

Part 1 - Summary and Explanation

1.1 The Council's Constitution

This Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to determine.

The Constitution contains 16 Articles in Part 2 which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of this document.

1.2 What's in the Constitution?

In Part 2, Article 1 commits the Council to ensuring that:

- Clear leadership is provided to the community in partnership with citizens, businesses and other organisations;
- Citizens are actively involved in decision making;
- Citizens are effectively represented by their Mayor and Councillors;
- The delivery of services to the community is improved;
- Decisions are taken efficiently and effectively;
- Decision-makers are clearly identifiable, that they explain the reasons for their decisions and can be held to public account.

Articles 2-16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Full Council (Article 4)
- The Speaker of the Council (Article 5)
- The Overview and Scrutiny Committee and Scrutiny Panels (Article 6)
- The Mayor and the Executive (Article 7)
- Regulatory and other Committees (Article 8)
- The Standards Advisory Committee and the Code of Conduct for Members (Article 9)
- Local Strategic Partnership (Article 10)
- Joint Arrangements (Article 11)
- Officers (Article 12)

- Decision-Making (Article 13)
- Finance, Contracts and Legal Matters (Article 14)
- Review and Revision of the Constitution (Article 15)
- Suspension, Interpretation and Publication of the Constitution (Article 16)

1.3 How the Council Operates

In October 2010 Tower Hamlets Council adopted a directly elected Mayoral form of Executive. The Council is composed of a Mayor and 45 Councillors. The Mayor is directly elected by the electors of the borough, normally for a four year term of office. The Mayoral election will be held on the same day as the ordinary Council elections, at which Councillors are elected to represent each of the Wards within the borough every four years. Councillors are democratically accountable to residents of their Ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

The Mayor and Councillors are together known as 'Members' of the Council. Members have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Council's Standards Advisory Committee is responsible for advising Members on the Code of Conduct and ensuring that they receive training on the requirements of the Code, which they are required to observe in carrying out their duties and responsibilities as Members.

The Mayor and all Councillors meet together at the full Council meeting. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council appoints annually an Overview and Scrutiny Committee, Regulatory Committees, a Standards Advisory Committee, and other statutory, advisory and consultative bodies. The Mayor in turn appoints a Deputy Mayor and other Cabinet Members.

From 17 December 2014 to 31 March 2017, the Council is subject to Directions made by the Secretary of State for Communities and Local Government under Section 15 of the Local Government Act 1999 which mean that certain decisions of the Council will be taken by Commissioners appointed by the Secretary of State instead of by the Mayor or the General Purposes Committee of the Council. The DCLG Commissioners also have powers to regulate certain decisions of the Council. A copy of the Directions of 17 December 2014, 29 April 2015 and 16 January 2017 is an appendix to this Part of the Constitution.

1.4 How Decisions are Made

The Executive is the part of the Council's structure which is responsible for most day to day decisions. The Executive is made up of the Mayor and between two and nine Councillors appointed by the Mayor. The Mayor and other Executive Members meet together as the 'Cabinet'. The Mayor is responsible for the Council's main executive decision-making powers and the overall delivery of Council services.

The other executive decision-making bodies are:

- the King George's Field Charity Board to administer the affairs of the King George's Field, Mile End charity of which the Council is the sole trustee; and
- the Grants Determination Sub-Committee.

When Key decisions are to be discussed or made, these must be published in advance, in so far as they can be anticipated. If these Key decisions are to be discussed with Council officers at a meeting of the Cabinet, the King George's Field Charity Board, or the Grants Determination Sub-Committee this will generally be open for the public to attend, except where personal or confidential matters are being discussed.

The Health and Wellbeing Board is a statutory committee under the provisions of Health and Social Care Act 2012 but does have certain executive functions and if this Board is making a Key decision then this will be published in advance and the meeting generally is open for the public to attend, except where personal or confidential matters are being discussed.

The Executive including both the King George's Field Charity Board and the Grants Determination Sub-Committee have to make decisions that are in line with the Council's Budget and Policy Framework. If it wishes to make a decision that is outside the Budget and Policy framework, this must be referred to the full Council to decide.

1.5 Dispute Resolution

Only the Council can agree the Authority's budget for the year and the specified plans and strategies that are included in the Budget and Policy Framework. The Mayor and Executive will make proposals to the Council in relation to the budget and those plans and strategies, for adoption by the Council. If the Council does not agree with those proposals of the Mayor/Executive, a dispute resolution process applies as follows:-

Where the Council wishes to amend the Executive's proposals it may, by a majority vote, send the budget, plan or strategy back to the Executive, who must consider whether or not to make any amendments before re-submitting the item to the Council.

When the item is re-submitted, if the Council still wishes to amend the proposals, it can do so providing there are at least two-thirds of the Councillors present and voting at the meeting in favour of the amendment(s). Where a two-thirds majority in favour of the Council's amendment(s) is not achieved, then the Executive's proposals stand agreed and shall be deemed to be adopted by the Authority.

1.6 Overview and Scrutiny

There is an Overview and Scrutiny Committee which is established to review or scrutinize decisions of the Executive and conduct reviews into functions which are

the responsibility of the Executive. The Overview and Scrutiny Committee may appoint Scrutiny Panels from time to time to carry out individual reviews. This Committee and Panels support the work of the Executive and the Council as a whole. They allow citizens to have a greater say in Council matters by holding investigations in public into matters of local concern. These lead to reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery.

The Overview and Scrutiny Committee has a strategic and co-ordinating role over the scrutiny function and also monitors the decisions of the Mayor and Executive. The Committee may advise the Executive of key issues/questions that should be considered in relation to reports due to be considered by the Executive. In most cases it can also 'call-in' a decision that has been made by the Mayor or Executive but not yet implemented. This enables the Committee to consider whether the decision is appropriate. It may recommend that the decision be reconsidered.

1.7 The Council's Staff

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. All employees are subject to a Code of Conduct and a Protocol governs the relationships between Members and officers of the Council.

1.8 Citizens' Rights

Citizens have a number of rights in their dealings with the Council. These are explained further in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes.

Where members of the public use specific Council services, for example as a parent of a school pupil or as an occupier of Council land or premises, they have additional rights. These are not covered in this Constitution.

Citizens have various general rights, such as to:

- vote at Mayoral and Council elections if they are eligible and registered;
- contact the Mayor or their local Councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend formal meetings of the Council, the Cabinet and Committees/ Sub-Committees/ Panels except where, for example, personal or confidential matters are being discussed;

- present petitions which may be permitted to address the Council, the Cabinet, Scrutiny or Regulatory Committees, participate in the Council's question time and contribute to investigations by the Scrutiny Panels;
- speak in favour or against applications for planning consent or the granting of licenses by the Development or Licensing Committees;
- find out what Key Decisions are to be decided by the Mayor, Cabinet, Executive Committees/ Sub-Committees, Executive Members or officers, and when;
- see unrestricted reports and associated background papers and any published record of decisions made by the Council, the Mayor/Cabinet, Executive Committees/ Sub-Committees, or Executive Member;
- participate in the Tower Hamlets Partnership and consultative mechanisms or service user groups, if selected or appointed to do so;
- complain to the Council about Council services, action or inaction which concern them, for the matter to be investigated under the Council's complaints processes;
- complain to the Local Government Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints processes.
- complain to the Council's Monitoring Officer if they have evidence which they think shows that the Mayor or a Councillor has not followed the Council's Code of Conduct for Members;
- raise a public interest concern with the Council's Monitoring Officer if they have evidence which they think shows malpractice, wrongdoing, illegality or risk in the Council and which is not appropriate for consideration under another Council procedure; and
- examine the Council's accounts when open for inspection and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. Details of the rights of citizens to inspect agendas and reports and attend meetings are available at the Town Hall, together with copies of any documents available for inspection or on the Council's website www.towerhamlets.gov.uk

DIRECTIONS OF 17 DECEMBER 2014

ANNEX A

ACTION THE AUTHORITY IS REQUIRED TO TAKE

In this Annex, the following expressions have the following meanings:

“statutory officers” means the head of paid service designated under section 4(1) of the Local Government and Housing Act 1989, the chief financial officer designated as having responsibility for the administration of the Authority’s financial affairs under section 151 of the Local Government Act 1972, and the monitoring officer designated under section 5(1) of the Local Government and Housing Act 1989;

“the Authority” includes the Mayor, the Cabinet Members, any committee or sub-committee and any other person who has responsibility for the matter in question;

“the Direction Period” means the period beginning with the date of these Directions and ending on 31 March 2017;

“member of the Authority” includes the Mayor.

The actions to be taken by the Authority are:

- 1) Within 3 months from the date of these Directions, to draw up and agree with the Commissioners a strategy and action plan for securing the Authority’s compliance with its best value duty (to include as appropriate complying with the specific Directions set out below and putting in place robust and transparent arrangements for grant decisions), and to submit this to the Secretary of State.
- 2) To prepare under the direction of the Commissioners and submit to the Secretary of State at 6 monthly intervals thereafter during the Direction Period, a report on progress against the strategy and action plan referred to in paragraph 1, including any comments from the Commissioners about the continuing need for each of the intervention measures.
- 3) Subject to paragraph 4 below, to undertake as a matter of urgency a recruitment exercise or recruitment exercises with the aim of making by 1 April 2015 (or earlier if practicable) suitable permanent appointments to those positions the holders of which are to be designated as statutory officers and, upon such appointments being made, to designate the holder of each position as the relevant statutory officer. Such recruitment exercise(s) is/are to be conducted under the direction of, and to the satisfaction of, the Commissioners who, for the avoidance of doubt, may for these purposes approve the continuation of a recruitment exercise commenced before the date of these Directions, with or without modification. Also for the avoidance of doubt and again subject to paragraph 4 below, an existing employee of the

Authority may be appointed to a position referred to in this paragraph, provided always that such person is a suitable permanent appointment to that position.

- 4) For the Direction Period, to obtain the prior written agreement of the Commissioners to:
 - (a) any dismissal or suspension of a person who has been designated as a statutory officer (whether that person was appointed or designated as a result of the exercise referred to in paragraph 3 or otherwise);
 - (b) any appointment of a person to a position the holder of which is to be designated as a statutory officer (whether as a result of the exercise referred to in paragraph 3 or otherwise);
 - (c) any removal of the designation of any person as a statutory officer (whether that person was designated as a result of the exercise referred to in paragraph 3 or otherwise); and
 - (d) any designation of any person as a statutory officer (whether as a result of the exercise referred to in paragraph 3 or otherwise).
- 5) For the Direction Period, to obtain the prior written agreement of the Commissioners before entering into any commitment to dispose of, or otherwise transfer to third parties, any real property other than existing single dwellings for the purposes of residential occupation.
- 6) Within 3 months from the date of these Directions, to prepare a fully costed plan for the Authority's proper use of publicity and agree that plan with the Commissioners; thereafter during the Direction Period, to report to the Commissioners on the delivery of that plan at 6 monthly intervals or at such intervals as the Commissioners may direct, and adopt any recommendation of the Commissioners with respect to that plan, and for the Direction Period, to adopt any recommendations of the Commissioners in respect to publicity more generally.
- 7) Urgently and in any event by no later than 1 February 2015, to prepare and implement an action plan, in consultation with the Commissioners, to achieve improvements in relation to the processes and practices the Authority adopts for entering into contracts, including how it implements its written procurement policies and procedures; and during the Direction Period, to adopt all recommendations of the statutory officers in relation to the processes and practices to be followed in relation to entering into contracts, unless the Commissioners' prior written agreement is obtained not to do so.
- 8) To allow the Commissioners at all reasonable times access:

- (i) to any premises of the authority
- (ii) to any document relating to the authority, and
- (iii) to any employee or member of the authority,

which appear to the Commissioners to be necessary for the purposes of carrying out their responsibilities under these Directions and any future Direction.

- 9) At the request of the Commissioners, to provide to them the views of the Authority as to the appropriate recipient and amount of any grant to which paragraph 1 of Annex B applies.
- 10) To provide the Commissioners, at the expense of the Authority, with such reasonable amenities and services and administrative support as the Commissioners may reasonably require from time to time to carry out their functions and responsibilities under these Directions; and
- 11) To pay the Commissioners' reasonable expenses and such fees as the Secretary of State determines are to be paid to them.

ANNEX B

FUNCTIONS OF THE AUTHORITY TO BE EXERCISED BY THE COMMISSIONERS

- 1) Subject to paragraph 2, all functions the Authority exercises relating to the making of grants under any statutory power or duty, including any grants made pursuant to section 1 of the Localism Act 2011 (local authority's general power of competence).
- 2) For the purpose of paragraph 1,
 - a) paragraph 1) does not apply to grants made for the purposes of section 23 of the Housing Grants, Construction and Regeneration Act 1996 under section 24 of that Act (i.e. Disabled Facilities Grant).
 - b) functions include any functions incidental or consequential to the making of grants other than any functions provided for by Chapter 3 of Part 1 of the Local Government Finance Act 1992.
- 3) The functions of appointing persons to and removing persons from the statutory offices of Electoral Registration Officer (section 8(2) of the Representation of the People Act 1983) and Returning Officer for Local Elections (section 35(3) of the 1983 Act).
- 4) The functions under section 112 of the Local Government Act 1972 of (a) appointing and determining the terms and conditions of employment of an officer of the Authority, only insofar as those functions are exercised for the purposes of appointing a person as an officer of the Authority principally in order for that person to be appointed to the statutory offices of Electoral Registration Officer or Returning Officer for Local Elections, and (b) dismissing any person from being an officer of the Authority who after the date of these Directions has been appointed to the statutory offices of Electoral Registration Officer or Returning Officer for Local Elections.
- 5) The function under section 101 of the Local Government Act 1972 of arranging for the discharge of any of the Authority's functions by another body or person, only insofar as that function is exercised for the purposes of amending or revoking any arrangements the Authority has made in relation to the discharge of functions to be exercised by the Commissioners referred to in this Annex.

DIRECTIONS OF 29 APRIL 2015

ANNEX

ACTION THE AUTHORITY IS REQUIRED TO TAKE

In this Annex "Authority" shall have the same meaning as in Annex A of the Directions of 17 December 2014.

The actions to be taken by the Authority are:

1. To define and establish, within one month of the date of these Directions and with the agreement of the Commissioners, a new senior officer position, the holder of which is:
 - (a) to have direct or indirect line management responsibility for all the Authority's staff, other than political assistants appointed in pursuance of section 9 of the Local Government and Housing Act 1989;
 - (b) to have delegated to him or her responsibility for exercising such functions as are agreed with the Commissioners; and
 - (c) to be designated as head of paid service under section 4(1) of the 1989 Act.
2. To undertake a recruitment exercise, to be conducted under the direction of, and to the satisfaction of, the Commissioners, with the aim of making a suitable permanent appointment to this new senior officer position within 3 months of it being established, subject to Annex A paragraph 4 to the Directions of 17 December 2014. For the avoidance of doubt the reference to a recruitment exercise is a reference to an open competition, and an existing employee of the Authority may apply and be appointed to the position through such a recruitment exercise, subject to Annex A paragraph 4 to the Directions of 17 December 2014.
3. To provide the Commissioners, at the expense of the Authority, with such reasonable amenities and services and administrative support as the Commissioners may reasonably require from time to time to carry out their functions and responsibilities under these Directions.
4. Paragraphs 1 and 2 above replace paragraph 3 of Annex A to the Directions of 17 December 2014 insofar as that paragraph 3 relates to the recruitment to a post the holder of which is to be designated as the head of paid service.

DIRECTIONS OF 16 JANUARY 2017

DIRECTIONS UNDER SECTION 15(5) AND (6) OF THE LOCAL GOVERNMENT ACT 1999 TO THE COUNCIL OF THE LONDON BOROUGH OF TOWER HAMLETS 2014

WHEREAS

1. The Secretary of State for Communities and Local Government ("the Secretary of State") has carefully considered the following in respect of the council of the London Borough of Tower Hamlets ("the Authority"):
 - a. the Mayor of Tower Hamlets' third six monthly report on progress against the Council's Best Value Strategy and Action Plan, received by the Secretary of State on 20 September 2016;
 - b. the Tower Hamlets Commissioners' report on progress with the intervention in Tower Hamlets, received by the Secretary of State on 11 October 2016; and
 - c. the representations made to him on 15 December 2014 by the Authority on the proposed revised intervention package.
2. The Secretary of State is satisfied that the Authority is able to exercise functions in relation to the making of grants under any statutory power or duty (paragraphs 1 and 2 of Annex B to the 17 December 2014 Directions), in compliance with the requirements of Part 1 of the Local Government Act 1999 ("the 1999 Act"). However the Secretary of State considers that the Authority's exercise of these functions should be subject to oversight arrangements to enable the Commissioners to advise and scrutinise the Authority and ensure its compliance with the best value duty.
3. The Secretary of State is also satisfied that the processes and practices the Authority adopts for entering into contracts, including how it implements its written procurement policies and procedures, are now in compliance with Part 1 of the 1999 Act.
4. The Secretary of State, having considered the representations made by the Authority as required by section 15(9) of the 1999 Act, considers it necessary and expedient in accordance with his powers under section 15(5) and (6) of the 1999 Act, to direct the Authority as set out below in order to secure the Authority's compliance with the requirements of Part 1 of the 1999 Act, including the specific requirements of the Directions under section 15(5) and (6) of the 1999 Act issued on 17 December 2014.

NOW THEREFORE

5. Pursuant to his powers under section 15(5) and (6) of the 1999 Act, the Secretary of State directs the Authority to take the actions set out in the Annex to these Directions.

6. These Directions remain in force until 31 March 2017.

Signed on behalf of the Secretary of State for Communities and Local Government.

A handwritten signature in black ink, appearing to read 'Alex Powell', with a stylized flourish at the end.

Alex Powell

A Senior Civil Servant in the Department for Communities and Local Government

Date: 16 January 2017

ANNEX

ACTION THE AUTHORITY IS REQUIRED TO TAKE

In this Annex, the following expressions have the following meanings:

"the Authority" includes the Mayor, the Cabinet Members, any committee of sub-committee and any other person who has responsibility for the matter in question;

"the Direction Period" means the period beginning with the date of these Directions and ending on 31 March 2017;

"member of the Authority" includes the Mayor.

The actions to be taken by the Authority are:

- 1) For the Direction Period, subject to paragraph 2, to exercise under the direction of, and to the satisfaction of, the Commissioners all functions relating to the making of grants under any statutory power or duty, including any grants made pursuant to section 1 of the Localism Act 2011 (local authority's general power of competence).
- 2) For the purpose of paragraph 1,
 - (a) paragraph 1 does not apply to grants made for the purposes of section 23 of the Housing Grants, Construction and Regeneration Act 1996 under section 24 of that Act (i.e. Disabled Facilities Grant);
 - (b) functions include any functions incidental or consequential to the making of grants other than any functions provided for by Chapter 3 of Part 1 of the Local Government Finance Act 1992.
- 3) The Authority will be obliged to continue to undertake the actions outlined in paragraphs 2, 3, 4, 5, 6, 8, 9, 10 and 11 of Annex A and paragraphs 3, 4 and 5 of Annex B to the 17 December 2014 Directions for the retained functions.