

Non-Executive Report of the: General Purposes Committee Wednesday, 25 June 2019	 TOWER HAMLETS
Report of: Asmat Hussain, Corporate Director, Governance and Monitoring Officer	Classification: Open (Unrestricted)
Constitution Review Update	

Originating Officer(s)	Matthew Mannion, Head of Democratic Services
Wards affected	(All Wards);

Executive Summary

As set out in reports to previous General Purposes Committee meetings, officers are working through a refresh of the Council's Constitution.

This report presents an update of the work on all four Parts of the Constitution.

It also asks General Purposes Committee to consider whether they are content to allow the Constitution to be presented to the Council meeting on 17 July 2019 for agreement.

Recommendations:

The General Purposes Committee is recommended to:

1. Review and Comment on the progress set out to review all four Parts of the Constitution.
2. Note responses to specific questions raised by the General Purposes Committee at its last meeting.
3. Confirm that the Constitution should be presented for consideration to Council on 17 July 2019.
4. Agree that minor amendments can continue to be made to the draft constitution in advance of the Council meeting on 17 July with General Purposes Committee Members to be informed of any such changes.

1. REASONS FOR THE DECISIONS

- 1.1 This report follows on from the report to the General Purposes Committee on 29 October 2018 and the initial reasons for the review are set out there.

2. ALTERNATIVE OPTIONS

- 2.1 This report is seeking the views and comments of the General Purposes Committee. Members are free to suggest alternative content and/or styles.

3. DETAILS OF THE REPORT

- 3.1 This report follows on from the report to the General Purposes Committee on 29 October 2018 and the initial reasons for the review are set out there.

- 3.2 This report is the latest in a series setting out work on the Council's Constitution. The following paragraphs will set out the main areas of development since the last General Purposes Committee meeting as well as responding to specific questions raised at that meeting.

- 3.3 The Constitution review is now nearing completion and the draft version presented to General Purposes Committee is now structurally complete. Reviewing the document demonstrates some of the improvements which were the focus of this review including:

- The new Part A (Introduction and Explanations) uses much more user friendly language than the Articles it replaces. The intention being to make the Constitution easier for members of the public to engage with.
- The arrangement of the constitution has been simplified with four Parts replacing the current eight.
- The main 'public facing' sections of the Constitution have reduced in size by around 1/3 (current Parts 1-4 total 304 pages – the new Parts A and B total 204 pages).
- The new Part D now contains a large amount of useful information in specific circumstances (e.g. procedures for specific committees) but it will also be easier to maintain with improved delegation levels.
- Oversight by the General Purposes Committee has been clarified and improved.

Recent review work

- 3.4 Following the last review by the General Purposes Committee, a number of changes have been made to the draft document. The next few sections look at each of the four Parts of the Constitution in turn, setting out the substantive changes:

Part A

- 3.5 Part A – Summary and Explanation:

- Section 3 - Officer Decisions – Officer decision publication guidance is being considered to see whether it should include similar guidance on community impact as for key decisions.

- Section 4 – Citizens’ Rights – general tidy up, added note about submitting compliments (in addition to existing note about complaints), additional text in relation to speaking at Committees.
- Section 9 – Overview and Scrutiny – this introduction to Overview and Scrutiny has been simplified with the more detailed sections moved across to the main Overview and Scrutiny Procedures in Part B. The new Chair of the Overview and Scrutiny Committee is considering the content and may propose further changes.
- Section 10 – Non-Executive Committees – more description has been added in relation to Licensing and Strategic Development / Development Committee as those are seen as particularly of relevance to the public.
- Section 12 – Joint arrangements – looking at making it clear that decisions to agree joint arrangements rest with the officer/committee that is responsible for the relevant function.
- Section 15 – Limitations – revised which parts of the Constitution can be suspended.

Part B

3.6 Part B – Responsibility for Functions and Decision-Making Procedures:

- Sections 19 and 20 – Terms of References for the various committees and boards are being updated in conjunction with relevant officers/bodies. In particular Audit Committee, Standards Advisory Committee (previously presented) and the Scrutiny Sub-Committees have seen changes.
- Section 26 Council Procedure Rules – minor changes marked up following discussions at the last Committee. These are highlighted.
- Section 30 Overview and Scrutiny Procedure Rules – these have been updated to bring across content from the current Article in the Constitution. The new Chair of Overview and Scrutiny Committee is considering these and may propose further changes.

Part C

3.7 Part C – Codes and Protocols:

- Sections 33 and 38 – Human Resources have confirmed that no significant revisions are required to the Employee Code of Conduct and the Officer Employment Procedure Rules at this stage. Should changes be required at a later date a separate report will be presented. Minor changes have been made to update job titles where required.
- Sections 36 and 37 – The Resources Directorate are in the process of updating the Financial Regulations and Procedure Rules and the Contracts and Procurement Procedure Rules. Appendix 5 sets out the planned changes and is presented with this report. The Committee are asked to consider the level of review they wish to have on these sections before they are submitted to Council.

Part D

3.8 Part D – Supplementary Documents:

- Part D is now almost complete.
- The Directorate Schemes of Delegation are being updated and will be inserted shortly. It is for the individual Corporate Directors to agree their new Schemes.
- Procedure Rules for various Boards and Committees have been added.
- A new Corporate Financial Delegation Section is to be created to ensure consistent and transparent financial rules across the Council.

Responses to specific questions raised at the last General Purposes Committee meeting

Torbay

- 3.9 Members asked for research to be undertaken on the Torbay Council call-in procedures as it was reported that they included a step to present reports to Council.
- 3.10 The procedure is presented below and in essence it allows, following initial review by the Overview and Scrutiny Committee, for Executive decisions to be further paused to allow Council to consider the issue.
- 3.11 It should be noted that, providing the decision was not outside of the budget and policy framework, Council has no additional powers to the Overview and Scrutiny Committee in respect of the decision. Council may take a view on the decision and present it back to the decision maker for their review.
- 3.12 Torbay's procedure is set out on the next page:

<p>In exceptional circumstances, refer the matter to the Council for scrutiny, giving reasons for why the matter is being referred to Council.</p>	<p>decision shall be deemed to have been rescinded.</p> <p>Upon such request, the proper officer shall arrange a meeting of the Council within 20 working days (excluding the day of receipt or the day of the meeting) or as soon thereafter, as is reasonably practicable, unless:</p> <p>(i) a normal Council meeting is scheduled within 30 working days (excluding the day of receipt or the day of the meeting) in which case the matter shall be referred to that meeting; or</p> <p>(ii) if a normal Council meeting is not scheduled within 30 working days and the decision-maker confirms to the proper officer that he/she is content for the matter to be referred to the next normal Council meeting.</p> <p>At the Council meeting, if the Council does not object to the decision, no further action is necessary and the decision will be effective from the date of the Council meeting.</p> <p>Provided the decision has been made in accordance with the Policy Framework and the Budget, the Council has no power to amend the decision but may refer any decision to which it objects back to the decision maker together with the Council's views on that decision and the Subsequent Action referred to in Option B shall apply.</p>
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Liverpool and Doncaster Constitutions (Mayoral Model Constitutions)

- 3.13 Committee Members asked officers to review Constitutions from other authorities (from outside London) which also operated the elected mayoral model. The constitutions from Liverpool and Doncaster were selected.
- 3.14 Both constitutions showed similarities and differences to the standard constitutional model in the same way as at other authorities including in delegations, meeting procedures and similar.
- 3.15 It was noticeable that both constitutions included in their appendices more information about the different roles Councillors play including job descriptions for various roles. Members could consider whether it is worth exploring creating similar content.

Next Steps

- 3.16 General Purposes Committee are asked to confirm whether they are in agreement with the proposal to present the full Constitution to the 17 July 2019 Council meeting. This would include those sections highlighted where work is still ongoing.

4. EQUALITIES IMPLICATIONS

- 4.1 The Constitution sets out how the Council operates and how decisions are taken. By ensuring properly transparent decision making the Constitution ensures that residents are able understand how decisions are taken and to participate in decision making as set out.
- 4.2 The changes set out are designed to improve the efficiency, transparency, accountability and general good governance of the Council.

5. OTHER STATUTORY IMPLICATIONS

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:
- Best Value Implications,
 - Consultations,
 - Environmental (including air quality),
 - Risk Management,
 - Crime Reduction,
 - Safeguarding.
 - Data Protection / Privacy Impact Assessment.

- 5.2 It is good practice to review the Constitution regularly, it also meets with a recommendation of the recent Corporate Peer Review which highlighted the need to ensure the Council removed 'bad bureaucracy whilst retaining good governance'.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

This report recommends that the General Purposes Committee review and comment on the progress set out to review all four parts of the Constitution, note responses to specific questions raised by the General Purposes Committee at its last meeting, and confirm that the Constitution should be presented for consideration to Council on 17 July 2019. As such there are no direct financial implications arising.

7. COMMENTS OF LEGAL SERVICES

- 7.1 Section 9P of the Local Government Act 2000 (as amended) requires the Council to prepare and keep up to date a constitution.

- 7.2 The constitution must contain the elements identified specified by the Secretary of State in the Constitution Direction issued in December 2000.
- 7.3 The constitution must be published and be available for inspection by members of the public.
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Linked Reports, Appendices and Background Documents

Linked Report

- Reports to General Purposes Committee on 29 October and 11 December 2018, 26 February 2019 and 4 April 2019.

Appendices

- Appendix 1 – draft Part A of the new Constitution
- Appendix 2 – draft Part B of the new Constitution
- Appendix 3 – draft Part C of the new Constitution
- Appendix 4 – draft Part D of the new Constitution
- Appendix 5 – proposed changes to the Financial and Contract procedure rules (to follow)

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