

Report – Policy and Resources Committee

Governance Review: Standards Regime

To be presented on Thursday, 14th January 2021

*To the Right Honourable The Lord Mayor, Aldermen and Commons
of the City of London in Common Council assembled.*

SUMMARY

In autumn 2019, the Policy and Resources Committee, with the support of the Court of Common Council, 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 have been 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 3) had the effect that consideration of aspects of the Review relating to the Standards Regime would need to be taken first.

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 various informal engagement sessions, at their meeting on 20 November 2020. Their determinations were subsequently presented to the Policy and Resources Committee for further consideration at its December 2020 meeting, and the outcomes of those deliberations are now presented to the Court for its consideration and determination, with a view to adoption for the coming municipal year. The proposals relate to the establishment of a new Standards regime and associated implications in respect of other existing arrangements.

RECOMMENDATION

That the Court of Common Council:-

1. Notes the proposals in relation to Standards made by Lord Lisvane in Section 8 of his Review (Appendix 1) and considers the recommendations of the Policy and Resources Committee thereon, as set out in paragraphs 20 - 30 of this report.
2. Authorises the Town Clerk to take such actions as are required to give effect to the decisions taken by the Court and facilitate their implementation.

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. Consequently, it is 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 were considered by the Resource Allocation Sub-Committee and Policy and Resources Committee in coming to their conclusions.

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 & City Solicitor or Chief Commoner, whilst noting there is a balance to be struck reputationally in a terms of a reliance on informal processes.
14. The recommendations in relation to formal process are summarised as follows:
 - The establishment of an 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, your Policy and Resources Committee was mindful that 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 Standards 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, to inform consideration of Lisvane's recommendations. A further session with existing co-optees and independent persons serving on the Standards Committee was also held, and the summary notes of each of these discussions were presented to the Resource Allocation Sub-Committee and Policy and Resources Committee. Also included within those notes were comments sent by email following the meetings.
18. Members of the Resource Allocation Sub-Committee were asked at their 20 November 2020 meeting to consider the various recommendations in the context of those discussions and the views expressed by Members of the Court. Following this process, their determinations were presented to the Policy and Resources Committee, who accepted or modified proposals during discussion on 10 December 2020.
19. Having considered the various recommendations, the Policy and Resources Committee has determined its position in respect of Lord Lisvane's recommendations as follows:

Creation of an Independent Panel

20. ***Lisvane Standards Recommendation 1, paragraph 425***: "*I therefore recommend that the Corporation should set up an Independent Panel composed only of independent persons, and charge that Panel with:*

- *receiving allegations of misconduct referred to it by the Monitoring Officer;*
- *deciding whether any allegation should be investigated;*
- *on the basis of the allegation, determining whether there has been a breach of the code of Conduct;*
- *reporting that determination, together with a full report of the facts, to the Court for endorsement;*
- *hearing any appeal (the appeal function will of course need to be separated rigorously from the assessment and determination function)*
- *after determination, and appeal if necessary, recommending an appropriate sanction, giving reasons as necessary.”*

The Policy and Resources Committee endorsed this proposal and noted that there were several attendant aspects that would need to be considered in the establishment of this new Panel, as indicated in Lisvane’s paragraphs 425 - 436; broadly covering the issues of process, composition, and appointment. Following its deliberations, your Committee now **recommends** as follows:-

Process

21. The Committee **recommends** the adoption of Lisvane’s recommendations in the form of a three-stage process, to be operated by the Independent Panel:
 - The first stage to be a more informal / conciliatory nature, seeking to resolve swiftly those issues which might be addressed through dispute resolution or a conversation and apology (with external dispute resolution advice to be made available to the Panel as it deems appropriate and a suitable protocol produced for such stage to be produced).
 - The second stage to then be the formal Hearing process, utilising the Independent Panel, as outlined by Lisvane (i.e. determination of investigation and breach and reporting to the Court of Common Council for endorsement).
 - The third stage to be the Appeal stage, the Panel for which should also include a minority of Members of the Court of Common Council, to help provide any relevant internal context.

The Panel should be supported by the Comptroller & City Solicitor, as the Monitoring Officer, including in respect of the production of rules and procedures as time progresses, with clerking or administrative support also provided by the Town Clerk’s department in the usual way.

Composition

22. The Committee agreed with Lisvane’s comments in relation to the need for a membership of sufficient size, to ensure that the sub-panels at the hearing and appeal stages could be comprised of entirely different Panel Members, although drawn from the same overall pool. Your Committee therefore **recommends** a panel of nine individuals, utilising staggered terms to provide for both continuity and turnover.

Recruitment and Appointment

23. With regard to Lisvane's comments at his paragraph 430 around the types of person recruited, the Committee noted a preference for the Panel to have a strong range of individuals with background in arbitration / judicial / tribunal processes, but 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 Committee was also supportive of remuneration (as referenced in paragraph 431), recommending the utilisation of the standard rate for public appointments, to help ensure strong candidates could be attracted and retained.

It was agreed that an open and transparent recruitment process should be employed, with the Chair of Policy & Resources, the Chief Commoner, and the Chair of the General Purposes Committee of Aldermen (or their representatives) acting as an interview panel and empowered to put recommendations for appointment to the Court.

Whilst there was some discussion in relation to Lisvane's commentary at paragraph 431 as to whether existing co-optees under the current Standards Regime should be utilised as Members of the new Independent Panel (particularly given the very recent appointment of some), on balance it was felt that the Panel should be appointed entirely afresh but that, as with any open process, those currently serving would be welcome to apply in the normal fashion.

Consequently, it is **recommended** that the method of recruitment as outlined above be endorsed, with the Town Clerk authorised to advertise and undertake a recruitment process in consultation with the Chair of the Policy & Resources Committee, the Chief Commoner, and the Chair of the General Purposes Committee of Aldermen (or their nominated representatives), and to put recommendations concerning appointments to the Court for consideration.

Debate at Court of Common Council

24. ***Lisvane Standards Recommendation 2, paragraph 428:*** *"I therefore recommend a Standing Order provision which would require the Panel's:*

- *determination that a breach had occurred; and*
- *recommended sanction*

to be decided without debate (and a further provision which would make it difficult or impossible for such a Standing Order to be dispensed with)."

With respect to this recommendation, the Policy and Resources Committee was agreed that it was both inappropriate and ineffective for such issues to be debated in full at the Court of Common Council. However, given the Court's ultimate sovereignty and the possibilities of suspending any Standing Order designed to prevent such debate, it was felt that such a step would be impractical in reality, notwithstanding views as to desirability. 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, thereby granting confidence in the process and mitigating against the risk of debate at Court.

The Committee, therefore, **recommends** that no such Standing Order be created and that Lisvane's recommendation at paragraph 428 be rejected.

Abolition of the Standards and Standards Appeals Committees

25. ***Lisvane Standards Recommendation 3, paragraph 435:*** "Until the Independent Panel has been recruited and is ready to begin its work, the present arrangements should remain in place. Thereafter, the Standards Committee should be abolished, and with it the Standards Appeals Committee."

The Policy and Resources Committee, noting the strength of feeling amongst Members, agreed with this proposal and considered the practicalities associated with ensuring this was achieved in an orderly fashion; specifically, timescales and interim responsibility for those areas overseen by the Standards Committee which did not form part of the complaints process, such as dispensations.

Timescale

26. The Committee **recommends** that the process of abolition begin immediately such that it is completed by the end of the current municipal year, with a view to the new arrangements being in place for the 2021/22 municipal year.

Interim responsibilities

27. Given that the intended abolition would be prior to the establishment of a new overall committee framework, the Committee considered the various areas of responsibility currently overseen by the Standards Committee. The Terms of Reference of the Committee are set out appendix 2, with links and commentary, for ease of reference.

In view of the ongoing review of the overall committee structure, the Policy and Resources Committee is of the view that that, with the exception of the area of dispensations, the Members Privileges Sub-Committee of the Policy and Resources Committee, chaired by the Chief Commoner, should be **recommended** to take on these functions on an interim basis.

Dispensations

28. Whilst distinct from the complaints process, the Committee reflected on the recent experiences concerning dispensations and the significant benefits of applications being determined independently. Consequently, it was agreed that responsibility for considering dispensations should also be granted to the new Independent Panel and **recommends** accordingly.

The Committee noted, however, that responsibility for decision-making must legally remain with the Court of Common Council, or one of its committees, sub-committees, officers, or another local authority or joint committee; therefore, the Independent Panel could only make recommendations as to whether or not dispensations should be granted or refused. Your Committee **recommends**, therefore, that authority be vested in the Town Clerk, on behalf of the Court of Common Council, to make determinations regarding applications for

dispensations upon the recommendation of the Independent Panel (i.e. exercising a ratification function).

Further, it was observed that an urgent decision in respect of an application may be required from time-to-time, the timescales such that it was not possible for the Independent Panel to consider the application. To that end, it is **recommended** that the Comptroller and City Solicitor also be authorised to make determinations as to urgent applications, should they arise.

Register of Interests

29. ***Lisvane Standards Recommendation 3, paragraph 438:*** “At the moment, the registrable interests of an individual Member may be seen by going to that Member’s page on the website. So far as the Corporation as a whole is concerned, I do not think that provides adequate transparency. The whole of the Register of Interests should be available on dedicated pages on the website. This will, for example, allow easy visibility of whether an interest relevant to a particular function of the Corporation is shared by a number of Members.”

The Committee was supportive of the proposal to change the way in which the Register of Interests is displayed and the associated increase in transparency. It therefore **recommends** that this proposal be implemented as soon as is practicable.

Training

30. ***Lisvane Standards Recommendation 4, paragraph 441:*** “Training on standards and conduct matters should be mandatory, and without which no Member should be appointed to a Committee.”

Cognisant of the range of views on this matter, your Committee felt that the majority view was that, whilst training should be mandatory in some areas, this should not be across the board and should instead only be in respect of those specific committees with a statutory or quasi-judicial function. With reference to training around standards and conduct, it was suggested that such training should be made available for all Members immediately after each election. In all cases, training should be made available and be purposeful and up-to-date, with refresher sessions available to allow for continuous learning or development.

In the event of non-compliance in respect of those areas where training should be mandatory, 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

31. Various proposals have been made by Lord Lisvane in relation to Standards, in Section 8 of his Review.
32. Members of the Resource Allocation Sub-Committee and Policy and Resources 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. The Court of Common Council is now asked to consider those proposals and, subject to its determination, grant the necessary approvals to facilitate the implementation of new arrangements in time for the 2021.22 municipal year.

Appendices:

- **Appendix 1:** Extract – Lord Lisvane’s Governance Review, Section 8, Standards
- **Appendix 2:** Standards Committee Terms of Reference (with comments on responsibilities)
- **Appendix 3:** Resolution from Court of Common Council, 8 October 2020