

Merton Council

Annual Council Meeting

Membership

The Mayor: Councillor Joan Henry

The Deputy Mayor: Councillor Agatha Mary Akyigyina OBE

Councillors: Sally Kenny, Stephen Alambritis MBE, Laxmi Attawar, Thomas Barlow, Hina Bokhari, Mike Brunt, Billy Christie, Caroline Cooper-Marbiah, Anthony Fairclough, Edward Foley, Brenda Fraser, Jenifer Gould, Daniel Holden, Andrew Howard, Natasha Irons, Linda Kirby MBE, Paul Kohler, Edith Macauley MBE, Peter McCabe, Simon McGrath, Nick McLean, Aidan Mundy, Dennis Pearce, Marsie Skeete, Eleanor Stringer, Martin Whelton, Helena Dollimore, James Williscroft, Sheri-Ann Bhim, John Braithwaite, Michael Butcher, Caroline Charles, Eleanor Cox, Klaar Dresselaers, Chessie Flack, Kirsten Galea, Ross Garrod, Jil Hall, Billy Hayes, Susie Hicks, Dan Johnston, Andrew Judge, Usaama Kaweesa, Samantha MacArthur, Gill Manly, Stephen Mercer, Stuart Neaverson, John Oliver, Robert Page, Michael Paterson, Tony Reiss, Slawek Szczepanski, Matthew Willis, Max Austin and Victoria Wilson

Date: Wednesday 17 May 2023

Time: 7.15 pm

Venue: Council chamber - Merton Civic Centre, London Road,
Morden SM4 5DX

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All Press contacts: communications@merton.gov.uk, 020 8545 3181

Annual Council meeting

17 May 2023

1	Apologies for absence	
2	Declarations of Pecuniary Interest	
3	Election of Mayor for 2023/24 and the Mayor's appointment of the Deputy Mayor for 2023/24	
4	Vote of thanks to the retiring Mayor	
5	Minutes of the previous meeting	1 - 10
6	Constitution of committees and other bodies	11 - 18
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8	Amendments to the Constitution	

Note on declarations of interest

Members are advised to declare any Disclosable Pecuniary Interest in any matter to be considered at the meeting. If a pecuniary interest is declared they should withdraw from the meeting room during the whole of the consideration of that matter and must not participate in any vote on that matter. For further advice please speak with the Managing Director, South London Legal Partnership.

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Agenda Item 5

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COUNCIL

19 APRIL 2023

(7.15 pm - 10.36 pm)

PRESENT

(in the Chair), Councillor Joan Henry,
Councillor Agatha Mary Akyigyina,
Councillor Stephen Alambritis, Councillor Laxmi Attawar,
Councillor Thomas Barlow, Councillor Hina Bokhari,
Councillor Michael Brunt, Councillor Billy Christie,
Councillor Caroline Cooper-Marbiah,
Councillor Anthony Fairclough, Councillor Edward Foley,
Councillor Brenda Fraser, Councillor Jenifer Gould,
Councillor Joan Henry, Councillor Daniel Holden,
Councillor Andrew Howard, Councillor Natasha Irons, Councillor
Sally Kenny, Councillor Linda Kirby, Councillor Paul Kohler,
Councillor Edith Macauley, Councillor Peter McCabe,
Councillor Simon McGrath, Councillor Nick McLean,
Councillor Aidan Mundy, Councillor Eleanor Stringer,
Councillor Martin Whelton, Councillor Helena Dollimore,
Councillor James Williscroft, Councillor Sheri-Ann Bhim,
Councillor John Braithwaite, Councillor Michael Butcher,
Councillor Caroline Charles, Councillor Klaar Dresselaers,
Councillor Chessie Flack, Councillor Kirsten Galea,
Councillor Ross Garrod, Councillor Jil Hall,
Councillor Billy Hayes, Councillor Susie Hicks,
Councillor Dan Johnston, Councillor Andrew Judge,
Councillor Usaama Kaweesa, Councillor Samantha MacArthur,
Councillor Gill Manly, Councillor Stephen Mercer,
Councillor Stuart Neaverson, Councillor John Oliver,
Councillor Robert Page, Councillor Michael Paterson,
Councillor Tony Reiss, Councillor Slawek Szczepanski,
Councillor Matthew Willis, Councillor Max Austin and
Councillor Victoria Wilson

1 APOLOGIES FOR ABSENCE (Agenda Item 1)

Apologies for absence were received from Councillors Cox, Skeete and Pearce.

Councillors Flack and Willis attended remotely.

2 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 2)

There were no declarations of interest.

3 MINUTES OF THE PREVIOUS MEETING (Agenda Item 3)

RESOLVED: That the minutes of the meeting held on 1 March 2023 are agreed as an accurate record.

4 ANNOUNCEMENTS BY THE MAYOR, LEADER OF THE COUNCIL AND CHIEF EXECUTIVE (Agenda Item 4)

The Leader provided updates on Galpins Road, the Coronation of King Charles III and that the Mayor-Elect for 2023/24 was Councillor Gill Manly.

There were no announcements from the Chief Executive.

The Mayor then provided an update on recent and upcoming Mayoral events.

5 PUBLIC QUESTIONS TO CABINET MEMBERS (Agenda Item 5)

The responses to the written public questions were circulated prior to the meeting. The Mayor then invited each of the questioners in turn to ask (if they wished) a further question to the Cabinet Member. A copy of the supplementary questions and responses will be included in the 'public questions to Cabinet Members' published document.

6 COUNCILLORS' ORDINARY PRIORITY QUESTIONS TO CABINET MEMBERS (Agenda Item 6)

The responses to the written member ordinary priority questions were circulated prior to the meeting. The Mayor then invited each of the members in turn to ask (if they wished) a further question to the Cabinet Member. A copy of the supplementary questions and responses will be included in the 'member ordinary priority questions to Cabinet Members' published document.

7a STRATEGIC THEME: MAIN REPORT (Agenda Item 7a)

The Strategic Theme report on Supporting Residents who are most in need and promote the safety and wellbeing of all our communities was moved by Councillor Stringer and seconded by Councillor McCabe.

Councillors Foley, Flack, Dresselaers and Hall also spoke on the item.

The Conservative amendment to the report was moved by Councillor Holden and seconded by Councillor Austin.

The Liberal Democrat amendment to the report was moved by Councillor Kohler and seconded by Councillor Fairclough.

The Conservative amendment was put to a vote and fell: Votes for – 23, Against – 28, Not Voting – 1

The Liberal Democrat amendment was put to a vote and was carried.

RESOLVED: That the Strategic Theme report as amended is agreed.

RESOLVED:

A. That Council considered the content of the report

B. That further to paragraphs 4.54 and 4.57 of the Strategic Theme Report, Council requests Cabinet:

- a. Consistently and constructively challenge the Met to fully implement Baroness Casey's recommendations, working with the BCU Borough Commander, the South West London BCU and other BCU partners to develop ways to monitor and measure the effectiveness of reforms;
- b. Consider how to create opportunities for local representative groups to review and challenge policing practices constructively;
- c. Notes that the Review highlights the closure of 124 police stations across London between 2012 and 2022, and continues to campaign to maintain local police stations across the BCU, including the two existing stations in Merton – in addition to its stated commitment of being “supportive” of keeping both Merton's police stations open; and
- d. Ensures that the relevant Cabinet Member reports on the above to the Overview and Scrutiny Commission on an appropriate basis.

C. That Council further requests that the Overview and Scrutiny Commission considers how it can proactively work with our communities to hold the Met and the BCU to account for their progress against Baroness Casey's recommendations

7b STRATEGIC THEME: COUNCILLORS' QUESTIONS TO CABINET MEMBERS (Agenda Item 7b)

The responses to the written member strategic theme priority questions were circulated prior to the meeting. The Mayor then invited each of the members in turn to ask (if they wished) a further question to the Cabinet Member. A copy of the supplementary questions and responses will be included in the 'member strategic theme priority questions to Cabinet Members' published document.

It was also noted that a copy of the remaining Member questions and responses will be published after the meeting, in line with Constitutional requirements.

7c STRATEGIC THEME: LIBERAL DEMOCRAT MOTION (Agenda Item 7c)

The motion was moved by Councillor MacArthur and seconded by Councillor Bokhari.

The Conservative amendment as set out in agenda item 20 was moved by Councillor Barlow and seconded by Councillor Howard.

The Conservative amendment was put to the vote and fell: Votes in favour – 6, Against – 43, Not Voting – 3.

The Labour amendment as set out in agenda item 20 was moved by Councillor Fraser and seconded by Councillor Charles.

Councillor Flack also spoke on the item.

The Labour amendment was put to a vote and was carried: Votes in favour - 45, votes against- 0, abstentions- 7 .

The substantive motion as amended was then put to a vote and was carried.

RESOLVED:

Council understands that:

1. The Public Sector Equality Duty requires public bodies, such as councils, to eliminate unlawful discrimination, harassment, and victimisation of people with protected characteristics.

Council notes that:

2. Care experienced people face significant barriers that impact them throughout their lives;
3. Despite the resilience of many care experienced people, society too often does not take their needs into account;
4. Care experienced people often face discrimination and stigma across housing, health, education, relationships, employment and in the criminal justice system;
5. As corporate parents, Councillors have a collective responsibility for providing the best possible care and safeguarding for the children who are looked after by us as an authority.

Council agrees that:

6. The work done to further strengthen the role of corporate parenting in Merton is helpful and that all corporate parents should consider acting as mentors, hearing the voices of looked after children and young people and to reflect their needs in any aspect of council work.
7. Councillors should be champions of our looked after children and challenge the negative attitudes and prejudice that exists in all aspects of society wherever and whenever possible.

Council therefore requests Cabinet:

8. Treats care experience as an additional local equality strand alongside the existing protected characteristics as set out in the Equality Act 2010;

9. To proactively seek out and listen to the voices of care experienced people when developing new policies based on their views and reflect these in Equality Impact Assessments;

10. To continue to build on the existing ringfenced apprenticeship opportunities for care experienced people by committing to an agreed appropriate number of apprenticeship places each year delivered through the Council's levy funding.

11. To support care experienced people into career opportunities available in the Council and borough more widely, including through Merton's own graduate development programme places.

7d STRATEGIC THEME: LABOUR MOTION (Agenda Item 7d)

The motion was moved by Councillor Macauley and seconded by Councillor Bhim.

The Conservative amendment as set out in agenda item 20 was moved by Councillor McLean and seconded by Councillor Paterson.

Councillors Page and Stringer also spoke on the item.

The Conservative amendment was put to the vote and fell: Votes in favour – 6, Against – 45, Not Voting – 1.

The substantive motion was put to a vote and was carried: Votes in favour - 45, votes against- 6, abstentions- 1 .

RESOLVED:

Council notes:

- Merton residents and all Londoners expect and deserve a Police Service they can trust, not fear, which responds to the needs of the communities it serves and is accountable to the community for the decisions it makes.
- With deep concern the appalling findings of Baroness Casey's independent review into the standards of behaviour and internal culture of the Metropolitan Police Service, including the findings of institutional racism, sexism, misogyny, and homophobia in the Met, and the failure to implement operational, cultural, and systemic change that is so desperately needed.
- That the deeply troubling failures highlighted in the Casey review are overwhelmingly due to a longstanding failure of culture within the force. However, the review also highlights that government cuts to funding for the Met have exacerbated some problems.
- And welcomes the commitment from the new Met Commissioner to major reform of the Metropolitan Police Service and to rebuilding trust amongst Londoners.
- The strong and positive working relationship that Merton Council and Merton Police maintain, which is focused on keeping our borough one of the safest anywhere in London.
- The administration's response to the Turnaround Plan which expresses our wish to work with the Police to develop and support the aims of the plan, and ensure our local priorities are achieved alongside the changes that need to be seen in the Met.

Council believes:

- That to see any progress towards rebuilding trust and confidence in the police, the Metropolitan Police must fully follow the recommendations of the Casey review and work with our communities in a genuine and meaningful way.
- That the example of effective relationships with police partners here in Merton demonstrates that there is a way forward for the Metropolitan Police Service.
- That a local, neighbourhood policing presence and effective engagement with local communities is essential to people being able to feel safe in their communities and to building trusting relationships with the Police Service.

Council resolves:

- To send a letter from the Leader of the Council to the Commissioner of the Metropolitan Police calling for the full implementation of all recommendations set out in Baroness Casey's review.
- For the Cabinet Member for Civic Pride to work with the Police and residents to ensure that voices of local people are included in the way that their community is policed.
- Campaign with other London Boroughs and the Mayor of London for the government to fully reverse their damaging cuts to our Police Service, and to keep our local Police Stations in Mitcham and Wimbledon open.

7e STRATEGIC THEME: LABOUR MOTION (Agenda Item 7e)

The motion was moved by Councillor Williscroft and seconded by Councillor Bhim.

Councillors Fairclough, McLean, Foley and McCabe also spoke on the item.

The motion was put to a vote and was carried: Votes in favour - 45, votes against- 6, abstentions- 1 .

RESOLVED:

Council notes:

- In 2020, a joint meeting of NHS Surrey Heartlands and NHS South West London Clinical Commissioning groups approved plans to close the emergency, maternity, and children's in-patient services at both Epsom and St Helier Hospitals and to build a new facility for the provision of these services in Belmont.
- That since this decision was taken, the health landscape has changed dramatically because of the Covid-19 pandemic, the increasing demand on health services, and the cumulative effects of underfunding of the NHS by successive governments since 2010.
- That Covid-19 has had a disproportionate impact on ethnic minority groups, those living in areas of deprivation, those with underlying health conditions, older people, and residents with a learning disability. And that hospitalisation and mortality rates during the pandemic have been disproportionately higher among Black, Black British, Asian, and Asian British communities.

Council further notes:

- That St George's Hospital in Tooting is struggling to cope with local demand, with the Integrated Care Board consistently describing the pressures on the hospital over the most recent winter period as unprecedented.
- With concern, that pressures are also being experienced at Epsom and St Helier's hospitals, where bed occupancy levels have continued to increase over the last year, and that reducing provision at St Helier will also impact St George's and neighbouring hospitals in South West London.
- The serious issues which exist at St Helier Hospital with disrepair and decline, and the backlog of much needed maintenance throughout parts of the site, which were highlighted in a recent report by ITV News.

Council believes:

- That decisions taken in 2020 on the proposed downgrading of St Helier Hospital need to be urgently reviewed so that they can be taken with a fuller understanding of the impact of the post-Covid-19 pandemic healthcare landscape.
- That the proposed downgrading of St Helier hospital will have a detrimental impact on the residents of Merton, taking services that the most vulnerable rely on further away from where they are needed.
- That our dedicated and hard-working healthcare staff deserve better, to be paid a decent wage, and to be able to work in appropriate environments which keep themselves, patients, and visitors safe.

Council resolves:

- To support the formal request of the Leader of the Council for a new Impact Assessment pursuant to the Public Sector Equality Duty is completed before any decision is taken to proceed with the planned downgrading of St Helier Hospital.
- To write to the Secretary of State for Health and Social Care to demand that the government provides the necessary capital funding to the address disrepair at the St Helier Hospital site.
- To write to the CEO of St George's and St Helier Trust and the CEO of the South West London Integrated Care Board to demand that they maintain all existing services on the St Helier site and outline their planned investment in the site over the next few years in light of the delay to the future hospital programme to ensure that the hospital provides an appropriate environment for local people.

8 REPORT FROM COMMUNITY FORUM: MITCHAM 21 FEBRUARY 2023
(Agenda Item 8)

Councillor Mundy presented the report which was received by the Council.

9 REPORT FROM COMMUNITY FORUM: MORDEN 22 FEBRUARY 2023
(Agenda Item 9)

Councillor Charles presented the report which was received by the Council.

Councillor Foley spoke to amend the notes of the meeting, which was noted and agreed by Council.

10 REPORT FROM COMMUNITY FORUM: WIMBLEDON 22 MARCH 2023
(Agenda Item 10)

Councillor Hicks presented the report which was received by the Council.

11 NOTICES OF MOTION (Agenda Item 11)

No motions were submitted.

12 COUNCIL PLAN (Agenda Item 12)

The report was moved by Councillor Garrod and seconded by Councillor Attawar.

Councillors Reiss, Oliver and Fairclough also spoke on the report.

RESOLVED:

- A. That Council adopted the Council Plan 'Building a Better Merton Together to form part of the Council's Constitutional policy framework as its key strategic plan for 2023-26 alongside the Business Plan.
- B. That Council noted the process for monitoring progress on delivery and the proposed approach for reviewing and updating the plan on an annual basis.
- C. That Council noted the accompanying Corporate Performance Framework 2023/24.

13 CONFIRMATION OF THE IMMEDIATE ARTICLE 4 DIRECTION IN 7
WARDS - RESULTS OF CONSULTATION; AND UPDATE ON PROPOSED
INTRODUCTION OF LANDLORD LICENSING AND EMPTY HOMES
PROJECT (Agenda Item 13)

The report was moved by Councillor Judge and seconded by Councillor Bhim.

Councillor Willis also spoke on the report.

RESOLVED:

- A. After consideration of the consultation responses and advice from Cabinet and Borough Plan Advisory Committee, Confirm the Immediate Article 4 Direction for small HMOs for the following wards: Figge's Marsh; Graveney; Longthornton; Pollards Hill; Colliers Wood; Cricket Green and Lavender Fields.
- B. Note that there is an ongoing risk of compensation claims being submitted for any small HMOs (6 persons and under) that relied on the permitted development rights that have been removed in the 7 wards and note that claims are only valid if a planning application is submitted within 12 months from the introduction of the Immediate Article 4 (17th November 2022) and then subsequently refused; or if additional Planning Conditions are applied that reduce the development's value.
- C. Note also, that the Secretary of State (SoS) must be notified at both the introduction and confirmation of the Article 4 Direction. The SoS is considering

whether there was adequate evidence for the introduction of the Article 4 and whether it has been applied to the smallest geographical area. The SoS has the power to pause or stop the Article 4 at any time if it considers that either of these criteria have not been met.

D. Note the update on Landlord Licensing and Empty Homes, including the proposed charges and conditions appended, and note that once the full consultation report has been provided to the Council by ORS, a further report will be taken to Cabinet in June to agree the way forward for Landlord Licensing, following consideration of representations received. It will not be necessary for Council to confirm Selective and Additional Licensing as this falls within the remit of Cabinet.

14 LOCAL GOVERNMENT ACT 1972, SECTION 85 (1): APPROVAL OF ABSENCE (Agenda Item 14)

The report was moved by Councillor Bhim and seconded by Councillor Dollimore.

Councillor Fairclough also spoke on the report.

RESOLVED:

That, in the event that Councillor Dennis Pearce is unable to attend a meeting of the authority before 13 September 2023, approval is given to the absence for reason of ill-health.

15 CHANGES TO MEMBERSHIP OF COMMITTEES AND RELATED MATTERS (Agenda Item 15)

The report was formally moved by Councillor Garrod and formally seconded by Councillor Stringer.

Councillor Fairclough also spoke on the item.

RESOLVED:

That the Council:

1. Notes the changes to the membership of Committees that were approved under delegated authority since the last meeting of the Council

16 PETITIONS (Agenda Item 16)

No petitions were received at the previous meeting and there was therefore no written report. The Mayor invited Councillors to present any petitions.

RESOLVED

That Council

1. Accepts receipt of a petition presented by Councillor Austin entitled Help Save Wimbledon Village Flower Stall.

17 BUSINESS FOR THE NEXT ORDINARY MEETING OF THE COUNCIL
(Agenda Item 17)

That the Strategic Theme for the next ordinary meeting of the Council, being held on 12 July 2023, shall be Building a Sustainable Future with a focus on Sustainable Development and Climate Action.

Committee: Annual Council

Date: 17 May 2023

Wards: All

Subject: Constitution of Committees and Other Bodies

Lead officer: Louise Round, Managing Director, South London Legal Partnership

Contact Officer: Amy Dumitrescu, Democracy Services Manager
democratic.services@merton.gov.uk

Recommendations:

That the Council:

- A.
 - i) approves the constitution of committees, sub-committees and scrutiny bodies set out in Appendix A and;
 - ii) agrees the allocation of seats, chair and vice-chair positions and the appointment of members to those seats;
- B.
 - i) approves the constitution of consultative forums and other bodies set out in Appendix B and
 - ii) agrees the appointment of members to those seats;
- C. agrees the allocation of seats and appointment to the outside organisations as detailed in Appendix C.
- D. notes the appointments to the Cabinet including their respective portfolios in Appendix D
- E. Agrees the amended Terms of Reference for the Planning Applications Committee as detailed at Appendix E
- F. agrees that the Council's Constitution be amended to incorporate any changes resulting from the approval of recommendations A to E.

1. Purpose of report and executive summary

- 1.1 This report recommends the establishment of committee, sub-committee, and scrutiny panels, together with other consultative bodies for the year 2023/24; and the allocation of the seats on those bodies to political groups represented on the Council in accordance with the statutory proportionality rules and agree to the appointment of the groups' nominees.
- 1.2 The report recommends that the Council agrees the allocation of seats on outside organisations and agrees to the appointment of the political groups' nominees.

2. Alternative options

- 2.1 The Council must appoint at least one Overview and Scrutiny Committee, a Licensing Committee and a Health and Wellbeing Board. All other committees are constituted at the discretion of the Council.
- 2.2 The Council must allocate seats on the committees and sub-committees set out in Appendix A in accordance with statutory proportionality rules (with the exception of the Health and Wellbeing Board). All other seats may be allocated to groups at the Council's discretion.
- 2.3 The Council must establish a Standing Advisory Council on Religious Education and appoint members to it. The establishment of all other bodies set out in Appendix B is within the Council's discretion.
- 2.4 Participation in the outside organisations and allocation of seats set out in Appendix C is within the Council's discretion except where indicated as being within the executive leader's discretion.

3. Consultation undertaken or proposed

- 3.1 Political groups have been invited to make their appointments to the seats allocated to them. The Council must agree to appoint members nominated by the political groups to the seats allocated to those groups. The complete list of nominations will be circulated at the earliest opportunity.

4. Amended Terms of Reference Planning Applications Committee

- 4.1 It is proposed to merge the current functions of the Borough Plan Advisory Committee into the Planning Applications Committee and to rename it the Development and Planning Applications Committee. The amended terms of reference are therefore included at Appendix E.

5. Timetable

- 3.1 The constitution of the committees set out here is for the year 2023/24 and takes immediate effect. Unless otherwise indicated all of these bodies will be established until the next annual meeting of the Council. The Council may review the committees it has established at any time. The Council must review the allocation of seats to political groups when there is a change in the political balance of the Council.

6. Legal and statutory implications

- 6.1 The Local Government Act 2000 makes provisions with respect to the function and procedures of local authorities. Merton's Constitution has been produced having regard to the provisions of the Act, Statutory Instruments and guidance from Central Government. The proposals within this report comply with the statutory requirements.
- 6.2 The Local Government Act 1972 contains provisions on the discharge of functions, meetings and proceedings of local authorities and access to information.

- 6.3 The Housing and Local Government Act 1989 contains provisions concerning the political balance on committees, the duty to allocate seats to political groups, and the duty to give effect to allocations.
- 6.4 The Licensing Act 2003 requires the Council to appoint a Licensing Committee.
- 4.5 The statutory requirement to have voting co-opted members on scrutiny has been met. There are two parent governors and a representative from both the Roman Catholic (currently vacant) and Church of England Diocese on the Overview and Scrutiny Commission and Children and Young People Panel.
- 6.5 The Council has a statutory duty to review the representation of different political groups on the Council at its annual meeting. The purpose of the legislation is to ensure that a 'political balance' is secured on council committees, sub-committees etc. so as to reflect the overall political composition of the Council.
- 6.6 Once the review has been completed there is a second statutory duty to make a determination as to political representation. This requirement to allocate seats must be made in accordance with the following statutory principles:
- a) All of the seats are not to be allocated to the same political group.
 - b) The majority of the seats go to the political group with a majority on full Council.
 - c) Subject to the above two principles, the number of seats on the total of all the ordinary committees of the Council allocated to each political group must bear the same proportion to their proportion on full Council.
 - d) Subject to the above three principles, the number of seats on each ordinary committee of the Council allocated to each political group must bear the same proportion to their proportion on the full Council.
- 6.7 Appendices – the following documents are to be published with this report and form part of the report
- 6.7 Appendix A – Committees and sub-committees to be constituted and allocation of seats to political groups (to follow)
- 6.8 Appendix B – Consultative and other bodies to be constituted and allocation of seats to political groups (to follow)
- 6.9 Appendix C – Allocation of seats on outside organisations (to follow)
- 6.10 Appendix D – Executive Leader's appointments to the Cabinet and their respective portfolios (to follow)
- 6.11 Appendix E – Amended terms of reference for the Development and Planning Applications Committee

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3. Development and Planning Applications Committee

a) Membership: 10 Members (10 seats plus 1 Independent non-voting co-opted member to be appointed by the Planning Committee)

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 Preservation 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 Housing and Sustainable Development

c) All matters relating to the exercise of this committee's functions set out above are delegated to the Director of Housing and Sustainable Development in consultation with the Chair of Development and Planning applications Committee except the following which are reserved to Committee:

- (i) Where a written request is received to the Chair on planning grounds from a Council Member that*:
 - 1. a particular application should be determined by Committee;
 - 2. an approved application's conditions are not being followed and therefore should not be discharged;

- (ii) Where in the view of the Head of Development Management and Building Control material objections have been received which cannot be overcome by conditions but where the application is considered to be in accordance with the Development Plan and so recommended for approval (minor developments or changes of use may be excluded from this exception);
- (iii) Where the proposal is significantly contrary to the Development Plan Policy, unless recommended for refusal;
- (iv) Proposals which are subject to a Section 106 agreement that would contain any heads of terms or contributions that are not a standard requirement of the Development Plan or (for proposals where a standard requirement has been subject to modification through negotiation or otherwise) depart significantly from the standard requirement of the Development Plan; or applications for release or significant modification/variation from such obligations;
- (v) Where conflict arises between the officer's recommendation and the advice issued by Historic England, the Environment Agency or other body with similar statutory status;
- (vi) Determinations in cases where an appeal has been lodged against non-determination which is subject to or may go to a Public Inquiry or Informal Hearing;
- (vii) Revocation/ modification of planning permission and discontinuance orders;
- (viii) Where the Council may be involved in compensation or service of a purchase notice (except in relation to stop notices):
- (ix) Where proposals accord with the Development Plan but are recommended for refusal;
- (x) Where the proposal involves the council as an applicant or landowner. This includes all residential and commercial schemes and their amendments but excludes minor works e.g. fence painting, gate moving, boundary wall fixing, drain digging, school window replacing etc.)

- (xi) Where enforcement action will follow on from a refusal of planning permission;
- (xii) Where an Environmental Impact Assessment has been provided or requested;
- (xiii) Where the applicant is a Councillor or a Council officer or their partner**or child living with them; or the application relates to land owned by one of those people;
- (xiv) Where officers consider the application should be determined by the Committee*;
- (xv) Where the application relates to major hazardous substances;

d) Advisory Functions

To advise on the Council's responsibilities contained in the Local Government Act 2000 and Planning and Compulsory Purchase Act 2004 (as amended) with respect to the Merton Local Plan and specifically:

- (i) to make recommendations as appropriate to the Cabinet and Council on matters relating to the Council's planning policy and guidance, Statement of Community Involvement, Development Plan Documents, Supplementary Planning Documents, Neighbourhood Plans] Local Development Orders; Conservation Area appraisals;
- (ii) To consider and advise the Cabinet and Council on the Inspector's report conducting the Independent Examination of Development Plan Documents of Merton's Local Plan;
- (iii) To advise the Cabinet and Council on the preparation of Development Plans, including those prepared with other Local Planning Authorities, e.g. Joint Waste Development Plan Document ;
- (iv) To advise the Cabinet and Council on other Strategic/London-wide spatial planning and transport planning matters;
- (v) To consider the need for information, research, studies and investigations further to the preparation of the Merton Local Plan and to advise the Council on the resources required to prepare and review the Merton Development Plan;
- (vi) To consider new and emerging legislation and resident or commercial need relevant to the preparation and review of the Merton Development Plan;

(vii) To consider and advise Cabinet and Council on buildings and structures to be included in the Local List, considering officer recommendations and consultation feedback.

* The Chair of the Committee will develop a protocol for dealing with requests by councillors and officers for matters to be referred to committee in order to ensure the efficient use of the committee's time.

** For these purposes "partner" means spouse, civil partner or person living with someone as though they were their spouse or civil partner.

Committee: Full Council

Date: 17 May 2023

Wards: All

Subject: Recruitment of Monitoring Officer

Lead officer: Hannah Doody, Chief Executive

Lead member: Councillor Ross Garrod, Leader of the Council and Chair of the Appointments Committee

Contact officer: Liz Hammond, Interim Head of HR

Recommendations:

- A To agree (on the recommendation of the Standards and General Purposes Committee) to delegate the appointment of the Managing Director, South London Legal Partnership (who will also be the Council's Monitoring Officer) to the Appointments Committee.
- B. To agree that the appointment will be at management grade 5 which currently ranges from £100,218 to £104,637, together with such market supplement as the Chief Executive, in consultation with the Chair of Appointments Committee, considers necessary to secure a good appointment.

1. Purpose of report and executive summary

- 1.1 The Council's pay policy statement requires that remuneration packages over £100k have approval of full council. This report seeks authority to recruit to an important post at a level above that amount and to delegate the decision on the appointment to that post to the Appointments Committee.

2. Details

- 2.1 The current Managing Director, South London Legal Partnership will leave the post in July 2023. That post is designated as the Council's Monitoring Officer. It also performs the role of Assistant Director of Governance for Merton, responsible for democratic services and elections, as well as information governance and acting as the client function for the shared audit and fraud partnership. A recruitment process is currently underway, and it is hoped that this will conclude in early June 2023.
- 2.2 Under the Officer Employment Procedure Rules forming part 4H of the Constitution the appointment of the Monitoring Officer is a matter for full Council. However, as the Appointments Committee is expected to sit in the first week in June and there is not another full council meeting until 12 July, the Standards and General Purposes Committee agreed at its meeting on 27 April to recommend to Council that on this occasion, the decision on the appointment be delegated to the Appointments Committee which is a cross party committee. It is not a legislative requirement that the appointment of the monitoring officer be reserved for full council.
- 2.3 The role is graded management grade 5, for which the current salary ranges from annual salary of £100,218 to £104,637. When the role was last appointed to in December 2019, it was agreed that a market supplement of up to £30,000 should apply. This was in light of the advice of the executive

search agency Penna PLC who have also been retained to assist with the recruitment process on this occasion. Since 2019, the market for Monitoring Officers has become even more limited and Penna advise that it may be necessary to increase the market supplement element to attract a good candidate. They also point out that the role has responsibility for a shared legal service working for 5 councils which brings an added level of responsibility and complexity. By contrast, the London Borough of Islington is currently advertising for a director of law and governance at circa £130,000. That role would appear to be very similar to the monitoring officer and assistant director function for Merton but without the added responsibility for a five-borough service.

- 2.4 Accordingly this report seeks authority to recruit to this post at the current grade which is in excess of £100,000 with the current market supplement of £30,000, and also to agree to delegate some flexibility to the Chief Executive in consultation with the Chair of the Appointments Committee to offer an increased market supplement if an exceptional candidate is found during the recruitment process.
- 2.5 The required approval is in line with the requirements of the Council's pay policy statement. The decision of the Appointments Committee on the appointment and the salary agreed by the Chief Executive will be reported to July Council for information.

3. Alternative options

- 3.1 Council could choose not to offer the salary and flexibility referred to above, but the advice received from Penna is that it is unlikely to be able to recruit to the post if that is the case. The Council is statutorily required to appoint a monitoring officer.
- 3.2 If the Council chooses not to delegate the decision on the candidate to the Appointments Committee, this may lead to a gap in excess of 3 months between the departure of the current postholder and the coming into post of her successor, as that person may be reluctant to take the role prior to their status as monitoring officer being confirmed. This would not be ideal.

4. Consultation undertaken or proposed

- 4.1 It is proposed that the appointment of the Managing Director, South London Legal Partnership and Monitoring Officer is delegated to the Appointments Committee. The appointment process will also include a stakeholder panel including representatives from all five Boroughs which form the South London Legal Partnership.

5. Timetable

- 5.1 Recruitment to the post of Managing Director, South London Legal Partnership has commenced and is expected to be completed in June 2023.

6. Financial, Resource and Property Implications

- 6.1 There is provision in existing budgets for the role at the salary set out in this report. 75% of the salary is split between the South London Legal Partnership Boroughs through the hard charging model agreed between

them. At present, 12.5% is met directly by Merton, in recognition of the monitoring officer and assistant director role provided directly to it and a further 12.5% by the London Borough of Richmond as the current postholder is also their monitoring officer. However, Richmond have indicated that they intending to appoint the monitoring officer employed by Wandsworth as this reflects the wider shared staffing arrangement between those councils. Provision will be made for this lost income within the shared legal services budget.

7. Legal and statutory implications

- 7.1 The Council's pay policy statement requires that recruitment packages over £100k have approval of full council.

8. Human rights, equalities and community cohesion implications

- 8.1 The contents of this report are designed to ensure that the Council's processes are human rights and equalities compliant.

It is unlawful to discriminate on grounds of gender, race, disability, age, religion and belief and sexual orientation. This refers to both direct and indirect discrimination. In effect the process has to be evaluated against three tests (1) intention (2) method (3) effect. Where there is an **intention** to discriminate on any of the prohibited grounds, this would be unlawful. Where there is no such intention but the recruitment **methods** used are discriminatory, then the outcome may be open to challenge. Where the intention and method are sound, but the **effect** is shown to have disproportionate effect on a particular category of applicant then the outcome may be open to challenge.

9. Crime and Disorder Implications

- 9.1 None

10. Risk management and health and safety implications

- 10.1 None

11. Appendices – the following documents are to be published with this report and form part of the report

- 11.1 None

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