

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE OVERVIEW & SCRUTINY COMMITTEE

HELD AT 7.00 P.M. ON TUESDAY, 7 MAY 2013

**ROOM C1, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor Ann Jackson (Chair)
Councillor Tim Archer
Councillor Stephanie Eaton
Councillor Sirajul Islam
Councillor Rachael Saunders (Vice-Chair)
Councillor Helal Uddin
Councillor Amy Whitelock

Co-opted Members Present:

Memory Kampiyawo – (Parent Governor Representative)
Nozrul Mustafa – (Parent Governor Representative)
Rev James Olanipekun – (Parent Governor Representative)
Dr Phillip Rice – (Church of England Diocese Representative)

Other Councillors Present:

Councillor Abdul Asad – (Cabinet Member for Health and Wellbeing)

Councillor Craig Aston –

Councillor Alibor Choudhury – (Cabinet Member for Resources)

Councillor Carlo Gibbs –

Guests Present:

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Officers Present:

Tahir Alam – (Strategy Policy & Performance Officer, Chief Executive's)

Sarah Barr	– (Senior Strategy Policy and Performance Officer, One Tower Hamlets, Chief Executive's)
Anne Canning	– (Interim Corporate Director, Education Social Care and Wellbeing)
David Galpin	– (Head of Legal Services (Community), Legal Services, Chief Executive's)
Chris Holme	– (Acting Corporate Director - Resources)
Ian Read	– (Communications Advisor, Communications, Chief Executive's)
Louise Russell	– (Service Head Corporate Strategy and Equalities, Chief Executive's)
Takki Sulaiman	– (Service Head Communications, Chief Executive's)
Angus Taylor	– (Principal Committee Officer, Democratic Services, Chief Executive's)

COUNCILLOR ANN JACKSON (CHAIR) IN THE CHAIR

1. APOLOGIES FOR ABSENCE

Apologies for absence were received on behalf of Councillor Ohid Ahmed (Deputy Mayor).

Noted

2. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

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

3. UNRESTRICTED MINUTES

Councillor Whitelock, referencing the minute pertaining to Agenda item 6.1 "Children's Centre Scrutiny Review Update" [page 14 to 16], commented that she had requested that some revisions be made to the report arising from the scrutiny review of progress on implementation of the original review recommendations, and that the revised report be circulated to OSC members to ascertain if they were content for it to be progressed, but it had not been re-circulated. Ms Sarah Barr, Senior SPP Officer undertook to **follow this up**.

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

Resolved

That the unrestricted minutes of the ordinary meeting of the Overview and Scrutiny Committee, held on 9th April 2013, 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. REQUESTS TO SUBMIT PETITIONS

There were no petitions.

5. UNRESTRICTED REPORTS 'CALLED IN'

No decisions of the Mayor in Cabinet on 10th April 2013 had been "called in".

6. UNRESTRICTED REPORTS FOR CONSIDERATION

6.1 East End Life Budget and future arrangements

Mr Takki Sulaiman, Service Head Communications, in introducing the report, which provided a summary of the events following the decision of Budget Council [7th March 2013] to delete funding from the Communications Budget used to fund East End Life (EEL) and the subsequent Mayoral decision to provide funding to continue EEL, and summarising the key points contained therein, highlighted that:

- He was preparing terms of reference and a programme of work to deliver a review of EEL and would be agreeing this with the Mayor shortly.
- The review process could not commence until the Mayor had reaffirmed his original decision, on 17th April, to provide funding to continue EEL.
- The 2011 review of EEL had taken 9 months and been less complex, so it was anticipated that this review would take longer.

A discussion followed which focused on the following points:-

- Consideration that the anticipated timescale for completion of the EEL review was overly lengthy, with clarification sought and given as to the rationale for its anticipated duration. *The previous review could not be relied upon, as this review had more complex elements: a fuller EQIA was required than in 2011, the closure of EEL that would result from the Budget Council decision required consultation with staff and trades unions which had not taken place before, and impending legislation would also need to be taken into account. The new review had only been able to commence in mid- April, when the Mayoral Decision had been confirmed, and a full terms of reference were being drawn up now for agreement with the Mayor.*
- Whilst acknowledging that consultation with staff and trades unions was a requirement of the authority's HR procedures, consideration that time needed for this would not amount to 9 to 12 months. It was noted that other recent reviews, which were as complex or more complex, such as the restructure of Children's Centres which had involved TUPE or the 5% reduction in the Social Care staffing budget, had been completed in a shorter time. Consideration that the EEL review was unlikely to be as significant in its impact as that of such reviews, and the EQIA process

therefore no more complex and lengthy. Consideration therefore that a full review had been conducted in 2011, and the additional complexity of this review, provided as a justification for a longer review, was not convincing. Clarification was sought and given as to the requirement to undertake an EQIA.

- Further detail was sought on the terms of reference and methodology for the EEL review. *These had yet to be discussed and agreed with the Mayor, and legislation in the Queen's speech on 8th May would also need to inform the review.*
- Consideration that full Council had already given a steer on the nature of the EEL review and the only locus for the Mayor was to make a decision on the basis of the outcome of the EEL review not to write the review. *Officers were clear that a review of EEL was an Executive function and therefore terms of reference for the review required discussion and agreement with the Mayor before proceeding. These could be made available to OSC once agreed.*
- Mr Holme undertook to provide details in writing as to the HR processes/ timescales relating to consultation with staff/ trades unions on staffing reviews and also those relating to re-deployment.

The Chair proposed that the deliberations and additional comments of the OSC on the EEL review be forwarded to the Mayor to inform his consideration of the nature/ timescale for the review. The Chair subsequently **Moved** and it was:-

Resolved

1. That the contents of the report be noted; and
2. That the deliberations and additional comments of the OSC on the EEL review be forwarded to the Mayor to inform his consideration of the nature/ timescale for the review.

Action by:

Angus Taylor (Principal Committee Officer, Democratic Services, CE's)
Takki Sulaiman (Service Head Communications, CE's)

6.2 Advice of the Monitoring Officer & Chief Finance Officer/ Section 151 Officer in relation to Mayoral Decision Log No: 021 - Budget Implementation 2013/14 (No 1) (virements to fund East End Life) - To Follow

The Chair informed OSC members that:

- Reports containing the advice of the Monitoring Officer and Chief Finance Officer/ Section 151 Officer in relation to Mayoral Decisions 021 (virements to fund East End Life) and 022 (virements to fund Mayoral Advisors), as requested by the OSC at their last meeting, had been circulated to all Members of the Council on Friday 3rd May 2013 under a

covering letter from Mr John Williams, Service Head Democratic Services. The documents had been **Tabled** for co-opted OSC members.

- Mr Williams had advised that although useful for OSC members to be informed of the contents of the reports without delay, the formal route for the reports was to the Executive in the first instance, who were then required in turn to report to the OSC.

A discussion followed which focused on the following points:-

- Consideration that the reports were badly drafted and the terminology used was difficult for a layperson to understand.
 - The OSC had requested advice as to whether the Mayoral decisions were outside the Budget and Policy Framework (BPF) and on the validity of the Mayor's decision that the decision being taken was non-key, however the reports did not answer whether the decisions were within the BPF.
 - The report on East End Life (EEL) virements advised that the decision was lawful which was a different matter entirely.
 - The reports contended that the decisions were not key decisions and valid based on the virement rules. Consideration that the purpose of virements was easement of the authority's financial position, in response to changes in circumstances, in order to ensure it met its obligations, whereas in these cases virements had been made to revoke decisions of the Budget Council passed by a two thirds majority. Accordingly the validity of the advice provided in both reports was disputed and clarification was sought and given as to whether the OSC could seek independent financial and legal advice on these matters and once received consider the matters further. *Mr Galpin advised that the procedure for Calling In decisions outside the BPF, contained within the authority's Constitution, had been invoked; and specifically the provisions of Rule 7.1 to request advice from the Monitoring Officer and Chief Finance Officer. Such advice had now been provided and the next stage was for the Executive to consider the advice. He was not aware of any mechanism to seek further advice and vary the constitutional process, however **Mr Galpin undertook to look into the matter and report back.***
 - Both reports referred to the 'Doncaster MBC case' which, although interesting, did not have a bearing on the issue in these cases.
- The reports provided contained no new information to that considered by OSC on 9th April, despite the OSC having requested further information.
- Clarification was sought and given on the simplified meaning of paragraph 3.1 "Virement" in both reports. *This was statutory DCLG guidance under a 2010 Act, not Officer advice, and had been directly quoted.*
- Comment that in view of the advice provided in the reports the rationale for the authority's Budget setting process in future years, and the role of Councillors in this, was both unclear and called into question.
- Comment also that the full Council had passed a motion in January 2013 that Officers should work with the LGA and London Councils in undertaking a governance review. This review encompassed a number of areas where the Executive and Non-Executive elements of the authority's

governance structure had a role/ powers, and where the inter-relationship was becoming unworkable; and in relation to which Officer advice had varied. Accordingly **proposed** that the LGA and London Council's governance review be asked to examine budget making/ virement arrangements and the decision making process relating to virements under Mayoral Decisions 21 and 22.

The Chair commented that although the OSC could not refer these matters to full Council [under the provisions of the BPF Procedure Rules] as the next stage in this procedure was for the Executive to consider the advice and report back to the OSC, she considered and **proposed** that a formal complaint in relation to the Mayoral decision making in these cases should be lodged for full Council consideration, at her request. The Chair also proposed that the deliberations of the OSC and additional comments made on these matters be forwarded to the Mayor for his consideration. The Chair subsequently **Moved** and it was:-

Resolved

1. That the advice of the Monitoring Officer and Chief Finance contained in the report be noted;
2. That the Head of Legal Services (Community) examine whether the OSC could seek independent financial and legal advice on this matter, and once received consider the matter further;
3. That the deliberations and additional comments of the OSC on this matter be forwarded to the Mayor for his consideration;
4. That a formal complaint in relation to the Mayoral decision making in this matter should be lodged for full Council consideration, at the request of the OSC Chair; and
5. That the Local Government Association and London Councils be asked to consider budget making/ virement arrangements and the decision making process relating to virements under Mayoral Decisions 21 and 22, as part of their current governance review at Tower Hamlets.

Action by:

Angus Taylor (Principal Committee Officer, Democratic Services, CE's)
[Resolution 3, 4 &5]

David Galpin (Head of Legal Services [Community], CE's) [Resolution 2, 4&5]

John Williams (Service Head Democratic Services, CE's) [Resolution 4 &5]

6.3 Advice of the Monitoring Officer & Chief Finance Officer/ Section 151 Officer in relation to Mayoral Decision Log No: 022 - Budget Implementation 2013/14 (No2) (virements to fund Mayoral Advisors) - To Follow

Please note that this item of business was considered in conjunction with Agenda item 6.2, because of the similar nature of the subject matter and the almost identical content of the reports from the Monitoring Officer/ Section 151 Officer. The deliberations of the OSC and subsequent decisions taken are detailed at Agenda item 6.2.

6.4 Adult Social Care - Budget Update (Oral Report)

Ms Anne Canning, Interim Corporate Director Education, Social Care and Wellbeing (ESW), gave an oral report which focused on areas of concern raised by the OSC including:

- Concern that the ESW directorate was required to make significant budget savings and change management programmes (such as Domiciliary Care Re-commissioning, Re-ablement, and modernising the Learning Disability Day Care), were off track, with consequent slippage in delivery of these savings. Given service delivery pressures would the savings be delivered?
- What assurance could be given that the quality of service provision would be maintained during the transition period to new service provision arrangements arising from merger of CSF and AHWB directorates, changes to service delivery and the transfer of PH responsibilities.
- The strength/ stability/continuity of strategic leadership provided by lengthy interim leadership roles, particularly in the context of the transfer of Public Health responsibilities to the authority and significant change management.

Key points were highlighted as follows:

- Ms Canning and Dr Banerjee had both recently been appointed as Interim Corporate Director ESW and Interim Director Public Health respectively; both had extensive experience in this field and were familiar with the routines and expectations of the authority, so strategic leadership would be robust. The directorate management team had also recently been strengthened with permanent appointments to the posts of Service Head Resources and Service Head Adult Social Care..
- The ESW directorate savings target for 2013/14 and how this was comprised was outlined (£10.681 million including £5.081 million and £1.5 million inherited from the AHWB and CSF directorates, with £4.1 million of new targets). The “forensic systems” in place to monitor/ ensure delivery of these savings were also outlined (Change and Efficiency Board [fortnightly], Directorate Management Team [monthly], Corporate Transformation Delivery Group [fortnightly]). OSC assured that Ms Canning and her management team were fully aware of this priority and were confident it was on track overall; alternative options for social care were being examined where there was a need to mitigate slippage in savings. A significant decision would be made the following week as to the viability of the ‘go live’ dates for new service provision arrangements (Domiciliary Care/ Homecare monitoring).

- The ESW savings to be met from 'Vacancy Management' (VM) were outlined (£3 million). Significant research had taken place on the standard vacancy rates in other local authorities and LBTH directorates and potential for consequent savings from VM before agreeing the target. Establishment mapping had been time consuming, however OSC assured of Officer confidence that the target would be met. The OSC were assured that there would be no impact on frontline service delivery from VM, and current staffing ratios and recruitment practice would be maintained. VM was not intended to reduce staffing, however a culture change was required: that staffing budgets were no longer ring-fenced and savings from non-recruitment could not be redirected for other initiatives within the service but contribute to ESW savings.
- The ESW savings to be delivered through a review of management and administration were outlined (£345k). Officers were confident that if the ESW restructuring went well that efficiency savings from combining functions could be delivered; however some delays and the impact thereof could not be predicted, as with the Children's Centres review.
- There was a risk in relation to new Domiciliary Care arrangements/ savings, primarily due to failings in ICT systems for home care monitoring. A decision would be made the following week on viability of the 'go live' dates for this. Savings to be delivered through Re-ablement were posing a challenge and there may be a need to direct savings from elsewhere to correct slippage. Exact details of mitigating action for this or other slippage was not possible because of the complexity of linkages within the savings model. Currently there was a predicted risk of a shortfall in ESW savings of £650k against a target of £10.6 million.

A comprehensive discussion followed which focused on the following points:-

- The Health Scrutiny Panel (HSP) had expressed concern and made a strong recommendation, that a permanent Director of PH in Tower Hamlets be appointed as soon as possible to ensure strong leadership during the period when the transfer of PH responsibilities to the Council would be having maximum impact. This was not a reflection on the Interim appointment, but a recognition of the potential difficulties of the transition process and risk to PH without a permanent appointment. Accordingly requested again that the HSP recommendation be expedited. *The Interim Director of PH was determined to ensure transition arrangements were smooth and PH outcomes and life chances improved. The recommendation of a permanent appointment would be taken back for HR consideration.*
- Comment that staff and trades unions had relayed concerns that the application of the proposed staff vacancy rates in the context of the current squeeze on staff/ resources would have a much greater impact on staff. Clarification sought and given on the consideration given to this and the extent of monitoring arrangements for the impact on staff including sickness absence monitoring. *Data used for VM modelling was current not historic. Difficult restructures did result in increased sickness absence but management monitoring/ management of this had improved greatly and absence levels were down overall.*

- Consideration that not paying staff for travel to and from the homes of residents receiving care services undermined the authority's policy of paying the London Living Wage.
- Commenting that the authority's re-ablement targets had not been met in the past 3 years, and domiciliary care targets had not been met due to failings of electronic homecare monitoring, clarification sought and given as to meeting these targets going forward given the environment of resource and staffing constraints. Consideration also that there was an urgent need for transparency as to how compensating savings would be achieved and a discussion of this with the Interim Director ESW was needed. Accordingly **proposed** that the HSP scrutinise the savings targets and progress on their delivery in more detail later in the year. *The importance of electronic homecare monitoring was to enable scrutiny and challenge to ascertain if clients were receiving care that met expectations/ standards. Officers were confident the ICT issues on homecare monitoring would be resolved. The direction of travel was consistent with meeting Re-ablement provision/ associated savings, and there were no notional changes to the strategy which would continue moving forward. The scale of risk on the savings required of ESW was £650k, and Ms Canning undertook to report back and discuss plans for savings at the HSP as appropriate.*
- Clarification/assurance sought and given as to whether the quality of social care services, and in particular care of the elderly, would be maintained despite savings requirements and analysis undertaken on this. *Reiterated assurance that there would be no discernible impact on front line services and current staffing levels and recruitment practices for these services would be maintained. Assurance given that savings from the review of management and administration would not impact on service provision. Assurance also given that maintaining quality of care for the elderly was an absolute driver for service provision and no deterioration in front line services was envisaged.*
- Clarification was sought and given as to the importance attached to provision of adult social care, by the Mayor and Cabinet Member for Health and Wellbeing; and its level of priority relative to other Mayoral priorities for the Borough, in the context that demand would grow and other authorities were already being forced into provision for the elderly and disabled via institutional care. *The authority had statutory obligations in this area but additionally was the only authority in the UK to provide free homecare, it had also recently been rated by the Care Quality Commission as providing a "High standard and quality of care". Future provision would depend on the resources available to the authority, and the position would continue to be reviewed. However there was no current intention to depart from the authority's preferred policy of caring safely for residents in their own homes, for as long as possible, and to support this through improved use of technology and innovative working such as Re-ablement.*
- In the context of commissioning services externally, what mechanisms were in place to monitor the effectiveness and efficiency of service provision. Also what systems were in place obtain client feedback and use this to inform commissioning. *"Peer to Peer Review" initiatives were*

*underway to train some client users on how to obtain feedback from others and to use this feedback to inform development of adult social care. Such information was starting to inform commissioning of children's services, and this would be extended. Additional manual processes to monitor delivery of homecare services would not be cost effective, and officers were confident that ICT problems with electronic monitoring would be resolved. Requested that a **summary report on Adult Social Care client complaints be presented to a future OSC.***

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

Resolved

1. That the contents of the oral report be noted;
2. That the Health Scrutiny Panel scrutinise Adult Social Care savings targets and progress on their delivery in more detail later in the year; and
3. That a summary report on Adult Social Care complaints be presented to a future OSC for consideration.

Action by:

Sarah Barr (Senior Strategy Policy & Performance Officer, Strategy Policy & Performance, CE's)

Anne Canning (Interim Corporate Director Education, Social Care & Wellbeing)

6.5 Overview and Scrutiny Committee - Annual Review 2012-13

Ms Sarah Barr, Senior Strategy Policy and Performance Officer, introduced and highlighted key points in the report, which provided a summary and review of the OSC's work in 2012/13 for OSC consideration/ comment prior to presentation of the annual review to full Council. Ms Barr indicated that if OSC members had additional information for inclusion, or suggested revisions, these could still be accommodated before submission to full Council.

The Chair commented that the OSC had performed as well as could be expected in difficult circumstances; and expressed the view that the OSC role appeared to be changing, with it no longer being able to undertake some of the more worthwhile activities it had previously. The Chair indicated that she would be standing down as OSC Chair in the new Municipal Year, and thanked all those who had contributed to the support of the scrutiny function over the past year.

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

Resolved

1. The contents of the report be noted; and

2. That the Service Head Corporate Strategy and Equality be authorised to make any necessary minor amendments to the final report, before its submission to full Council, after consultation with the OSC Chair and Scrutiny Lead Members.

Action by:

Sarah Barr (Senior Strategy Policy & Performance Officer, Strategy Policy & Performance, CE's)

7. VERBAL UPDATES FROM SCRUTINY LEADS

Scrutiny - Chief Executive's - Cllr Archer

Process underway to arrange and conduct interviews with former Chief Executive's who had worked in local authorities with and without an executive mayor. Once undertaken, Councillor Archer/ Sarah Barr to draft a report.

Scrutiny – Communities, Localities and Culture - Cllr Eaton

A review on the collection and use of crime statistics, with particular focus on ASB underway.

Health Scrutiny - Cllr Saunders

The HSP had recently agreed scrutiny review reports for two areas:

- Health Assets – importance of community assets for health and wellbeing
- Public Health - work with the Voluntary Sector and using the Healthy Borough Programme model for PH.

and the reports would soon be presented to the OSC for consideration/ endorsement.

Scrutiny Review - Post-16 attainment – Cllr Whitelock

The concluding review session to distil recommendations had been held and the headline areas for recommendations were outlined. The scrutiny review report would soon be presented to the OSC for consideration/ agreement.

Scrutiny Review - Co regulation and the Accountability of Registered Housing Providers (RPs) Cllr Islam

The review work had been completed, Officers were currently drafting the scrutiny review report would soon be presented to the OSC for consideration/ agreement. There was strong potential to improve systems/performance and engagement in this area.

Scrutiny Review - Removing the barriers to youth and graduate employment- Cllr Jackson

A concluding review session to distil recommendations would be held soon. The headline areas for recommendations were outlined. The scrutiny review report would soon be presented to the OSC for consideration/ agreement.

A short discussion followed which focused on ways to harness the skills/ capacity of those parent governors who had unsuccessfully stood for election as co-opted members of the OSC, for the benefit of the scrutiny process, such

as co-option onto scrutiny reviews. There were opportunities for involvement given the range of educational activities and their extension to include 2 year olds. Consensus that Sarah Barr liaise with Governors Services (ESW) with a view to canvassing interest of such parent governors in participation in future scrutiny work.

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

Resolved

1. That the verbal updates be noted; and
2. That the Senior SPP Officer liaise with Governor Services (ESCWB) with a view to canvassing interest of appropriate parent governors in participation in future scrutiny work.

Action by:

Sarah Barr (Senior Strategy Policy & Performance Officer, Strategy Policy & Performance, CE's)

8. PRE-DECISION SCRUTINY OF UNRESTRICTED CABINET PAPERS

No pre-decision questions submitted to the Mayor in Cabinet [08 May 2013].

9. ANY OTHER UNRESTRICTED BUSINESS WHICH THE CHAIR CONSIDERS TO BE URGENT

OSC meeting times 2013/14

The Chair informed members of the OSC that the Calendar of Meetings for the 2013/14 Municipal Year, recently agreed by full Council, had a start time of 7.30pm for OSC meetings. However, in recent years the OSC has met at 7.00pm, and the Chair considered that this time had worked well for both members of the OSC and others attending. Accordingly the Chair proposed, for the consideration of OSC members, that the OSC agree that its first scheduled meeting in the new Municipal Year 2013/14 take place at 7.00pm, in line with current arrangements; also that the new OSC membership at that point make a determination on meeting start times for the remainder of the Municipal Year.

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

Resolved

1. That first scheduled meeting of the OSC in the new Municipal Year 2013/14 take place at 7.00pm, in line with current arrangements;
2. The OSC consider and make a determination on scheduled OSC meeting start times for the remainder of the Municipal Year 2013/14. at its first meeting in the new Municipal Year.

Action by:

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

10. 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

11. EXEMPT/ CONFIDENTIAL MINUTES

Minutes of ordinary OSC 9th April 2013 approved.

12. EXEMPT/ CONFIDENTIAL REPORTS 'CALLED IN'

12.1 Mayoral Executive Decision Call-in: Decision Log No: 020 - "Sutton Street Depot - Successful Bidder Request for Amendments to Terms of Lease"

Decision of the Mayor outside Cabinet referred back to the Mayor for further consideration.

13. PRE-DECISION SCRUTINY OF EXEMPT/ CONFIDENTIAL) CABINET PAPERS

Nil items.

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

Nil items.

The meeting ended at 9.00 p.m.

Chair, Councillor Ann Jackson
Overview & Scrutiny Committee