


<p>Non-Executive Report of the:</p> <p>General Purposes Committee</p> <p>8th March 2017</p>	
<p>Report of: Graham White, Acting Corporate Director, Governance and Acting Monitoring Officer</p>	<p>Classification: Unrestricted</p>
<p>Tower Hamlets Constitution - Part 3 Responsibility for Functions – Proposed Changes</p>	

Originating Officer(s)	Paul Greeno
Wards affected	All

Summary

As the Council is operating Executive arrangements then it must have a Constitution and it must also ensure that this Constitution is kept up-to-date. Pursuant to Part 2, Article 15.01(a) of the Constitution, it is a Monitoring Officer role to review the Constitution and make recommendations to ensure that the aims and principles of the Constitution are given full effect. In that regard, a key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council and to make recommendations for ways in which it could be amended in order better to achieve the purposes of the Constitution.

Recommendations:

The General Purposes Committee is recommended to:

1. Note the spreadsheet in Appendix 1 setting out the revisions and the reasons;
2. Agree the revised Part 3 Responsibility for Functions of the Constitution as set out in Appendices 2 through to 10; and
3. Note that the revisions to the Constitution will go to Council for approval

1. REASONS FOR THE DECISIONS

- 1.1 Pursuant to the Local Government Act 2000 ('the 2000 Act') as the Council is operating Executive arrangements then it must have a Constitution and also ensure that this Constitution is kept up-to-date. Pursuant to Part 2, Article 15 of the Constitution it is a Monitoring Officer role to review the Constitution.
- 1.2 The purpose of the Constitution is to set out how the council operates; how decisions are made; and the procedures which are followed to ensure that decision making is efficient, transparent and accountable to local people. It is therefore important that the Constitution is kept up-to-date so that it can continue to achieve that purpose.
- 1.3 The Constitution has been updated from time to time: the last time being 28 January 2015. It has not, however, undergone a thorough review for some time and therefore decisions taken by the Council since 28 January 2015 as well as changes in legislation or corrections of matters of fact have not been incorporated.
- 1.4 A full review of the Constitution is thereby being undertaken to incorporate these changes but also for the purposes of assessing the Constitution's strengths and weaknesses and to consider appropriate amendments having particular regard to efficiency, transparency and accountability.

2. ALTERNATIVE OPTIONS

- 2.1 General Purposes Committee could decide not to agree the proposed changes.

3. DETAILS OF REPORT

The Purpose of the Review

- 3.1 As the Council is operating Executive arrangements then it must have a Constitution and also ensure that this Constitution is kept up-to-date. Pursuant to the Constitution, it is a Monitoring Officer role to review the Constitution and make recommendations to ensure that the aims and principles of the Constitution are given full effect. In that regard, a key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council and to make recommendations for ways in which it could be amended in order better to achieve the purposes the Constitution.
- 3.2 The purpose of the Constitution is to set out how the council operates; how decisions are made; and the procedures which are followed to ensure that decision making is efficient, transparent and accountable to local people. It is therefore important that the Constitution is kept up-to-date so that it can continue to achieve that purpose.

- 3.3 The Constitution has been updated from time to time: the last time being on 28 January 2015. This is the latest version that has been published on the Council's website. The Constitution has not, however, undergone a thorough review for some time and therefore a number of changes in legislation or fact have not been incorporated. A full review of the Constitution is thereby being undertaken to incorporate these changes but also for the purposes of assessing the Constitution's strengths and weaknesses and to consider appropriate amendments having particular regard to efficiency, transparency and accountability.
- 3.4 The review is ongoing but has been completed in respect of Parts 1 to 3, some of the Procedure Rules in Part 4 and some of the Codes of Conduct in Part 5 but due to the scale and scope, it has been decided to present amendments in bite size chunks for ease of reference and this report is considering Part 3 only.

Monitoring Officer Review

- 3.5 As to the completed part of the review in respect of Part 3, 294 changes have been identified. A spreadsheet has been prepared (see Appendix 1) that sets out the revision and the reason for it. The entry numbering of the revisions that is 1 and 2 and then 113 to 404 reflects the fact that numbers 3 to 112 relate to revisions made to earlier parts of the Constitution.
- 3.6 There are a number of changes (referred to in entry number 1) that have been made and the purpose of which is to correct grammar (e.g. the addition of the definite article), numbering corrections, or typographical errors and due to the nature of the changes that have been made, these have not specifically recorded in the spreadsheet at Appendix 1. Further all changes reflecting the Council's recent structural change (see entry number 2) have not been individually recorded.
- 3.7 In respect of entry number 331, this change has previously gone to full Council and been approved.
- 3.8 The majority of the changes reflect either changes in legislation or changes to correct matters of fact. There are more substantive changes however and these are set out below.

Part 3.3

- 3.9 Part 3.3 of the Constitution contains the Terms of Reference for Council and non-executive Committees (including Sub-Committees (with certain exceptions: e.g. Licensing Sub-Committee) and Boards of those Committees); other Boards and Panels; and Joint Committees. A number of tidying up changes have been made to these Terms of Reference but the substantive changes are:
- (a) Licensing Committee Delegations – currently all Licensing functions in respect of determination of applications where there are no objections are delegated to the Corporate Director, Place. The one exception to this is SEV Licensing. The proposed change is to also

delegate that function to the Corporate Director, Place where there are no objections.

- (b) Substitutes – rather than up to 3 substitutes for each, Member it is now 3 substitutes per political group. The primary reason for this is that most Committees require specific training for that Committee to permit a Member to participate and limiting the number of substitutes allows for Democratic Services to ensure that the substitutes are informed as to any mandatory training.
- (c) Licensing Committee – the Terms of Reference have been updated to better reflect the work actually undertaken by the Committee.

Part 3.8

- 3.10 This relates to Delegated Decision Making – General Principles and the review of this Part revealed weaknesses regarding efficiency, transparency and accountability. The proposed changes set out in greater detail those general principles that apply when officers make decisions. Entry numbers 341 to 355 in the spreadsheet at Appendix 1 refer.

Part 3.10

- 3.11 This relates to Proper Officers. Certain statutes require the appointment of specific officers referred to as ‘proper officers’ to carry out specific functions and which are set out in Part 3.10 of the Constitution. When reviewing this part of the Constitution, it was noted that a number of proper officer functions were missing and these have now been included.
- 3.12 Appendices 2 through to 10 sets out all the changes made to Part 3 shown as tracked changes.

Consideration by the Constitutional Working Party

- 3.13 This Constitution Review has been discussed at the Governance Review Working Group where it was noted that to take this review forward, reports will go to General Purposes and Full Council.
- 3.14 It was also agreed that prior to those reports going forward, it would be useful for these changes to be discussed with Members and a Constitutional Working Party was formed to which all political groups were invited to attend. These revisions to Part 3 were discussed at a Constitutional Working Party meeting on 27th February 2017 and the changes proposed were agreed at that meeting.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 The Chief Finance Officer has been consulted on this report and has no additional comments to make; there are no financial implications as a result of the proposed changes to the Constitution set out in this report.

5. LEGAL COMMENTS

- 5.1 Any legal implications are addressed in the body of the report.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 The proposed revisions to the Constitution are intended to address weaknesses regarding efficiency, transparency and accountability. In making the revisions to increase efficiency, transparency and accountability of decision making this should help to achieve the objectives of equality and personal responsibility inherent in One Tower Hamlets.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 As a best value authority, the Council has an obligation under section 3 of the Local Government Act 1999 to “make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness” (the best value duty). Whilst the report does not propose any direct expenditure, it is looking to put in place arrangements in the exercise of its functions having regard to efficiency and thereby also economy and effectiveness.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 It is not considered that there are any environmental implications.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 This proposed revision of the Constitution is designed to address weaknesses regarding efficiency, transparency and accountability. The overall aim is therefore to reduce risk.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 There are no crime and disorder reductions implications.

Linked Reports, Appendices and Background Documents

Linked Report

- None.

Appendices

- Appendix 1 – Spreadsheet of Revisions
- Appendix 2 – Revised Part 3.1.1 with the revisions shown as tracked changes
- Appendix 3 – Revised Parts 3.1.2 to 3.2 with the revisions shown as tracked changes
- Appendix 4 – Revised Part 3.3 with the revisions shown as tracked changes
- Appendix 5 – Revised Part 3.4 with the revisions shown as tracked changes
- Appendix 6 – Revised Parts 3.5 to 3.6 with the revisions shown as tracked changes
- Appendix 7 – Revised Parts 3.7 to 3.8 with the revisions shown as tracked changes
- Appendix 8 – Revised Part 3.9 with the revisions shown as tracked changes
- Appendix 9 – Revised Part 3.10 with the revisions shown as tracked changes
- Appendix 10 – Revised Parts 3.11 and 3.12 with the revisions shown as tracked changes

Local Government Act, 1972 Section 100D (As amended)

List of “Background Papers” used in the preparation of this report

List any background documents not already in the public domain including officer contact information.

- None.

Officer contact details for documents:

- N/A