Gambling Act 2005.
- ii) To advise the Council on its Statements of Policy with respect to the exercise of its licensing functions relating to the Licensing Act 2003 and Gambling Act 2005.
- iii) To review the Council's said Statements of Policy at such times as it considers appropriate and report to Council on recommended revisions.

- iv) To delegate functions to sub committee(s) or officers as appropriate, having regard to guidance issued by the Secretary of State
- v) To deal with entertainment licenses and associated consents and street trading licenses

1.4 Appeals Committee

(a) **Membership:** 3 Members

(b) **Functions:** To determine appeals against decisions made by or on behalf of the authority relating to:

- (i) applications for rehousing;
- (ii) licensing determinations; and,
- (iii) any other appeals which are not delegated to another decision-maker.

1.5 Overview And Scrutiny Commission

(a) **Membership:** Membership 19, consisting of 4 co-optees and 15 Council Members.

(b) **Functions:** The functions of the Overview and Scrutiny Commission and Panels are set out in Article 6 of Part 1 of the Constitution and should be read in conjunction with the Overview and Scrutiny Commission Procedure Rules in Part 4-E.

1.5.A Better Health Care Closer To Home Joint Overview And Scrutiny Committee (as amended September 2004)

(a) **Membership:** 18 Members, 5 appointed by Merton

(b) **Functions:** To:-

- i) Review the consultation process and content/format of the consultation document;
- ii) Assess whether the consultation gave sufficient information upon which proposed changes could be approved by residents and staff;
- iii) Evaluate the quality and content of information available regarding the proposed model of care as presented in the BHCH consultation document;

- iv) Evaluate the feasibility of the model of care as presented in the BHCH consultation document;
- v) Evaluate the affordability/costs of the proposals;
- vi) Identify and assess additional factors affecting the consultation or proposed model of care;
- vii) Seek assurances from the PCTs and Programme Board that developments will not be implemented unless they will ensure improvements in the delivery and quality of health services for residents across all boroughs covered by the proposals;
- viii) Seek assurances from the PCTs and Programme Board that there will be sufficient funding for the proposed model of care.

Note

This is a joint Committee established under the Health Act 1999. The other authorities who are part of this committee are Surrey CC, L.B Sutton and the Boroughs of Bromley, Croydon, Kingston, Lambeth, Richmond and Wandsworth who share one representative between them. London Borough of Merton is responsible for appointing five Members.

1.5.B Joint Overview and Scrutiny Committee (St George's)
(established May 18 2005)

- (a) **Membership:** 12 Members, 2 appointed by Merton
- (b) **Functions:**
 - (i) To scrutinise and make recommendations on the proposed changes in specialist service provided by the South West London and St. George's Mental Health NHS Trust and on the consultation on these changes.
 - (ii) To determine whether any other changes that may be proposed in services provided by the South West London and St. George's Mental Health NHS Trust:
 - (a) materially affect services in more than one local authority area; and
 - (b) are so significant as to require formal consultation
 - (iii) To consider whether, following decisions of the relevant NHS Boards on proposed changes within the Joint Overview and Scrutiny Committee's remit:
 - (a) the consultation process was flawed; or

- (b) the decision is not in the interest of the residents and health services, and in either case whether to refer the matter to the Secretary of State for Health.

Note

This is joint Committee established under the Health Act 1999. The other Local authorities are London Boroughs of Wandsworth, Kingston, Richmond, Croydon and Sutton.

London Borough of Merton is responsible for appointing two (2) Members

1.6 Urgency Committee

- (a) **Membership:** 5 Members
- (b) **Functions:** To exercise all of the powers and carry out all the duties of the Council in case of emergency or urgency (with the exception of those which may not be legally delegated) where the interests of the Council would be prejudiced if a decision were not to be taken prior to the next scheduled ordinary meeting of the full Council.

~~1.7 The Audit Committee~~

- ~~(a) **Membership:** 4 Members representative of the Council (being either elected members of the Council or the nominees of party groups and 1 independent member)~~

~~— No member of the Audit Committee shall be either the Mayor, a member of the cabinet or a chair of the Overview and Scrutiny Commission or any chair of an Overview and Scrutiny Panel.~~

- ~~(b) **Role and Functions:**~~

~~The Audit Committee shall be an advisory committee for the purposes of section 101(4) of the Local government Act 1972 which shall have the functions of advising the Council and the Cabinet, as appropriate, in relation to the following activities:~~

~~Audit Activity~~

- ~~i) To consider the Head of Internal Audits' annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the council's corporate governance arrangements.~~
- ~~ii) To consider summaries of specific internal audit reports as requested.~~

- ~~iii) To consider reports dealing with the management and performance of the providers of internal audit services~~
- ~~iv) To consider a report from internal audit on agreed recommendations not implemented within reasonable timescale~~
- ~~v) To consider the external auditor's annual letter, relevant reports and the report of those charged with governance.~~
- ~~vi) To consider specific reports as agreed with the external auditor.~~
- ~~vii) To comment on the scope and depth of external audit work and to ensure it gives value for money.~~
- ~~viii) To contribute to liaison with the Audit Commission over the appointment of the council's external auditor.~~
- ~~ix) To commission work from internal and external audit for the purpose of advising the council or cabinet.~~

~~Regulatory Framework~~

- ~~x) To maintain an overview of the Council's Constitution in respect of contract procedure rules, financial regulations and codes of conduct and behaviour.~~
- ~~xi) To review any issue referred to it by the Chief Executive or a director, or any Council body.~~
- ~~xii) To monitor the effective development and operation of risk management and corporate governance in the council.~~
- ~~xiii) To monitor council policies on whistleblowing and the anti fraud and anti corruption strategy and the Council's complaints process.~~
- ~~xiv) To oversee the production of the authority's Statement on Internal Control and to recommend its adoption.~~
- ~~xv) To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance and best practice.~~
- ~~xvi) To consider the Council's compliance with its own and other published standards and controls.~~

~~Accounts~~

- ~~xvii) To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the~~

~~financial statements from the audit that need to be brought to the attention of the Council.~~

~~xviii) To consider the external auditors report to those charged with governance on issues arising from the audit of the accounts.~~

Reporting

~~xix) To report upon its comments, considerations and oversight activity to the Council, General Purposes Committee and/or the Cabinet as appropriate.~~

~~xx) To advise the Standards Committee of any matter of which the Committee becomes aware which raises an issue regarding the ethical conduct of members or officers of the Council or regarding the sufficiency of any ethical code of conduct.~~

~~xxi) To refer all external audit reports and inspections dealing with finance matters to the General purposes Committee for reference to the Cabinet and where appropriate the council for the preparation and approval of an action plan.~~

(c) Timing of Meetings

~~The Audit Committee will meet at least four times a year. The meetings of the Audit Committee shall be timed within the Council's municipal calendar so as to enable the Committee to carry out its functions at appropriate times within the Council's financial cycle. In particular meetings shall be planned so as to enable the Committee to consider reports and make suitable recommendations in relation to the cycle of assurance statements and the financial reporting calendar and the governance and the business needs of the Council.~~

~~In addition to the programmed meetings any of the following may request the Proper Officer to call an extraordinary meeting of the Audit Committee:~~

- ~~(a) The Chair of the Committee;~~
- ~~(b) The Chief Executive;~~
- ~~(c) The Chief Financial Officer; or~~
- ~~(d) The Monitoring Officer."~~

(d) — Independent Members

~~A person may not be appointed as the independent member of the Audit committee unless the appointment is:~~

- ~~(i) advertised in one or more newspaper circulating in the borough;~~
- ~~(ii) of a person who has submitted an application to the Council;~~

- ~~(iii) of a person appointed by the Chief Executive on behalf of the Council following such interview and appointment process as the Monitoring Officer and Chief Finance Officer shall consider appropriate;~~
- ~~(iv) of a person who has not been a Councillor or officer of the Council in the five years immediately preceding the appointment;~~
- ~~(v) of a person who is not a close relative or close friend of a Councillor or officer of the Council;~~
- ~~(vi) of a person who lives or whose principal place of work is in the borough;~~
- ~~(vii) of a person who has experience of or has received training in finance, audit and corporate governance matters;~~
- ~~(viii) of a person the experience and capacity to chair meetings effectively;~~
- ~~(ix) the ability to consider and evaluate information and arguments and reach sound, justifiable and fair conclusions based on that information; and~~
- ~~(x) of a person who is not a member or officer of another local authority.~~

~~**(e) — Chair of the Audit Committee**~~

~~The chair of the Audit committee will be an independent member of the committee.~~

~~The Chair of the Audit Committee will be entitled to attend and speak at meetings of the Full Council, the Cabinet and committees and sub-committees on matters which are directly related to the Audit Committee's functions.~~

~~In the event of a vote being tied, the Chair shall have a casting vote.~~

~~The Chair of the Committee shall be a person having experience of or having received training in finance, audit and corporate governance matters.~~

~~Any member of the Audit Committee other than a member of the cabinet may be the Vice Chair of the committee.~~

~~The proceedings of the Committee, if otherwise quorate, shall be valid notwithstanding the absence from the meeting or a vacancy for the office of the independent member.~~

1.81.7 General Purposes Committee

(a) **Membership:** 10 Members

(b) **Functions**

- (i) Except for matters reserved by statute for consideration by the Full Council, to determine any matter which has been specifically referred to the Committee for consideration.
- (ii) To approve the Council's statement of accounts and to consider any reports produced by the Chief Finance Officer in accordance with the duty to make arrangements for the proper administration of the Council's financial affairs, but not in respect of the formulation of a plan or strategy which is a function of the Executive (and subject to final approval by the Council) or detailed operational matters which are within the purview of the executive.
- ~~(iii) To consider reports and receive recommendations from the Audit Committee on all reports and plans, including, but not limited to, anti-fraud measures, strategic risk assessments, audit letter and reports from the Audit Commission, and to report to the Council, the Cabinet and /or Scrutiny Committees and Sub-Committees as necessary with decisions and recommendations~~
- (iii) To consider reports and receive recommendations on all plans, including, but not limited to, the Annual Audit Report, anti-fraud measures, strategic risk assessments, audit letter and reports from the Audit Commission, and to report to the Council, the Cabinet and /or Scrutiny Committees and Sub- Committees as necessary with decisions and recommendations.**
- (iv) Subject to the Council's Scheme of Delegation to officers, to discharge the Council's functions in relation to the Local Government Pension Scheme including, but not limited to, the management of the Council's superannuation fund investments and the establishment of a Pension Fund Investment Panel and exercise of Council discretion in relation to adopting policies.
- (v) Subject to the Council's Scheme of Delegation to officers, to discharge the Council's functions in relation to health and safety at work, to the extent that those functions are discharged otherwise than in the Council's capacity as an employer.
- (vi) Subject to the Council's Scheme of Delegation to officers, to discharge the Council's functions in relation to elections.
- (vii) Subject to the Council's Scheme of Delegation to officers, to consider all personnel-related issues which are not within the terms of reference of any other committee or otherwise reserved to Council including the appointment of an independent person to undertake investigations as required into allegations of misconduct against the Chief Executive, Monitoring Officer or

Chief Finance Officer.

- (viii) To receive reports of all payments exceeding £1,000 to persons who have been, or may have been, adversely affected by any maladministration on the part of the Council as identified in a report by the Local Government Ombudsman.
- (ix) To exercise the functions, powers and duties of the Council as Trustee of trusts for which the Council is Corporate Trustee except insofar as those functions have been delegated to Chief Officers of the Council.
- (x) To maintain an overview of the Council's Constitution (insofar as it relates to the discharge of non-executive functions) and Financial Regulations and to consider related reports from the Chair of Standards Committee ~~and the Audit Committee~~. The Head of Paid Service, the Monitoring Officer and/or Chief Finance Officer and to make appropriate recommendations to Council in relation thereto.
- (xi) Any issue which in the professional opinion of the Chief Executive or Chief Officers should be referred to the Committee.
- (xii) Any matter which has been referred by the Council or from another committee for determination.
- (xiii) The setting up of sub-committees and panels and the setting of their terms of reference.
- (xiv) To receive reports upon, monitor, manage and advise the Council upon the implementation of the Council's Member Development Strategy and the Member Development Programme.
- (xv) All other matters which are non-executive functions and which are not otherwise reserved to Council, are not within the terms of reference of any other committee and which are not delegated to officers.
- ~~(xvi) To receive and consider reports and references from the Audit Committee dealing with finance matters and to take such action in relation to the recommendations as fall within the functions of the full Council and to make recommendations to the Cabinet in matters for which the Cabinet is responsible~~
- ~~(xvii) To receive and consider reports from the Audit Committee upon external audit reports and inspections and to refer such reports to the Cabinet and, if appropriate, the Council, for consideration and the approval of an action plan.~~

4.91.8 Borough Plan Advisory Committee

Membership: 6 Members (Members of the Cabinet and Assistant Cabinet members may not be appointed to this Committee)

Functions:

1. To discharge the Council's responsibilities contained in the Local Government Act 2000 and Planning and Compulsory Purchase Act 2004 with respect to the Merton Local Development Framework, specifically to make recommendations as appropriate to the Cabinet and Council on matters including:-
 - i. Local Development Scheme
 - ii. Statement of Community Involvement
 - iii. Development Plan Documents
 - iv. Local Development Documents
 - v. Area Plans and Supplementary Planning Documents
 - vi. Strategic Environmental Assessment
 - vii. Tests of Soundness of Development Plan Documents
2. To consider and advise the Cabinet and Council on the Report of the Inspector conducting the Independent Examination of Development Plan Documents of the Merton Local Development Framework.
3. To advise the Cabinet and Council on the preparation of Local Development Framework Joint Development Plan Documents prepared with adjoining boroughs, specifically the Joint Waste Development Plan Document.
4. To advise the Cabinet and Council on other Strategic / London-wide spatial planning and transport planning matters.
5. To consider the need for information, research, studies and investigations further to the preparation of the Merton Local Development Framework; to approve the Annual Monitor Report; and to advise the Council on the resources required to prepare and review the Merton Local Development Framework.
6. To consider new and emerging legislation relevant to the preparation and review of the Merton Local Development Framework, including linkages of the Local Development Framework to the Sustainable Community Strategy.