


<p>Non-Executive Report of the:</p> <p><b>General Purposes Committee</b></p> <p>2<sup>nd</sup> May 2017</p>	 <p><b>TOWER HAMLETS</b></p>
<p><b>Report of:</b> Graham White – Acting Corporate Director, Governance and Interim Monitoring Officer</p>	<p><b>Classification:</b> [Unrestricted]</p>
<p><b>Constitution Update</b></p>	

<b>Originating Officer(s)</b>	Paul Greeno
<b>Wards affected</b>	All

### Summary

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 15.01(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 4.2 of the Constitution (Access to Information Procedure Rules) in Appendix 2 with the revisions shown as tracked changes;
3. Agree the revised Part 4.3 of the Constitution (Budget and Policy Framework Procedure) in Appendix 3 with the revisions shown as tracked changes;
4. Agree the revised Part 4.5 of the Constitution (Overview and Scrutiny Procedure Rules) in Appendix 4 with the revisions shown as tracked changes;
5. Agree the revised Part 4.6 of the Constitution (Financial Regulations and Procedure Rules) in Appendix 5 with the revisions shown as tracked changes;
6. Agree the revised Part 4.7 of the Constitution (Financial Regulations and Procedure Rules) in Appendix 6 with the revisions shown as tracked changes;
7. Agree the revised Part 4.8 of the Constitution (Contracts and Procurement Procedure Rules) in Appendix 7 with the revisions shown as tracked changes;
8. Agree the new Part 4.10 of the Constitution (Recording of Officer Decision Procedure Rules) in Appendix 8; and
9. Recommend these revisions to the Constitution 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 not had a thorough review for some time and therefore a full review of the Constitution is 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.
- 1.4 Although the vast majority of changes could be made by the Monitoring Officer using delegated powers, it has been decided that as this is a complete review to report the changes through a Member Constitutional Working Party, General Purposes Committee and then to Council to approve all changes.

## **2. ALTERNATIVE OPTIONS**

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

## **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.
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- 3.4 The review is ongoing but has been completed in respect of Parts 1 to 3, 4.4, 4.9, 5.1, 5.3, 6 and 7 and which all been approved by Council. These revisions were published on 7<sup>th</sup> April 2017.

**Monitoring Officer Review**

- 3.5 This report is in respect of the review of Parts 4.2, 4.3, 4.5, 4.6, 4.7 and 4.10. A number of revisions have been identified and a spreadsheet has been prepared (see Appendix 1) that sets out the various revisions and the reason for them.
- 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 the changes reflecting the Council's recent structural change (see entry number 2) have not been individually recorded.
- 3.7 Looking at each Part in turn, the Council has statutory responsibilities regarding access to reports and agendas, attendance at meetings; publications of decisions etc. and the changes to the Access to Information Procedure Rules at Part 4.2 are for the purposes of updating legislation and for consistency/ clarification.
- 3.8 Part 4.3 sets out the Budget and Policy Framework Procedure and the changes made are for consistency and clarification.
- 3.9 Part 4.5 sets out the Overview and Scrutiny Procedure Rules. The changes are predominantly for the purposes of updating legislation and for consistency/ clarification. There is also a proposed new Rule 14 and which is a factual change to reinforce that there are sanctions if the Mayor, Member or Officer does not attend in response to a request to attend an Overview and Scrutiny Committee or Sub-Committee/ Panel.
- 3.10 Part 4.6 set of the Financial Regulations and Procedure Rules. The main change here is that the Financial Regulations/ Procedures that are prepared by the Corporate Director, Resources on a yearly basis will be an Appendix to these Rules so that these are also forward facing for reasons of transparency and ease of reference. There is also a change to emphasise that a breach of these Rules by officers does have consequences.
- 3.11 Part 4.7 sets out the Contracts and Procurement Procedure Rules. The main change here is that the Procurement Procedures that are prepared by the Corporate Director, Resources will be an Appendix to these Rules so that

these are also forward facing for reasons of transparency and ease of reference. There is also a change to emphasise that a breach of these Rules by officers does have consequences.

3.12 The Access to Information Procedure Rules at 4.2 has a Rule relating to Recording of Officer Decisions. The Council has a statutory responsibility to produce a written record:

- (a) executive decisions (key or otherwise) made by individual officers or members must be recorded in a written; and
- (b) non-executive decisions which would have been taken by the relevant local government body, or a committee, sub-committee of that body or a joint committee in which that body participates, but has been delegated to an officer of that body either under a specific express authorisation; or under a general authorisation to officers to take such decisions and, the effect of the decision is to either grant a permission or licence; or affect the rights of an individual; or award a contract or incur expenditure which, in either case, materially affects that relevant local government body's financial position.

3.13 This is not being consistently done at the moment and therefore the Council is failing in its statutory duty. The way forward is therefore to make officers aware of what decisions require both a written record and to be published and officers also need to be aware of the difference between executive and non-executive decisions. Officers need to be aware that they are accountable for actions taken in accordance with delegations and that the Council needs to ensure transparency of decision making. To do this, a Procedure needs to be put in place to ensure that relevant decisions are recorded correctly; made available for inspection; and published on the Council's website. As to publication, these can be published through the modern.gov system. In that regard, a Recording of Officer Decisions Procedure Rule is proposed and which will be 4.10.

#### **What is next**

3.14 It will be noted in respect of Part 4 that 4.1 and 4.8 are not covered by this report. As to 4.1, this is the Council Procedure Rules and has previously been to the Constitutional Working Party when a steer was given by Members regarding revisions and a revised draft will be presented to the next Constitutional Working.

3.15 As to 4.8, these are the Development Procedure Rules and are being considered alongside the review of the Planning Code of Conduct at Part 5.3.

3.16 Finally, Parts 5.4 (Member/ Officer Relations' Protocol) and Part 5.5 (Employees' Code of Conduct) have both been revised and will be discussed at the next Constitutional Working Party prior to being presented to the General Purposes Committee.

#### **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.

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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

- NONE

### **Appendices**

- Appendix 1 – Spreadsheet of Revisions
- Appendix 2 – Revised Part 4.2
- Appendix 3 – Revised Part 4.3
- Appendix 4 – Revised Part 4.5
- Appendix 5 – Revised Part 4.6
- Appendix 6 – Revised Part 4.7
- Appendix 7 – New Part 4.10

### **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