

LONDON BOROUGH OF CROYDON

REPORT TO:	General Purposes Committee	
DATE OF DECISION:	28 November 2023	
REPORT TITLE:	Proposed Changes to the Constitution – Increasing the size of the substitution pool for the Appointments and Disciplinary Committee	
CORPORATE DIRECTOR / DIRECTOR:	Jane West, Corporate Director of Resources and Section 151 Officer	
LEAD OFFICER:	Stephen Lawrence-Orumwense, Director of Legal Services and Monitoring Officer	
LEAD MEMBER:	Cllr Sean Fitzsimons	
DECISION TAKER:	Full Council following consideration by the General Purposes Committee	
AUTHORITY TO TAKE DECISION:	The terms of reference of the General Purposes Committee (see Part 3 of the Constitution, Responsibility for Functions) allow it to conduct periodic reviews of the Constitution and consider changes to the Constitution recommended by the Constitution Working Group and to refer any proposals to full Council for approval.	
KEY DECISION?	No	N/A
CONTAINS EXEMPT INFORMATION?	No	Public
WARDS AFFECTED:	All	

1 SUMMARY OF REPORT

- 1.1** This report contains proposed changes to the Council's Constitution relating to the number of substitutes that can be appointed to the Appointments and Disciplinary Committee. More specifically, it is proposed that the substitution pool is tripled. The changes are recommended by the Constitution Working Group (CWG) following their consideration and deliberations on 16 November 2023.
- 1.2** The purpose of this report is for the General Purposes Committee to consider the proposals and make recommendations to full Council for final approval.

2 RECOMMENDATIONS

2.1 For the reasons set out in the report, the General Purposes Committee is recommended:

2.1.1 To consider the proposed changes to the Constitution discussed in the report; and

2.1.2 To recommend to full Council the proposed changes to the Constitution set out at paragraph 5.6.

3 REASONS FOR RECOMMENDATIONS

3.1 The aim of the proposed changes is to improve decision making by providing for more flexible substitution arrangements for the Appointments and Disciplinary Committee.

4 BACKGROUND AND DETAILS

4.1 Generally, the function of making appointments to Council committees (both regular and substitute members) is reserved to full Council. Political groups make nominations to full Council, but cannot themselves decide the membership of committees. However, full Council is required to exercise its power so as to give effect to the wishes of the relevant political group.

4.2 The Constitution currently makes provision for the appointment of substitute or reserve members as follows:

“2.7 For all non-Executive Committees, the Council will appoint the same number of substitutes in respect of each political group as that group holds ordinary seats on that Committee.” (Part 4A - Council Procedure Rules)

4.3 According to the Constitution, the Council’s Pay Policy Statement 2023-24 and established practice, among other things, the Appointments and Disciplinary Committee (ADC) has the delegated power to carry out interviews and approve or recommend the approval (as appropriate) of appointments at director level and above.

4.4 ADC also has the power to approve the grading and conditions of service of officers subject to the JNC Chief Executive and JNC Chief Officer conditions of service.

5 PROPOSALS

5.1 In the main, one substitute for each regular member of a committee works well but is problematic for ADC.

- 5.2** Six members are appointed to ADC: three Conservative and three Labour. Both the regular and substitute Conservative members of ADC are Cabinet members.
- 5.3** However, as there are nine members of Cabinet (including the Executive Mayor), it is not currently possible to ensure that every Cabinet member is able to consider, for example, approving the appointment of an officer at director level and above even if the appointment relates to their portfolio.
- 5.4** Greater flexibility is required for ADC and it is proposed that the Constitution is amended so as to increase (by tripling) the pool of substitutes for ADC. This would then allow full Council to appoint the three other Cabinet members to ADC and thereby making it possible for a regular member of ADC to allow the relevant Cabinet member to substitute for them.
- 5.5** Of course, it affords the same flexibility to the Labour group too in relation to Shadow Cabinet membership. CWG recommended tripling (as opposed to merely doubling) the substitution pool to afford political groups the greater flexibility of appointing non-Cabinet/Shadow Cabinet members as substitutes too.
- 5.6** It is proposed that the Constitution is amended as follows:

“2.7 For all non-Executive Committees, other than the Appointments and Disciplinary Committee, the Council will appoint the same number of substitutes in respect of each political group as that group holds ordinary seats on that Committee. For the Appointments and Disciplinary Committee, the Council will appoint the triple the number of substitutes in respect of each political group as that group holds ordinary seats on that Committee.”

6 ALTERNATIVE OPTIONS CONSIDERED

- 6.1** This is a common issue for councils. The solution some councils have adopted is to appoint a standing main committee and then allow that committee to appoint a sub-committee for each appointment in order to ensure that the membership of the sub-committee matches, for example, the appointment in hand.
- 6.2** On balance, however, that is not the preferred option because in practice it often creates as many problems as it is intended to solve. It means that for each relevant decision there has to be two separate meetings which is not an effective use of the time of members and officers and is an inefficient use of limited Council resources. Requiring some members to attend two meetings in close succession can also create availability issues.

7 CONSULTATION

7.1 Consultation on the proposals has been with the Executive Mayor and CWG.

8 CONTRIBUTION TO COUNCIL PRIORITIES

8.1 Outcome 1; Priority 4:

Ensure good governance is embedded and adopt best practice.

9 IMPLICATIONS

9.1 FINANCIAL IMPLICATIONS

9.1.1 There are no direct financial implications arising from the proposed changes.

9.2 LEGAL IMPLICATIONS

9.2.1 The law relevant to the proposed changes has been referenced in the body of the report.

9.2.2 Adopting changes to the Council's Constitution is a non-executive function reserved to full Council which is why the Committee is asked to consider the proposed changes and make a recommendation.

9.2.3 According to s9P of the Local Government Act 2000 the Council must keep its Constitution up to date.

9.3 HUMAN RESOURCES IMPACT

9.3.1 There are no direct workforce implications arising from the proposed changes.

9.3.2 All members of ADC (including appointed substitutes) will receive training on relevant HR matters in early 2024.

9.4 EQUALITIES IMPLICATIONS

9.4.1 Under section 149 of the Equality Act 2010, the Council has a duty when exercising its functions to have "due regard" to the need to eliminate discrimination, harassment and victimisation and any other conduct

prohibited under the Act and advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. This is the public sector equality duty. The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

9.4.2 “Due regard” is the regard that is appropriate in all the circumstances. The weight to be attached to each need is a matter for the Council. As long as the Council is properly aware of the effects and has taken them into account, the duty is discharged.

9.4.3 There are no equalities impacts directly arising from the proposed changes.

10 APPENDICES

10.1 None.