

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE GENERAL PURPOSES COMMITTEE

HELD AT 7.10 P.M. ON WEDNESDAY, 27 MARCH 2013

**MP702, 7TH FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE CRESCENT,
LONDON, E14 2BG**

Members Present:

Councillor Shiria Khatun (Chair)

Councillor David Edgar
Councillor Peter Golds

Councillor Khales Uddin Ahmed

Other Councillors Present:

Councillor Craig Aston

Officers Present:

Jill Bell	– (Head of Legal Services (Environment), Legal Services, Chief Executive's)
David Courcoux	– (Political Adviser to the Labour Group, Chief Executive's)
Hania Franek	– (Head of School Governance & Information, Education Social Care & Wellbeing)
Paul Greeno	– (Senior Advocate, Legal Services, Chief Executive's)
Chris Holme	– (Acting Corporate Director - Resources)
Louise Stamp	– (Electoral Services Manager, Chief Executive's)
Angus Taylor	– (Principal Committee Officer, Democratic Services, Chief Executive's)

COUNCILLOR SHIRIA KHATUN (CHAIR) IN THE CHAIR

1. APOLOGIES FOR ABSENCE

Apologies for absence were received on behalf of:

- Councillor John Pierce (Vice- Chair). for whom Councillor Khales Uddin Ahmed was deputising.
- Councillor Lutfu Begum.
- Councillor Ahmed Adam Omer.

Noted

2. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS

No declarations of Disclosable Pecuniary Interest or other declarations of interest were made.

3. UNRESTRICTED MINUTES

The Chair **Moved** and it was:-

Resolved

That the unrestricted minutes of the ordinary meeting of the General Purposes Committee, held on 19th December 2012, be agreed as a correct record of the proceedings, and the Chair be authorised to sign them accordingly.

Action by:

Angus Taylor (Principal Committee Officer, Democratic Services, CE's)

4. UNRESTRICTED REPORTS FOR CONSIDERATION

4.1 Olympic Park Byelaws

Mr Greeno, Senior Advocate – Legal Services, introduced and highlighted key points in the report, which provided details of proposals for byelaws to cover the Queen Elizabeth Olympic Park ('the Park') following handover of the Park in 2013 to the London Legacy Development Corporation (LLDC). The Park straddled several local authorities, including Tower Hamlets, with each asked to make identical byelaws, for parks/ open spaces and public conveniences, thereby addressing potential problem behaviours and ensuring acceptable behaviour in the Park.

A discussion followed which focused on clarification being sought and given on the following points:-

- What stage had the other relevant boroughs reached in the making of these byelaws. Some other boroughs had applied to DCLG for pre-approval of their byelaws well ahead of the July 2013 deadline.
- Whether there were significant differences between the byelaws to apply in the LBTH part of the Park and those to apply in other parts. There would be a difference in the age threshold to use play areas with this having been raised to 14 years old in LBTH but being 11 in the Park.
- Whether a person would be able to undertake an activity such as archery in a part of the park in one borough but not in another part. No the byelaws in one area complemented those of another.

- Whether these byelaws would also apply to smaller parks and open spaces in Tower Hamlets. No a separate byelaw making process had commenced before this one and these were due to come into force in other LBTH parks later in the year.
- Also whether they would apply to open spaces on Housing Association land. No; and byelaws for HA land fell under the provisions of different statutory powers.
- In the event of a breach of the byelaws, what enforcement action could be taken, who was empowered to take this, who was responsible for the cost of this. Whether consideration had been given to byelaws to mitigate abuse of the Park by 'problem Travellers' as had happened in the recent past with the "Occupy" campaign in Mile End Park. The LLDC security Officers could not enforce only ask people to desist and the process to escalate enforcement to Safer Neighbourhood teams or the Police was outlined, and who bore responsibility for the cost of this. Trespassing Travellers could be dealt with by court order.
- Whether there had been any breaches of park byelaws in recent years. There had not been a prosecution for breach of park byelaws in LBTH in at least 20 years.

The Chair **Moved** the recommendation as set out in the report, and it was: -

Resolved:

That Full Council be recommended to make two sets of byelaws for Queen Elizabeth II Olympic Park, as set out in Appendix 1 and 2 to the report.

Action by:

Angus Taylor (Principal Committee Officer, Democratic Services, CE's)
Paul Greeno (Senior Advocate, Legal Services, CE's)

4.2 Review of Virement Rules

Special Circumstances and Reasons for Urgency

The Chair informed members of the GPC that the special circumstances and reasons for urgency associated with the proposals were as below.

"The report on Review of Virement Rules follows the Budget Council decision of 7th March 2013 and required research into what actions had been taken as a result of a previous Council decision. In order to take forward the proposed amendment at Budget Council which could not be considered at that meeting this is the earliest opportunity for the matter to be considered."

The **Chair** subsequently **agreed** the special circumstances and reasons for urgency, indicating that she was satisfied that the matter was urgent, as defined in the Authority's Constitution (Part 4 Rules of Procedure, Section 4.2 Access to Information Procedure Rules, Rule 6 Items of Business, sub paragraphs 6.3 and 6.5. The special circumstances justifying urgency being as detailed above.

Mr Holme, Acting Corporate Director Resources, introduced and highlighted key points in the report, which:

- Provided background information regarding the need for establishment of a working group to undertake a review budget making/ virement arrangements and make recommendations to Council. Terms of Reference and timeline for the proposed review were also reported.
- Outlined the definition and nature of virements and statutory guidance about them.
- Detailed the existing virement rules set out in the Authority's constitution.

Mr Holme emphasised that he had progressed the initiation of the review and with GPC approval would progress the engagement of CIPFA to help identify a suitably qualified and experienced independent advisor to the working group.

A discussion followed which focused on the following points:-

- Commented that it was disappointing that a resolution of full Council taken in January 2012, instructing the then Interim Chief Executive to set up a working group on budget making and virement arrangements, was only being progressed in March 2013. Officers clarified that agreement had not been reached on setting up the working group, and in particular identifying the independent adviser to it. The action had been for another Officer to take, but was now being taken forward by the Acting Corporate Director Resources.
- Clarification was sought and given as to:
 - Whether Officers were more optimistic that stakeholder agreement on the Independent Adviser (IA) would now be reached.
 - What comprised the review cost of £15,000, and particularly the element for providing an IA.
- Whether the costs associated with recruiting and remunerating an independent adviser were a good use of public funds. Consensus that the review process needed taken forward and the engagement of CIPFA in the IA recruitment was an important ingredient in achieving agreement on the IA and achieving progress.
- Consideration that the Mayor's recent agreement of virements of approximately £700k, to fund activities not provided for in the Budget set by full Council, merited action to prevent similar future decisions. Accordingly the Chair informed members of the Cabinet that she had **Tabled** a written **Motion** in relation to the recommendations set out in the report, a copy of which would be interleaved with the minutes. The Chair then formally **Moved** the written motion as tabled, together with the following additional proposal, for the consideration of members of the GPC:-

"That the Local Government Association (LGA) and London Councils conduct a review [of virement arrangements] as part of their governance investigation."

- Councillor Edgar, in **Seconding** the tabled written motion as amended orally by the Chair [the 'motion on the table'], commented and sought Officer responses as follows:
 - It was important to have a dialogue regarding the Overview and Scrutiny Committee (OSC) being the mechanism to police the virement cap.
 - The timescale for constitutional changes to affect a virement cap was constrained given the complexity of the issues and work required. However there was an imperative to act quickly as a decision had been made which was not in line with the Authority's Budget. The full Council had wanted to set a £200k limit on virements not requiring its approval, and there was a need to act quickly to resolve the issue and ensure clarity.
 - The LGA and London Councils were already undertaking a review of governance in LBTH and the Budget making and virement arrangements should be included in this.
- Ms Bell, Head of Legal Services Environment and Mr Holme, Acting Corporate Director Resources, responded:
 - Officers were not aware that the LGA and London Councils had commenced a review in LBTH.
 - The timetable proposed in the tabled motion was extremely tight, and may not be achievable, if work on the proposals it contained had not already started. Changes to virement rules would require advice to be sought, which may not be available in the timescale. Complex matters needed time for examination eg ratio of virement limit. to overall Council budget and the level of spend in the Authority's control (as this may be less if outsourced and under contract).
 - The constitutional changes being proposed for recommendation to full Council were significant and robust reasons for making the changes would be required, and these had not yet been given.
 - The OSC was not a decision making body, and if the approvals of virements above a cap were to be referred to a committee for determination it should probably be the GPC. The statutory and constitutional position required examination.
 - Any decision to introduce a virement limit of £200k had significant implications for the Section 151 Officer and his Section 114 responsibilities and this needed examination.
 - Several scenarios were cited which might require urgent remedial action and an urgent funding decision, and it was uncertain how these would be dealt with without emergency action or virement powers. Therefore the operational detail needed examination, as service delivery may be severely impacted and the authority put at risk. There was a duty on the authority to properly administer its financial affairs and the proposed virement cap might limit its ability to meet this obligation.

- Officers had understood proposed changes to virement rules were to be temporary, not permanent as the in the tabled motion.
- Clarification was sought and given as to whether Officers were suggesting that whilst the working group to review budget making/ virement arrangements was established and reported, that there be a temporary £200k virement cap in the meantime. Ms Bell clarified that the full Council meeting on 17th April could be recommended to set a temporary virement cap pending the outcome of this review.
- Consideration that extreme circumstances had been given as a rationale not to introduce the virement cap, and the Authority should make decisions based on the current position not a hypothetical one.

Adjournment

At this juncture the Chair informed members of the GPC that she considered it appropriate that there be a short adjournment to allow Members time to assimilate and discuss the comments/ advice of Officers in relation to the motion she had proposed, and determine if it should be amended further. Accordingly the Chair **Moved** the following procedural motion for the consideration of members of the GPC, and it was: -

Resolved

That the GPC adjourn for a period of 10 minutes, at 7.50pm, and that the meeting reconvene at 8.00pm.

The meeting adjourned at 7.50pm
The meeting reconvened at 8.00pm

A discussion followed which focused on the following points:-

- Noted the Officer comments regarding the function of OSC being primarily scrutiny and that another committee maybe more appropriate for the referral of virements for approval. However the second clause of the 'motion on the table' was only tentative, stating that GPC was "minded" to recommend this constitutional change to full Council, so there could be a dialogue on which committee was appropriate, and if Officers concluded otherwise an appropriate change to committee terms of reference could recommended by the extraordinary GPC prior to full Council on 17th April.
- Noted Officer comments regarding the decision making sequence, the complexity of the issues involved and the significance of the implications arising from the proposals. However, the full Council had taken a view on the authority's Budget, passed by a two thirds majority, which had since been circumvented. So virement powers were being used now and could make a significant difference to the Budget, and it was therefore considered important that action be taken quickly on the virement cap. An interim decision at the full Council meeting on 17th

April would allow action to be taken, whilst providing more time for Officers to consider the complex issues involved before a further decision at the full Council meeting on 26th June. Accordingly Councillor Edgar **proposed**, for the consideration of members of the GPC, that the 'motion on the table' be amended by deletion of the words "final decision" in the last paragraph of the tabled written motion and insertion at the end of that sentence the words " decision that remains in place until the full Council meeting on 26th June 2013."

- Consideration that if the LGA and London Councils were undertaking a governance review this should address all difficult and contentious issues for the Authority and its review should include budget making/ virement arrangements. However, Councillor Edgar **proposed**, for the consideration of members of the GPC, that the paragraph added orally by the Chair to the tabled written motion [which together comprised the the 'motion on the table'] should be amended to read:
"That the Local Government Association and London Councils be asked to consider the issue of virement rules as part of their current governance review at Tower Hamlets."
- Noted Officer advice that the current threshold of financial delegation to Officers was £250k, and any review of virement arrangements would be simpler and involve less work if the virement cap was to be set at £250k. Consideration however that the 'motion on the table' was only tentative, stating that GPC was "minded" to recommend full Council set an interim virement cap of £200k. Officers could review the implications of this and if they concluded a level of £250k was more appropriate this could be presented for consideration to the extraordinary GPC prior to full Council on 17th April.
- With reference to the budget making/ virement arrangements working group, it was emphasised that the GPC would consider its report and make a determination on its recommendations in due course. Noted that the 'motion on the table' took account of the timetable for the working group's review reporting to full Council on 26th June as any decision of full Council on 17th April would be interim.
- The Chair consulted members of the GPC on their availability for the extraordinary GPC prior to full Council on 17th April, as proposed in the 'motion on the table', and there was consensus that the meeting be convened on 10th April 2013 at 6.30pm. Accordingly the Chair **proposed**, for the consideration of members of the GPC, that the 'motion on the table' be amended to reflect this. The Chair also requested that Officers inform all members of GPC of the agreed date the next day.

The Chair summarised that what was being proposed on virement arrangements was tentative, as the motion stated GPC was "minded to recommend full Council" and any decision by full Council on 17th April was likely to be interim. She then formally **Moved the Substantive Motion** (comprising of the tabled written motion orally amended by the Chair and subsequently taking account of proposed amendments from Councillor Edgar and the Chair), and it was:-

Resolved:

1. The contents of the report be noted;
2. That the Committee is minded to recommend to full Council that it amend the Authority's Constitution to change the level at which virements need to be agreed by full Council from £1 million to £200,000;
3. That the Committee is minded to recommend that full Council delegates its power to approve virements to the Overview and Scrutiny Committee to discharge on full Council's behalf;
4. That any such constitutional change would include a point in the Terms of Reference for the Overview and Scrutiny Committee granting them the power to refer a decision of the approval of a virement to full Council should they deem it necessary;
5. That Officers be requested to identify and draft the necessary changes to the constitution in order to facilitate the above; that it be requested that a report detailing these changes, and Officers assessment of the impact they would have, be brought to an extraordinary GP Committee to be convened on 10th April 2013 at 6.30pm. This would be to allow the full Council meeting on the 17th of April 2013 to consider the issue and make a decision that remains in place until the full Council meeting on 26th June 2013; and
6. That the Local Government Association and London Councils be asked to consider the issue of virement rules as part of their current governance review at Tower Hamlets.

Action by:

Chris Holme (Acting Corporate Director Resources)

John Williams (Service Head Democratic Services, CE's)

Jill Bell (Head of Legal Services Environment, Legal Services, CE's)

4.3 Local Electoral Review - update

Ms Louise Stamp, Electoral Services Manager, introduced and summarised key points in the report, which provided a further progress update on the current Local Government Boundary Commission for England (LGBCE) electoral review of Tower Hamlets, the aim of which was to establish the most suitable number of councillors for the authority; and within this to propose the number and boundaries of wards to improve electoral delivery. Ms Stamp added that once the LGBCE review was complete there would be a need to implement new polling districts/ polling stations and a further report would be submitted for GPC consideration in July 2013.

A discussion followed which focused on the following points:-

- Ms Stamp and her Officer team were formally thanked for provision of excellent support to the GPC and all political groups in understanding the LGBCE local electoral review process and to make representations through it.
- Commented that the contribution of Ward Members had been welcomed in previous reviews of polling districts/ polling places in Tower Hamlets, and accordingly proposed that Ward Members were consulted and engaged in the forthcoming review of such arrangements. A number of detailed suggestions were subsequently made as to how current such arrangements might be improved with these being re-visited in the forthcoming review. The retention of familiar polling stations to improve voter turnout and the importance of equal size polling districts was emphasised. Ms Stamp responded that the delivery of quality polling districts (not too large or small), consideration of where polling places were located, and the overall clarity of arrangements for voters, were all important factors for the polling district/ polling place review.
- Concern was expressed regarding the accuracy of the Electoral Register and assurance was sought and given regarding the cleansing of the Register before elections in 2014.

The Chair **Moved** (taking account of comments and suggestions from GPC members) together with an additional recommendation detailed at Resolution 3 below, and it was:-

Resolved

1. That the contents of the report and verbal update be noted;
2. That Ward Member consultation/ engagement in the forthcoming review of polling districts/ polling places in Tower Hamlets be accommodated; and other specific suggestions to improve current arrangements be accommodated as far as reasonably possible; and
3. That the report on the polling district/ polling place review in Tower Hamlets be presented to GPC for consideration on a date agreed by the Service Head Democratic Services after consultation with the Chair.

Action by:

John Williams (Service Head Democratic Services, CE's)
Louise Stamp (Electoral Services Manager, CE's)

4.4 Electoral Matters Update

Please note that the greater part of GPC deliberations relating to this item of business took place in Part Two of the proceedings (Exempt/ Confidential Section of the agenda or "closed session"), for the reasons outlined by the Chair below. However, for ease of reference, the deliberations/ decision taken

that pertain to the unrestricted report are set out below in the order detailed in the agenda.

The Chair informed members of the GPC that Appendix B to the report contained exempt/ confidential information, the consideration of which was required in Part Two of the proceedings (Exempt/ Confidential Section of the agenda: agenda Item 8). After an initial introduction of the unrestricted report and any discussion thereof in open session, it would therefore be necessary to exclude the public and press during consideration of the exempt/ confidential appendix.

The Chair also informed GPC members that:

- The report of the Electoral Commission: "Allegations of electoral fraud in Tower Hamlets in 2012 – Report on the outcome of investigations" shortly to be published by the Commission had been **Tabled**, a copy of which would be interleaved with the Unrestricted minutes.
- A proposed "Code of Conduct for campaigners: postal voting, proxy voting and polling stations" had been **Tabled**, a copy of which would be interleaved with the Unrestricted minutes.

Ms Louise Stamp, Electoral Services Manager, introduced the report which provided an update on various matters concerning electoral registration and the conduct of elections, and summarised the key points contained therein.

The Chair **Moved** and it was:-

Resolved

That the contents of the report be noted.

5. ANY OTHER UNRESTRICTED BUSINESS WHICH THE CHAIR CONSIDERS URGENT

None.

6. EXCLUSION OF THE PRESS AND PUBLIC

The Chair **Moved** and it was: -

Resolved:

That in accordance with the provisions of Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985, the press and public be excluded from the remainder of the meeting for the consideration of the Section Two business on the grounds that it contained information defined as exempt or confidential in Part 1 of Schedule 12A to the Local Government, Act 1972.

SUMMARY OF EXEMPT PROCEEDINGS

7. EXEMPT/CONFIDENTIAL MINUTES

Minutes of ordinary GPC, 19th December 2012, approved.

8. EXEMPT/ CONFIDENTIAL REPORTS FOR CONSIDERATION

8.1 Electoral matters update - Appendix B

Appendix B to report tabled and contents noted.

The report of the Electoral Commission: "Allegations of electoral fraud in Tower Hamlets in 2012 – Report on the outcome of investigations" shortly to be published by the Commission tabled (See minute for Agenda Item 4.4) and contents noted.

A proposed "Code of Conduct for campaigners: postal voting, proxy voting and polling stations" tabled (See minute for Agenda Item 4.4) and contents noted.

8.2 Local Authority Governor Appointments

Contents of report noted and recommendations agreed with a minor amendment.

9. ANY OTHER EXEMPT/ CONFIDENTIAL BUSINESS THAT THE CHAIR CONSIDERS URGENT

Nil items

The meeting ended at 9.15 p.m.

Chair, Councillor Shiria Khatun
General Purposes Committee