

Committee:	Date:
Policy and Resource Committee	10 December 2020
Subject: Governance Review: Standards Regime	Public
Report of: Town Clerk	For Decision

Summary

In September 2019, the Policy and Resources Committee, proposed the undertaking of a comprehensive Governance Review of the City Corporation. The Committee was conscious that some potentially contentious issues needed to be addressed and that some radical changes may need to be considered. It was, therefore, agreed that the review should be undertaken independently and Robert Rodgers, The Lord Lisvane, was appointed to conduct the Review.

Following the Review's submission, it was determined that the many proposals therein should be considered in a structured and methodical way in the coming period, with Members afforded sufficient time to read and consider the content and implications. It was noted that the recommendations were extensive and it would be for Members to consider how far they were appropriate and which should be taken forward. It was also agreed that it would be of the utmost importance to ensure that the process provided for all Members of the Court to continue to have the opportunity to input and comment on the Review.

To that end, a series of informal Member engagement sessions were arranged to afford all Members opportunities to express their views on the various aspects of the Review as they are considered. These would then be fed back to the Resource Allocation Sub-Committee to help inform its initial consideration of specific items and subsequent recommendations to the Policy and Resources Committee.

A resolution of the Court of Common Council (8 October 2020, see appendix 2) had the effect that consideration of aspects of the Review relating to the Standards Regime would need to be taken first. Accordingly, three engagement sessions were held and the outcomes of those sessions are set out in the appendices to this report.

Members of the Resource Allocation Sub-Committee subsequently considered the various proposals relating to Section 8 of the Lisvane Review, in the context of Members' observations and reflections at the various informal sessions, at their meeting on 20 November 2020. *(NB - The minutes of that meeting are set out at Item 3(C) on today's agenda and the recording of the meeting is available at the following link: <https://www.youtube.com/watch?v=dY9gusbzqB0>).* Their determinations are now presented to the Policy and Resources Committee for further consideration, prior to any formal submission to the Court (intended for January 2021). The proposals relate to the establishment of a new Standards regime and associated implications in respect of other existing arrangements.

Recommendations

That Members:-

1. Consider the proposals in relation to Standards made by Lord Lisvane in Section 8 of his Review (Appendix 1).
2. Note the feedback provided by Members through the informal engagement process (Appendix 4).
3. Consider the items in respect of the various proposals, as set out in this report and Lord Lisvane's Review, together with the recommendations from the Resource Allocation Sub-Committee (see paragraph 19), as to a way forward.

Main Report

Background

1. In September 2019, the Policy and Resources Committee, proposed the undertaking of a comprehensive Governance Review of the City Corporation. The Committee was conscious that some potentially contentious issues needed to be addressed and that some radical changes may need to be considered. It was, therefore, agreed that the review should be undertaken independently and Robert Rodgers, The Lord Lisvane, was appointed to conduct the Review.
2. The Committee received Lord Lisvane's Review in September 2020 and determined that the many proposals therein should be considered in a structured and methodical way in the coming period, with Members afforded sufficient time to read and consider the content and implications. It was noted that the recommendations were far-reaching and wide-ranging and it would be for Members to consider how far they were appropriate and which should be taken forward. It was also agreed that it would be of the utmost importance to ensure that the process provided for all Members of the Court to continue to have the opportunity to input and comment on the Review.
3. The Governance Review will affect all aspects of the City Corporation's governance and all Members as a consequence. It is, therefore, imperative that any implementation reflects the view of the Court, and it is likely that all Members will have views on particular elements. Their continued input remains integral and incorporating all Members' views within the next steps of the process will be vital in ensuring that the recommendations which are ultimately put to the Court are viable.
4. To that end, a series of informal Member engagement sessions were arranged to afford all Members opportunities to express their views on the various aspects of the Review as they are considered. These would then be fed back to the Resource Allocation Sub-Committee to help inform its initial consideration of specific items.
5. A resolution of the Court of Common Council (8 October 2020) had the effect that consideration of aspects of the Review relating to the Standards Regime would need to be taken first. Accordingly, three engagement sessions were held and the outcomes of those sessions are set out in the appendices to this report.

6. The relevant part of the Lisvane Review is Section 8, paragraphs 386 – 450, which covers proposals and reflections in relation to the Standards Regime.
7. The section provides a reflection on recent experiences in relation to the regime by way of context, together with accompanying recommendations for a proposed route forward and new system.
8. As well as the complaints and appeal procedure, the section also touches on related issues including Dispensations, Training, and Member / Officer relations.
9. Paragraphs 386 - 394 set out reflections on the statutory position and requirements in relation to Standards. Paragraphs 395 – 403 reference the recent experiences, including the Bourne Review. Both of these sub-sections are contextual and contain no specific recommendations.
10. Paragraphs 404 – 415 concern the Dispensations regime. Again, the sub-section primarily reflects on the position to date and some relevant history, with Lord Lisvane expressing his concurrence with the findings of Philip Kolvin QC.

Lisvane's recommendations

11. The next paragraphs, 416 – 437, then set out the proposed way forward, for consideration.
12. Paragraphs 416 – 420 make clear Lord Lisvane's view that Members should not sit in judgement on each other.
13. Paragraph 421 sets out a role in relation to conciliation, utilising informal mechanisms such as mediation via the Comptroller or Chief Commoner, whilst noting there is a balance to be struck reputationally in relying too far on informal processes.
14. The recommendations in relation to formal process are summarised as follows:
 - The establishment of Independent Panel composed only of independent persons, to receive allegations of misconduct, determine whether to investigate, present findings to the Court, and hear any appeal. (*Paragraph 425*).
 - The creation of a Standing Order provision to facilitate the above in such a way that the various items presented to the Court by the Panel are accepted without debate. (*Paragraph 428*).
 - The subsequent abolition of the Standards Committee and Standards Appeal Committee. (*Paragraph 435*).
15. Depending on what is ultimately decided in respect of the above, there are consequential considerations that need to be borne in mind. These include:
 - The formation / recruitment process of the new Independent Panel (*paragraphs 429 – 435 address*).

- What should happen to those areas of responsibility under the purview of Standards Committee which do not relate to complaints and so would not necessarily go to the new Panel (*appendix 2 sets out the current Standard Committee Terms of Reference with links and commentary for ease of reference*).
16. The section also makes recommendation or commentary on a number of related areas:-
- **Register of Interests** (*paragraphs 438-439*): this relates to the way in which Members' interests are displayed on the website, which Lord Lisvane views as unhelpful / not sufficiently transparent, with a suggested change to address concerns.
 - **Training** (*paragraphs 440-442*): Lord Lisvane echoes the recommendation of Charles Bourne QC that training on standards and conduct matters should be made mandatory, and without which no Member should be eligible to be appointed to a Committee.
 - **Member / Officer Relations** (*paragraphs 443-446*): there is no specific recommendation but it is worth noting the implication that participation in the Statutory Officer Review Panel (under Standing Order 64) would fall to Independent Members of the new Panel, should such be established.
 - **Freemasonry** (*paragraphs 447-450*): whilst there is some commentary, no particular recommendation is made.

Consideration and Proposals

17. Three Member engagement sessions were held in respect of this section of the report, the summary notes of which are appended to this report. Also included within those notes are comments sent by email following the meetings.
18. Members of the Resource Allocation Sub-Committee were asked at their 20 November 2020 meeting to give consideration to the various recommendations in the context of those discussions and the views expressed by Members of the Court. The minute of the Sub-Committee's discussions is set out at Item 3(C) on the agenda for today's meeting and summarised below.
19. Having considered the various recommendations, the Resource Allocation Sub-Committee determined its position as follows:

Independent Panel

- (i) ***Do Members agree with the recommendation to establish an Independent Panel, composed only of independent persons?***
This proposal was strongly endorsed.
- (ii) ***Should such a Panel receive allegations of misconduct, determine whether to investigate, present findings to the Court, and hear any appeal?***
Members were supportive of a three-stage process, with the first stage being of a more informal / conciliatory nature engaging the Chief Commoner. External dispute resolution experts could also be useful at this

stage. The second stage would then be the formal hearing process utilising the independent panel, as outlined by Lisvane, with the third stage being an appeal stage. At the appeal stage, whilst the panel should be comprised primarily of the independent members, a minority of Members should also sit on the panel at that stage to help provide any relevant internal context.

(iii) ***What should its composition be?***

The majority view was that the Independent Panel should be entirely independent (i.e. non-City Corporation Members) and that the sub-panels at the hearing and appeal stages should be comprised of entirely different people, although drawn from the same overall pool. Consequently, the Independent Panel itself would need to be sufficiently large to ensure that this was always possible. A panel of nine was suggested, with Members also agreeing that staggered terms would be important to provide for both continuity and turnover.

Whilst there was a preference for the Panel to have a strong range of individuals with background in arbitration / judicial / tribunal processes, Members also felt strongly that the Panel should be comprised of a diverse group of individuals and so some flexibility or pragmatism may be required to ensure this.

The role of statutory Independent Persons (as required to be appointed under the Localism Act) was noted, with it observed that there was a distinction between these roles and the co-opted Members of the Standards Committee, as well as the Independent Panellists being talked about in a new arrangement. In particular, the two most recently appointed Independent Persons had played no part in any previous complaint or appeal process and, having been appointed under the provisions of the Localism Act, it was felt that these two individuals should be retained. Otherwise, an entirely new pool of individuals should be appointed, to ensure a fresh start.

(iv) ***How should it be appointed to?***

Members noted the requirement to make appointments prior to any consideration as to a Governance & Nominations Committee. Several expressed that an open and transparent recruitment process would be important, perhaps utilising the same composition of appointment panel as for the most recent appointment of Independent Persons, while another suggested that arrangements be made for suitable individuals to be identified and proposed by an independent external body. In any event, recommendations should ultimately be put to the Court for approval and appointment.

(v) ***Should the positions on the Panel be remunerated?***

The Sub-Committee supported the view that positions on the Panel should be remunerated to ensure good candidates were available, using the standard rate for public appointments (which was believed to be around £300 per day).

- (vi) ***Who should be responsible for supporting the Panel, or for producing the Panel's rules and procedures (including possible sanctions)?***

The Sub-Committee felt that some form of officer support would be required, with Members observing that this fell within the remit of the Monitoring Officer's responsibilities. An element of clerking or support would also be required.

- (vii) ***How should the Court consider its recommendations (i.e. should a Standing Order, preventing debate on any of the Panel's recommendations, be progressed?)***

Members agreed that it was inappropriate, ineffective, and embarrassing for all concerned when these issues were debated in full at the Court of Common Council. Ultimately, it was felt that the proposed new three-stage process – with Member involvement at the appeal stage – would ensure that allegations were dealt with properly and efficiently from the outset, which should avoid the need to debate in Court.

Abolition of Standards / Standards Appeals Committee

- (viii) ***Do Members agree with the proposal to abolish the Standards Committee and Standards Appeal Committee?***

The Sub-Committee was in agreement that the Standards Committee and the Standards Appeals Committee should be disbanded, although it was observed that a new "home" would need to be found for those areas which did not form part of the complaints process, such as dispensations. It was agreed that the Members Privileges Sub-Committee, chaired by the Chief Commoner, should be recommended to take on these functions on an interim basis.

- (ix) ***If yes, what is the preferred timescale for abolition?***

Members felt that the process of abolition needed to start now and be completed by the end of March 2021, with a view to new arrangements being in place for the new municipal year.

- (x) ***If abolition is prior to the establishment of a new overall committee framework, what should happen in the interim to those areas of responsibility under the purview of Standards Committee which do not relate to complaints and so would not necessarily go to the new Panel (appendix 2 sets out the current Standard Committee Terms of Reference with links and commentary for ease of reference).***

See (viii).

- (xi) ***In particular, where should responsibility for Dispensations and the Code of Conduct sit, and do any changes need to be sought to either procedure at this point in time?***

See (viii).

Register of Interests

- (xii) ***Are Members happy to support a change to the way in which the Register of Interests is set out?***

Members were supportive of officers taking forward this change.

Training

- (xiii) ***Should training on standards and conduct matters be made mandatory?***

The majority view was that some training should be mandatory but only in specific areas, where there was a statutory or quasi-judicial function. In all cases, training should be purposeful and up-to-date, with refresher sessions available to allow for continuous learning or development. With reference to training around standards and conduct, it was suggested that such training should be rolled out for all Members immediately after each election.

Additionally, it was observed that it would be particularly important for the Chief Commoner-Elect to receive appropriate training before taking office, in view of their proposed role in the first stage of a new complaints process.

- (xiv) ***If so, what sanction should be applied in the event of non-compliance?***

It was felt that any sanction should be automatic and relate to the specific committee, i.e. consistent with the current approach in respect of the Licensing Committee whereby any Member unwilling to undertake the relevant training was not permitted to serve on the hearing sub-committees.

Conclusion

20. Various proposals have been made by Lord Lisvane in relation to Standards, in Section 8 of his Review.
21. Members of the Resource Allocation Sub-Committee have considered his proposals and the attendant implications of any decisions, paying mind to the views of all Members, made through the informal engagement process and set out in the appendices to this report. The Policy and Resources Committee is now asked to consider those proposals.
22. It is intended that any recommendations, subject to points of qualification or clarification, are put to the Court of Common Council at its January 2021 meeting, to facilitate the finalisation and implementation of any new arrangements in time for the new municipal year.

Appendices:

- **Appendix 1:** Extract - Governance Review Section 8, Standards
- **Appendix 2:** Standards Committee ToRs (with comments on responsibilities)
- **Appendix 3:** Resolution from CoCo, 8 October 2020
- **Appendix 4:** Notes from Member Engagement Sessions