

# Part A – Summary and Explanation

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# 1 Introducing the Council's Constitution

1. 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.
2. The Constitution is divided into four parts:
  - Part A – Introduction, Summary and Explanations
  - Part B – Responsibility for Functions and Decision-Making Procedures
  - Part C – Codes and Protocols
  - Part D – Supplementary Documents
3. The purpose of the Constitution is to ensure that:
  - The Mayor and Council provide clear and accountable leadership to the community in partnership with citizens, businesses and other organisations;
  - The roles and responsibilities of the executive, non-executive, scrutiny and officer functions are clearly defined and documented, with clear delegation arrangements;
  - Citizens, businesses and other organisations 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, effectively and transparently;
  - Decision-makers are clearly identifiable, that they explain the reasons for their decisions and can be held to public account.
  - The highest standards of conduct of Members and officers of the authority is maintained and that no one will review or scrutinise a decision in which they were directly involved;
  - provide a comprehensive document explaining how the Council operates, who is responsible for taking decisions and how they will be taken.
4. The Council will exercise all its powers and duties in accordance with the law and this Constitution.

## 2 How the Council Operates

1. The Council operates the directly elected Mayoral form of Executive. The Council is composed of a Mayor and forty-five 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.
2. The Council may also appoint additional 'Co-opted' Members to certain Committees and Bodies. Co-optees are people who are chosen by the appropriate body to represent a specific area of interest or issue of consideration. These representatives are not elected members of the Council and are appointed because of their level of knowledge and experience. These co-opted members make a very useful contribution to discussions and help make the correct decisions in relation to important matters.
3. The Mayor, Councillors and Co-optees 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.
4. The Mayor and all Councillors meet together at Council. Meetings of Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. Council appoints annually an Overview and Scrutiny Committee, Regulatory Committees, a Standards Advisory Committee, and other statutory, advisory and consultative bodies.
5. The Mayor appoints a Deputy Mayor and (up to 9) Cabinet Members who form the Council's Executive, they are responsible for most day to day decisions. 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.
6. 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.

7. The Executive Scheme of Delegation sets out more detail on the Mayor and Executive functions.
8. The Overview and Scrutiny Committee 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 Sub-Committees from time to time to carry out individual reviews or to take an overview of particular service areas such as Health. This Committee and its Sub-Committees 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.
9. 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.
10. The Overview and Scrutiny procedure rules set out in more detail how the Committee and its sub-committees operate.

## 3 How Decisions are Made

### Principles of Decision-Making

1. All decisions of the Council will be made in accordance with the following principles:
  - (a) proportionality (i.e. the action must be proportionate to the desired outcome);
  - (b) due consultation and the taking of professional advice from officers;
  - (c) respect for human rights;
  - (d) a presumption in favour of openness;
  - (e) clarity of aims and desired outcomes;
  - (f) take account of all relevant matters;
  - (g) discount irrelevant matters; and
  - (h) explaining what options were considered and giving the reasons for the decision.

### Responsibility for Decision-Making

2. The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part B of this Constitution.
3. The form of the Council's Executive Arrangements is a 'Mayor and Cabinet' model as defined in section 9C of the Local Government Act 2000 (as amended). Therefore, decision-making at the Council is split into the following types:
  - 'Executive'
    - i. Including 'Executive Key Decisions'
  - 'Non-Executive' functions.

### Executive Decision Making

4. The Mayor is responsible for Executive decision-making and is therefore responsible for most day to day decisions. The Mayor can take these decisions at Cabinet, in a Cabinet Sub-Committee or the decisions can be delegated to officers.

5. These decisions must be in line with the Council's Budget and Policy Framework. If any of these decisions change the Framework then these must be referred to Council.

### **Executive Key Decisions**

6. A "key decision" is an executive decision which is likely to:

- A. result in the relevant local authority incurring expenditure or the making of savings of:

Savings	Where the proposal is expected to result in savings of above £1 Million
Revenue expenditure	Where the proposal involves revenue expenditure of above £1 Million
Capital expenditure	Where the proposal involves capital expenditure of above £1 Million

OR

- B. be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions.

- i. In considering whether a decision is likely to have a significant impact, the decision maker is to consider the strategic nature of the decision and whether the outcome will have a significant material impact, for better or worse, on the local amenity or wellbeing (including social and environmental impact) of the community or the quality of service provided to a significant number of people living or working in the locality affected.
- ii. In determining the meaning of "significant" for the purposes of this paragraph, regard must be had to any guidance for the time being issued by the Secretary of State in accordance with section 9Q of the Local Government Act 2000.

**In addition to the above, officers will also consider the following guidance when determining if an issue should be treated as a Key Decision:**

7. A decision to approve, update or amend a policy, strategy, plan, scheme (or similar) will only be a key decision if criteria (A) or (B) above would apply to the implementation of the document once approved, updated or amended.

8. Documents listed in Section 7 under the Budget and Policy Framework, are non-executive decisions reserved to Full Council and therefore cannot be key decisions. However, they are required to be prepared and developed by Cabinet in accordance with the Budget and Policy Framework Procedure Rules at Part B Section 29 of the Constitution.
9. A decision or report in relation to preparation and development of an issue, for example to begin a public consultation exercise, will not normally be a key decision unless criteria (A) or (B) above would also apply to the that specific action. Even if the final determination of that issue would result in a Key Decision.
10. A decision not fulfilling the criteria at (A) or (B) above may follow the same process as a key decision if, in the professional opinion of the Chief Executive or the appropriate Chief Officer, it is a matter of particular political sensitivity.
11. A decision which is the same or similar to one taken in the past (for example, the approval of a previous iteration of a plan or strategy), and does not fulfil criteria (A) or (B) above, is not a Key Decision even if the comparable previous decision was identified as a Key Decision.

### **Taking Key Decisions**

12. A decision taker, when making a decision may only make a Key Decision in accordance with the requirements of the Executive Procedure Rules set out in Part B of the Constitution.
13. 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.
14. The Health and Wellbeing Board is a statutory committee under the provisions of the 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. The meeting generally is open for the public to attend, except where confidential or exempt matters are being discussed.
15. Part A, Section 9 provides more detail of Executive Decision Making.

## **Officers taking Executive Decisions**

16. Part B, Section 24 set out the Corporate Scheme of Delegation (to be read in conjunction with Directorate Schemes) sets out where Officers have delegated powers to take Executive Decisions. However, the following must always be followed in respect of officer decisions:

- Officers may not take Key Decisions unless there has been a specific delegation.
- Any officer decision resulting in (revenue or capital) expenditure or savings of over £250,000 must only be taken following consultation with the relevant Lead Cabinet Member and must be published on the Council's website as soon as practicable after the decision has been taken.

## **Non-Executive Decision Making**

17. The Council has responsibility for all Non-Executive functions and for approving the Budget and Policy Framework. The Council, as a whole, retains responsibility for regulatory functions and has a role in holding the Executive to account.

### **Decision-Making by Council**

18. Certain decisions, such as the overall Council Budget, Council tax and the policy framework are reserved to Council. Section 8 sets out more details of how Council operates.

### **Decision-Making by Other Committees and Sub-Committees Established by the Council**

19. Council has established a number of other Committees and Sub-Committees to undertaken specific decision-making functions.

20. The following Committees have been established:

- Audit Committee
- General Purposes Committee
- Licensing Committee
- Pensions Committee
- Standards (Advisory) Committee
- Strategic Development Committee & Development Committee

21. Section 10 provides more information about the Council's Committees.

## **Non-Executive Decision Making by Officers**

22. The Constitution sets out delegations to officers in relation to Non-Executive Decisions. Examples of these delegations include those in; the Council and Local Choice Functions, the Corporate Scheme of Delegation (to be read in conjunction with Directorate Schemes) and the terms of reference for the Strategic/Development Committee and Licensing Committees. However, the following must always be followed in respect of officer decisions:

- Any officer decision resulting in (revenue or capital) expenditure or savings of over £250,000 must be published on the Council's website as soon as practicable after the decision has been taken.

## **Decision-Making by the Overview and Scrutiny Committee and Scrutiny Panels**

23. The Council has established an Overview and Scrutiny Committee whose main responsibility is to review or scrutinise decisions made, or other action taken in connection with the discharge of any functions which are the responsibility of the Executive.
24. The Overview and Scrutiny Committee, and any Scrutiny Sub-Committees it appoints, will follow the Overview and Scrutiny Procedure Rules and relevant parts of the Council Procedure Rules set out in Part B of this Constitution which apply to them when considering any matter.
25. Section 10 also sets out more information about the Overview and Scrutiny Committee.

## **Decision-Making by Council Bodies Acting as Tribunals**

26. The Council, any Members, Committee, Sub-Committee, Panel or an officer acting as a tribunal, or in a quasi-judicial manner, or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person, will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

## 4 Citizens' Rights

1. Citizens have various rights as set out below. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part B Section 28 of this Constitution.
2. **Voting and Petitions.** Citizens on the electoral register have the right to vote at elections. All citizens (that is people living, working or studying in the borough) have the right to present personally or to request a Councillor to present a petition on their behalf to Council, the Cabinet, Scrutiny, Regulatory or other Committees/ Sub Committees or Panels, subject to the detailed provisions **laid down in the Petition Scheme** and the procedures adopted by those bodies.
3. **Information.** All citizens have the right to:
  - (i) attend formal meetings of Council and its Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) attend meetings of the Cabinet where key decisions are being considered except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (iii) attend meetings of the King George's Field Charity Board and the Grants Determination Sub-Committee except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (iv) find out what key decisions will be taken by the Mayor, Executive, the Health and Wellbeing Board, the King George's Field Charity Board, the Grants Determination Sub-Committee, appropriate Member, or officer and when;
  - (v) see reports and background papers and any records of decisions made by the Council and the Mayor, the Executive or appropriate Member or Key Decisions taken by officers;
  - (vi) speak at Development or Licensing Committees/ Sub-Committees in favour or against planning or licensing applications, subject to the detailed provisions laid down in procedures adopted by those bodies; and
  - (vii) inspect the Council's accounts when available for examination and make their views known to the external auditor.
4. **Participation.** All citizens have the right to participate in Council meetings and contribute to investigations by Scrutiny Panels. **Processes for public participation are set out in the procedures for various Committees and meetings** including in Section 27 (Council Procedure Rules) and Section 31

(Overview and Scrutiny Procedure Rules) contained in Part B of the Constitution.

5. **Complaints.** All citizens have the right to complain to:
- (i) the authority itself under its complaints scheme or any other applicable statutory complaints scheme;
  - (ii) the Local Government and Social Care Ombudsman and Housing Ombudsman after using the Council's own complaints scheme; and
  - (iii) the Council's Monitoring Officer about a breach of the Code of Conduct for Members, or to raise a public interest concern 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.

### **Citizens' Responsibilities**

6. Citizens must not be violent, abusive or threatening to Councillors or officers and must not wilfully damage things owned by the Council, Councillors or officers.
7. When attending meetings of Council, Committees/ Sub-Committees/ Panels or the Cabinet, citizens must not behave improperly, offensively or interrupt the business of the meeting as such action will result in their being removed and excluded from the meeting.
8. 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.
9. 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 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 Council, the Cabinet, Scrutiny or Regulatory Committees, participate in Council meetings 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 Council, other non-executive Committees/ Sub-Committees, 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.

**10.** 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](http://www.towerhamlets.gov.uk)

## 5 The Speaker of the Council

1. The position of Speaker of the Council performs the duties often carried out by the post of 'civic mayor'.
2. The Council has decided, in agreeing its Executive Arrangements, that the Speaker of the Council will be the first citizen of the Borough and will perform the majority of civic and ceremonial duties for the Borough. The Mayor will perform those functions as the Council's representative where they relate to the promotion of, or business of, the Council. Any future change to these arrangements will be a matter for the Council to determine.

### **The Speaker of the Council may not be a member of the Executive.**

3. The Speaker of the Council and the Deputy Speaker will be elected by Council annually and the Speaker will have the following roles and functions:
  - a) to uphold and promote the purposes of the Constitution and having sought appropriate advice from the Monitoring Officer, to interpret the Constitution when necessary;
  - b) to preside over meetings of Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
  - c) to ensure that Council is a forum for the debate of matters of concern to the local community and the place at which Councillors who are not on the Cabinet can hold the Mayor and Cabinet Members to account in public;
  - d) to promote public involvement in the Council's activities;
  - e) to be the conscience of the Council; and
  - f) to attend such civic and ceremonial functions as the Council and s/he determines appropriate.

**The Deputy Speaker of the Council will deputise for the Speaker of the Council whenever the Speaker of the Council is unavailable or unable to act.**

4. The order of precedence for civic events shall be as follows, with the Borough's First Citizen representing the Council at Civic Ceremonial functions in the Borough including:
  - Visits of the Royal Family and dignitaries;
  - Civic receptions, luncheons and dinners;
  - Funeral or memorial services;
  - Religious services; and
  - Prize givings.
  
5. And events outside the Borough including:
  - Those of the Lord Mayor of London;
  - Invitations from other First Citizens to their Borough; and
  - Those of the London Mayors' Association.
  
6. This does not preclude the attendance and involvement of the Mayor and/or other Councillors.

## **6 Members of the Council**

### **Composition and Eligibility**

1. The Council will comprise a directly elected Mayor and 45 Councillors. The Mayor will be elected by the voters of the whole borough; and the Councillors will be elected by the voters of each ward, in accordance with a scheme drawn up by the Local Government Boundary Commission for England.
2. The term 'Member of the Council' (or simply 'Member') as used throughout this Constitution includes both the Mayor and the Councillors.
3. Only registered voters of the borough or those living or working here in accordance with the relevant legislation will be eligible to stand for election for the office of Mayor or Councillor.

### **Election and Terms of the Mayor and Councillors**

4. The regular elections of Mayor and Councillors will be held every four years, normally on the first Thursday in May. The term of office of the Mayor and Councillors will be four years and will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

### **Roles and Functions of all Councillors**

5. All Councillors will:-
  - a) Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - b) Represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
  - c) Effectively represent the interests of their ward and of individual constituents;
  - d) Respond to constituents' enquiries and representations, fairly and impartially;
  - e) Participate in the governance and management of the Council;
  - f) Be available to represent the Council on other bodies; and
  - g) Maintain the highest standards of conduct and ethics.

## **Rights and Duties**

6. Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
7. Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
8. For these purposes “confidential” and “exempt” are defined in the Access to Information Procedure Rules in Part 2 of the Constitution.

## **Cessation of Membership**

9. A Councillor will cease to be a Member if they resign by giving notice in writing, or if they fail to observe the requirement to attend Council meetings as prescribed by section 85 of the Local Government Act 1972 or if they are disqualified from holding office by virtue of section 80 of the Local Government Act 1972 or any other statutory provision.
10. With regard to the requirement to attend meetings, a Councillor must attend at least one relevant meeting during a period of six (6) months to remain qualified to hold office. A relevant meeting includes Council, the Cabinet, any Committee, Sub Committee, joint Committee or external body to which the Councillor has been formally appointed.
11. If a Councillor believes that there is an exceptional and unavoidable reason why s/he is unable to attend a relevant meeting during a period of six (6) months or to otherwise perform their proper duties as a Councillor for part or all of the same period, the Councillor concerned may seek a dispensation from the Council by writing to the Chief Executive explaining the reason for their unavoidable absence and the period to which the absence will relate. This will be reported to the Council at its next ordinary meeting. The Council will decide whether or not to grant such an exemption to the attendance requirement and will only do so in exceptional circumstances and with evidence that the absence is unavoidable. An exemption cannot be granted if a particular Councillor’s absence has already exceeded six months.

## **Conduct**

12. The Mayor and Councillors will at all times observe the Code of Conduct for Members, Member/Officer Protocol, the Licensing and Planning Codes of Conduct and all other Codes and Protocols set out in Part 3 of this Constitution or otherwise agreed by the Council from time to time.

## Allowances

13. The Mayor and Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme as set out in Part 3 of this Constitution.

## Freedom of the Borough

14. Under Section 249(5) of the Local Government Act 1972, the Council has the power to confer the title of honorary freeman/freewoman of the Borough to persons of distinction and to persons who have, in the opinion of the authority, rendered eminent services to the borough.
15. The title can only be given by a resolution of Council, at a meeting convened for the purpose and the resolution must be passed by not less than two-thirds of the members who vote on it.
16. Awarding the title of Freedom of the Borough does not confer any rights or responsibilities on that individual. The Council may though choose to engage the individual in the civic business of the borough including such events as:
  - Citizenship Ceremonies
  - Civic Awards
  - Civic and remembrance services
17. Under section 249(10), the admission of a person as honorary freeman / freewoman does not carry any right to attend meetings of the Council or its committees or to claim any allowances for attendance at meetings. However, the Council may choose to cover reasonable expenses for attendance at any of the above listed civic events.

## 7 Council

1. The Council has responsibility for all Non-Executive functions and for approving the budget and policy framework. The Council as a whole also retains responsibility for regulatory functions.

### Budget and Policy Framework

2. **Policy Framework.** The policy framework means the following plans and strategies required to be approved by Council. The table below shows those plans and strategies that are required by statute or the Council to be included in its policy framework:

Annual Library Plan	Section 1(2) Public Libraries and Museums Act 1964
Crime and Disorder Reduction Strategy	Sections 5 & 6 Crime & Disorder Act 1998
Development Plan Documents as well as Plans and Alterations which together comprise the Development Plan	Section 20 Planning and Compulsory Purchase Act 2004 as amended by the Localism Act 2011 Section 27 Town and Country Planning Act 1990
Licensing Authority Policy Statement	Section 349 Gambling Act 2005
Local Transport Plan	Section 108(3) Transport Act 2000
Youth Justice Plan	Section 40 Crime & Disorder Act 1998

3. With the exception of the Development Plan documents, any plans, strategies, policies or schemes which sit underneath the named document will not also be part of the Budget and Policy Framework unless the named document specifies that it is.
4. **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, (including the recommended Council tax base), setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.
5. **Dispute Resolution.** Specific procedures apply where Council does not agree to the Mayor's proposals in respect of budget and policy framework reports. These are set out in the Budget and Policy Framework procedure rules in Section 29 of the Constitution.

## **Housing Land Transfers**

6. Housing Land Transfer means the approval or adoption of applications or a programme of applications (whether in draft form or not) for approval of a programme of disposal of 500 or more properties to a person for which a levy would be payable to the Secretary of State under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

## **Functions of Council**

7. Only Council will exercise the following functions:
  - (a) adopting and changing the Constitution (except where the power to make any change is delegated to either the General Purposes Committee or the Monitoring Officer as set out in this Constitution);
  - (b) approving or adopting the policy framework and the budget;
  - (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 2 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision-maker is minded to make it in a manner which would be contrary to the policy framework or contrary to or not wholly in accordance with the budget;
  - (d) agreeing and/or amending the terms of reference for Committees/ Sub-Committees/ Panels, deciding on their composition and making appointments to them, subject to any delegations to the General Purposes Committee and/or officers as set out in this Constitution;
  - (e) appointing representatives to those external bodies that do not fall to the Mayor to appoint to, unless the function has been delegated by the Council or this Constitution;
  - (f) adopting an allowances scheme for the Mayor and Councillors;
  - (g) the determination of matters relating to Community Governance Reviews as set out in the Local Government and Public Involvement in Health Act 2007, unless the matter has been delegated by the Council or this Constitution.
  - (h) changing the name of the area, conferring the title of honorary alderman or conferring the freedom of the borough;
  - (i) confirming the appointment of the Head of the Paid Service;
  - (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
  - (k) adoption and amendment of the authority's Code of Conduct for Members and other Codes and Protocols comprising the ethical framework;

- (l) adopting the Council's Pay Policy Statement each year as required by the Localism Act 2011; and agreeing any in-year changes to the Pay Policy Statement.
- (m) arranging for the discharge of any other functions of the authority which are not executive functions;
- (n) subject to any matters delegated to Committees/ Sub-Committees/ Panels or officers, determining all local choice functions as described in Part 2 of this Constitution which the Council decides should be undertaken by itself rather than the Executive;
- (o) accepting the delegation of a power or function from another local authority; and
- (p) all other matters which, by law, must be reserved to Council.

### **Council Meetings**

- 8. There are four types of Council meeting:
  - (a) the annual meeting;
  - (b) the budget meeting(s),
  - (c) ordinary meetings, and
  - (d) extra-ordinary meetings,
- 9. They will be conducted in accordance with the Council Procedure Rules in Part 2 of this Constitution.
- 10. The Mayor and all Councillors may attend meetings of Council and may participate as set out in the Council Procedure Rules.

### **Responsibility for Functions**

- 6. As part of this Constitution, the Council will maintain a document setting out the "Responsibilities for the Council's functions" which are not the responsibility of the Executive.
- 7. Decisions relating to the functions listed in the "Responsibilities for the Council's functions" document will be allocated by legislation, therefore, if the legislation changes, the Constitution will be changed by the Monitoring Officer in accordance with delegated powers set out in Part D of the Constitution.
- 8. Subject to Section 3, Paragraph 26, the Council meeting will follow the Council Procedure Rules set out in Part B of this Constitution when considering any matter.

## 8 The Mayor and the Executive

### The Role of the Executive

1. The Executive will carry out all the local authority's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.
2. Subject to Section 3, Paragraph 26, the Mayor and Executive will follow the decision-making procedures set out in Part 2 of this Constitution when considering any matter.
3. The following parts of the Constitution, insofar as they relate to executive functions, constitute the Executive Arrangements:
  - Section 9 (Overview and Scrutiny Committee and Scrutiny Panels) and Section 31 (Overview and Scrutiny Procedure Rules)
  - Section 8 (The Mayor and the Executive) and Section 30 (Executive Procedure Rules)
  - Article 12 (Joint Arrangements and Partnership Working)
  - Section 3 (How decisions are made)
  - Section 20 (Responsibility for Executive Functions)
  - Section 23 (Terms of Reference – The Executive)
  - Section 28 (Access to Information Procedure Rules)
  - Section 30 (Executive Procedure Rules)

### Form and Composition

4. The Executive will consist of the Mayor and between two and nine Councillors appointed by the Mayor, called Cabinet Members. One of the Cabinet Members will be appointed by the Mayor as the Statutory Deputy Mayor. When the Mayor and Cabinet Members meet together in Committee this is known as a meeting of the Cabinet.
5. The King George's Field Charity Board and the Grants Determination Sub-Committee are also Executive Bodies having executive decision-making powers.

### The Mayor

6. The Mayor will exercise strategic political leadership by developing and communicating clearly to citizens, businesses and service users the authority's purpose and vision and its intended policy outcomes. In

developing strategic policy the Mayor will work closely with the Chief Executive and have regard to advice tendered.

7. The Mayor will be a person elected to that position by the electors of the borough in the Mayoral election. In the event that a serving Councillor of the London Borough of Tower Hamlets is elected as Mayor, a vacancy shall be declared in that person's Council seat and a by-election shall be held (if required) in accordance with the relevant legislation.
8. The term of office of the Mayor will normally be four years. S/he will take office on the fourth day after his/her election and will continue in office until the fourth day after his/her successor is elected, unless s/he dies, is disqualified or resigns.

#### **The Statutory Deputy Mayor**

9. The Statutory Deputy Mayor will be a Councillor appointed to that position by the Mayor from among the Cabinet members.
10. The Mayor may replace the Statutory Deputy Mayor at any time but otherwise the Statutory Deputy Mayor shall remain in post for the duration of the Mayor's term of office, unless:
  - a) s/he resigns from office; or
  - b) s/he is no longer a Councillor
11. The Statutory Deputy Mayor shall have authority to exercise the Mayor's powers only in the event that the Mayor is unable to act at any time.

#### **Other Executive Members**

12. The Mayor shall appoint between two (2) and nine (9) Councillors to be members of the Executive (Cabinet Members) alongside the Mayor him/herself. All of the Cabinet Members must be serving Councillors of the authority. The Mayor may allocate to each Cabinet Member a portfolio of responsibility for Council business relating to their role as an Executive Member (see 17-18 below).
13. The Mayor must appoint one of the Cabinet Members as the Statutory Deputy Mayor.
14. The Mayor may replace or remove a Cabinet Member, and/or may vary or delete their portfolio responsibilities, at any time.

15. Executive Members shall hold office until:

- (a) They are removed or replaced by the Mayor;
- (b) They resign from office; or
- (c) They are no longer a Councillor.

16. In the case of a vacancy arising in any post of Cabinet Member the Mayor may appoint a Councillor to the vacant post at his/her discretion.

#### **Cabinet Responsibilities**

17. The Executive Members will have portfolios as set out in the Executive Scheme of Delegation at Section 30 of this Constitution.

18. The portfolios may be subject to change from time to time at the discretion of the Mayor and will be updated by the Monitoring Officer as soon as reasonably practicable when so advised by the Mayor.

#### **Proceedings of the Cabinet**

19. Proceedings of the Cabinet shall take place in accordance with the Executive Procedure Rules set out in Section 30 of the Constitution.

#### **Responsibility for Functions**

20. The Monitoring Officer will maintain a list as part of this Constitution, setting out which individual Cabinet Members or Committees of the Executive, officers or joint arrangements (see Section 20 – Executive Procedure Rules) are responsible for the exercise of particular executive functions.

## **9 Overview and Scrutiny Committee and Scrutiny Sub-Committees/ Panels**

[This section being reviewed by Overview and Scrutiny]

## **10 Regulatory and Non-Executive Committees**

1. Council will appoint the Committees set out in Part B to discharge the functions described in the “Responsibility for Functions” information also in Part B.
2. Council will appoint a Member to serve as Chair of each Committee that it appoints under this Section. If the Council does not, the Committee may appoint a Chair from amongst the Members appointed to the Committee by the Council.
3. Each Committee may appoint a Vice-Chair from amongst its Members.
4. Except where prevented in law, or this Constitution, any Committee may establish one or more sub-committees to undertake specific areas of decision making that would normally be the responsibility of the parent Committee.
5. Subject to Section 3, Paragraph 26, other Council Committees and Sub-Committees will follow those parts of the Council Procedure Rules set out in Section 27 of this Constitution as apply to them.

## **11 The Standards (Advisory) Committee and the Code of Conduct for Members**

[This section being reviewed by the Standards (Advisory) Committee]

## 12 Joint Arrangements and Partnership Working

### Arrangements to Promote Well-Being.

1. The Council or the Executive in order to promote or improve the economic, social or environmental well-being of the whole or any part of the borough, may:
  - (a) enter into arrangements or agreements with any person or body;
  - (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
  - (c) exercise on behalf of that person or body any functions of that person or body.

### Joint Arrangements

2. The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions in any of the participating authorities, or advise the Council on any matter. Such arrangements may involve the appointment of a joint Committee with these other local authorities and/ or their Executives.
3. The Mayor or Executive may establish joint arrangements with one or more local authorities to exercise functions that are executive functions. Such arrangements may involve the appointment of joint Committees with these other local authorities and/ or their Executives.
4. The Mayor or Executive may only appoint Executive Members to a joint Committee except where:
  - (i) the joint committee is discharging a function in relation to five or more relevant authorities; or
  - (ii) the function which the joint committee is discharging is a function which is required by statute to be discharged by a joint committee,
5. Every person appointed to the joint committee by the Executive may be a member of the Executive or of the Council.
6. The political balance requirements do not apply to the appointments in 4 and 5 above.

### **Current Joint Committees**

7. Pursuant to section 101 of the Local Government Act 1972 and section 9EB of the Local Government Act 2000 the Council is a member of a number of joint committees under the umbrella of London Councils (formerly known as the Association of London Government or the ALG). These are-
  - London Councils' Committee (known as the Leaders' Committee)
  - London Councils' Grants Committee
  - London Council's Pensions CIV Sectoral Joint Committee
  - London Councils' Transport and Environment Committee
  
8. Additionally, the Council is also a member of the following joint committees:
  - Inner North East London Joint Health Overview and Scrutiny Committee
  - Joint Committee of the Six Growth Boroughs
  - London Housing Consortium
  
9. These Joint Committees shall have delegated authority to discharge the functions of the Council as per the terms of reference for these joint committees as set out in Part B of this Constitution.

### **Access to Information**

10. Access to information rules are contained in the Access to Information Procedure Rules in Part B of the Constitution.
11. If all the members of any joint Committee are Members of the Executive in each of the participating authorities then its access to information regime is the same as that applied to the Executive.
12. If the joint Committee contains Members who are not on the Executive of any participating authority the access to information rules in Part V of the Local Government Act 1972 will apply.

### **Delegation to and from Other Local Authorities**

13. The Council or the Mayor or Executive may delegate their powers and functions to another local authority or, in certain circumstances, the Executive of another local authority.
14. The decision whether or not to accept such a delegation from another local authority shall be for Council or the Mayor or Executive as appropriate

depending upon whether or not the powers or functions are the responsibility of the Executive.

### **Contracting Out**

15. The Mayor or Executive may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, providing there is no delegation of the Council's discretionary decision making.

### **Partnership Working – General Arrangements**

16. The Tower Hamlets Strategic Partnership brings together all of the key stakeholders in the borough – residents, the Mayor and Council, Police, the health service, other public services, voluntary and community groups, faith communities and businesses – with the aim of working together to improve the quality of life of people who live and work in the borough. The Council provides support for the administration of the Partnership but the Partnership is independent of the local authority.
17. The Partnership delivers its vision through The Tower Hamlets Plan 2018-23, which has the key objective - tackling inequality by building a strong, inclusive and fair borough – as well as four themes:
  - A better deal for children & young people – this is about ensuring young people are supported to build on their aspirations and achieve their full potential.
  - Good jobs and employment – this is about helping people be job ready by taking up the skills training available, as well as working with employers to make sure they have practises in place which support the community, through inclusive recruitment, responsible employment and fair access to jobs.
  - Strong, resilient and safe communities – this is about ensuring people are active, and reducing isolation and the fear of crime.
  - Better health and wellbeing – person-centred care, empowering people to live on their own independently. It's about improving the quality of life for our residents, tackling health inequalities and managing demand for services.
18. In order to deliver its vision, the Partnership will review and establish arrangements to support its operation including executive support, development and delivery of initiatives, engagement with stakeholders as well as performance management.

## 13 Officers of the Council

### Appointments

1. **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
2. **Chief Officers.** The Council will engage persons for the following posts who will be designated chief officers:
  - Chief Executive (designated Head of Paid Service)
  - Corporate Director, Children's
  - Corporate Director, Governance (designated Monitoring Officer)
  - Corporate Director, Health, Adults and Community
  - Corporate Director, Place Corporate Director, Resources (designated Chief Finance Officer)
3. The above posts may be subject to change from time to time in which case this Constitution will be updated as soon as reasonably practicable to reflect any change in the designated chief officers.
4. **The Management Structure.** Chief Executive will determine and publicise a description of the overall structure of the Council showing the management structure and deployment of officers. This is set out in Part C of this Constitution.

### Conduct

5. Officers will comply with the Employees' Code of Conduct and the Member/ Officer Relations' Protocol set out in Part C of this Constitution.

## **14 Finance, Contracts and Legal Matters**

### **Financial Management**

1. The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part C of this Constitution.

### **Contracts**

2. Every contract made by the Council shall be in writing and will comply with the Contracts Procedure Rules set out in Part C of this Constitution.

### **Legal Proceedings**

3. The Corporate Director, Governance is authorised to institute, defend, settle or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where s/he considers such action is necessary to protect the Council's interests. S/he may designate nominated officers to carry out this function on her/his behalf.

### **Authentication of Documents**

4. Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Corporate Director, Governance or some other person authorised by her/him, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.
5. Contracts with a value exceeding £250,000 must either be signed by at least two officers of the authority or under the common seal of the Council attested by at least one officer.

### **Common Seal of the Council**

6. The Common Seal of the Council will be kept in a safe place in the custody of the Corporate Director, Governance. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Corporate Director, Governance should be sealed. The affixing of the Common Seal will be attested by the Corporate Director, Governance or some other person authorised by him/ her.

# 15 Suspending, Interpreting and Changing the Constitution and Changes to Executive Arrangements

## Suspension of the Constitution

1. **Limit to Suspension.** Part A of this Constitution may not be suspended. Rules specified below may be suspended by bodies indicated to the extent permitted within those Rules and the law.
2. **Procedure to Suspend.** A motion to suspend any Rules will not be moved without notice unless at least half ( $\frac{1}{2}$ ) of the voting members of the meeting in question are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution.
3. **Rules Capable of Suspension.** The following Rules may be suspended:
  - (i) Council Procedure Rules (Council as well as Cabinet and all other Committees and Sub-committees to which 24 of the Council Procedure Rules applies)
  - (ii) Budget and Policy Framework Procedure Rules (Council)
  - (iii) Overview and Scrutiny Procedure Rules (Overview and Scrutiny Committee)

## Interpretation

4. The ruling of the Speaker of the Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretations will have regard to the purposes of this Constitution contained Section 1.

## Publication (Constitution and Supporting Documents)

5. The Monitoring Officer will ensure (1) that the Constitution is published on the Council's website and that copies are available for inspection at the Town Hall; and (2) can be purchased by members of the local press and the public on payment of a reasonable fee.
6. The Monitoring Officer will ensure the Constitution is made widely available within the area and is updated as necessary.
7. For the avoidance of doubt, were authority to make changes to any part of the constitution has been delegated to the Monitoring Officer, or any other officer, the change will be published direct to the website via the officer decision portal.

## **Reviews of the Constitution**

8. The Officer scheme of delegation sets out the Monitoring Officer's responsibility for reviewing and maintaining an up to date Constitution.

## **Changes to the Constitution**

9. The Monitoring Officer can approve all non-material changes to the Constitution including those that reflect decisions taken by the Council or changes in legislation or to correct matters of fact;
10. The Monitoring Officer can recommend to Council or General Purposes Committee for approval any material changes to Parts A to C of the Constitution with the exception of the Executive Scheme of Delegation (Section 30) which will be amended by the Monitoring Officer should the Mayor amend his Executive Scheme of Delegation.
11. The introduction to Part D of the Constitution sets out the delegated authority to amend each Part D Section. Unless indicated otherwise, the Monitoring Officer has delegated authority to amend Part D documents in consultation with the Chief Executive.
12. All Sections of the Constitution remain in place unless explicitly revised or removed.

## **Change of Executive Arrangements.**

13. The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals for a change to its Executive Arrangements.

