


<p>Non-Executive Report of the:</p> <p>General Purposes Committee</p> <p>Monday, 2 December 2024</p>	 <p>TOWER HAMLETS</p>
<p>Report of: Linda Walker, Interim Director of Legal and Monitoring Officer</p>	<p>Classification: Open (Unrestricted)</p>
<p>Constitution Update</p>	

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

Executive Summary

Following the Annual Meeting of Council signing off the Constitution on 15 May 2024, day-to-day oversight of the document returns to the General Purposes Committee.

This report presents the Committee with an update on the work of the Constitution Working Group (CWG) and asks Committee Members to consider and comment on progress on the Constitution Review to date.

The report also presents a number of smaller changes to note or agree.

Recommendations:

The General Purposes Committee is recommended to:

1. To review the content of the report and in particular to note and comment on the progress made to date on the Constitution Review.
2. To agree the changes set out in Paragraphs 3.11 – 3.14 (and listed in the Appendices) with the factual changes being implemented immediately and other changes forwarded to Council as part of the fully revised Constitution.
3. To consider the items for discussion in Paragraphs 3.15 to 3.25 and recommend any actions as necessary.
4. To note the changes set out in Paragraphs 3.26-3.27 that will be added to the Constitution.
5. To agree the change set out in Paragraph 3.28 for addition to the Constitution.

1. REASONS FOR THE DECISIONS

- 1.1 The General Purposes Committee has day-to-day oversight of the Council’s Constitution and is responsible for ensuring it is up to date and effective.
- 1.2 The General Purposes Committee also set up the CWG and so it is appropriate that it considers progress on the overall review as well as specific changes that the CWG have so far discussed.

2. ALTERNATIVE OPTIONS

- 2.1 The General Purposes Committee are free to suggest alternatives to the changes proposed or to reject changes and retain the existing constitutional arrangements.

3. DETAILS OF THE REPORT

- 3.1 Since the last update to the General Purposes Committee, the Constitution Working Group (CWG) has met twice and considered to continue its work on the Constitution Review.
- 3.2 The main focus for these meetings was on the first report from the Association of Democratic Services Officers (ADSO) constitution review. CWG considered the main overarching recommendations as well as a large number of specific suggestions and questions relating in the main to Parts A and B of the Constitution.
- 3.3 The CWG’s consideration of these matters is set out in this report. The General Purposes Committee is asked to consider this work and comment where appropriate.
- 3.4 The overall changes are being built into a new version of the Constitution which, once at an appropriate stage, will be taken to Council for its approval.
- 3.5 The General Purposes Committee may also consider that certain smaller scale changes are agreed straight away as set out below.
- 3.6 In addition, this report also sets out a few changes that have arisen outside of the above work and are presented for agreement or noting as appropriate.

ADSO Review – Main Recommendations

- 3.7 The initial ‘Phase One’ report from ADSO consisted of a number of overall recommendations alongside a large number of specific questions, suggestions and comments. The CWG has now considered the main recommendations and has decided on the following responses:

Summary of Recommendation	Summary of Response
----------------------------------	----------------------------

Review the style/structure of the Constitution	<p>Move towards the more 'modern' West Northamptonshire model but not at the expense of the time required to tackle other issues.</p> <p>Therefore work on other issues will take first priority but where those result in changes to the structure of the Constitution the desire to move towards the West Northamptonshire model should be taken as a guide.</p> <p>It was also agreed that the current Part D should be rebadged to make it clear that it is not part of the main Constitution.</p>
Create an overarching index	<p>An index had been added at Annual Council.</p> <p>CWG also reviewed new suggested sub-headings to help readers find key items of interest in the Constitution (such as the Key Decision thresholds) which don't appear in the title for their section of the document.</p>
Create a Glossary	<p>Agreed as an action. Examples from other authorities have been presented to the CWG and a draft glossary will be presented at a future meeting.</p>
Review amount of non-essential content	<p>Review but as other work is progressed rather than a priority project in itself. Early proposals are to remove most of the 'Other Bodies and Panels' and the Petition Scheme to the 'Supplementary Documents' section.</p>
Review the number of Rules/Procedures and Codes	<p>As above</p>
Consider additional protocols	<p>As above</p>
Consider structure of Licensing Committee	<p>Agreed as an action. A new draft structure has been prepared and is to be consulted with the Licensing Committee.</p>
Standards Advisory Committee structure	<p>Agreed as an action for SAC to review</p>
Audit Committee to consider CIPFA guidance	<p>Audit Committee had received a report on this matter earlier in the year. Completed.</p>
Review arrangements for appointment and dismissal of statutory officers	<p>Had been considered by Council in March. Completed.</p>
Recommendations around Overview and Scrutiny	<p>Will be reviewed once any new arrangements agreed through the Scrutiny Improvement Plan are in place.</p>

Council substitution rules	Agreed as an action and the proposed change is set out in this report.
----------------------------	--

3.8 Where relevant the above changes are set out this report. Those still in progress will be presented to a future meeting.

Actions/questions/comments from the ADSO Review Report – Part A

3.9 Following the overall recommendations, the ADSO Review also presented a large number of specific questions/comments and suggestions. Most of those relating to Parts A and B have now been considered by the CWG.

3.10 The full list of proposed changes are set out in Appendix 1 to this report but the next table picks out those which were particularly discussed by the CWG.

3.11 A Track Changed version of the Constitution's Part A responding to these items is set out at Appendix 3 to this report.

ADSO Number	Recommendation	Change made / why of interest
	Section 2	
3.2	At Section 2 Clause 4. May require clarification on Executive decision making given the reference to Kings George's Field Charity Board and the Grants Determination Sub-Committee (Sect 2, clause 6 page 7 and Sect 3, clause 3. Clause 4 page 9). Additionally, HWB referred to in Section 3, clause 14 highlights HWB has responsibility for 'some Executive' functions.	Suggested new wording across Paragraphs 4 - 6
	Section 3	
3.6	It is noted that clause 21 lists committees which have been established. Would this more logically sit under section 10 which describes the Council's regulatory and non-executive committees?	Change made to move this information to Section 10 and increase the information held in Section 10.
	Section 6	
3.10	Should Freedom of the Borough appear under the section headed members of the Council? Honorary Aldermen are not members of the Council. This would be better contained in a protocol explaining their role and how they are appointed.	CWG considered this text should move across to the Section dealing with the Public's rights and responsibilities.
	Section 7	
3.15	You may also wish to consider whether you want to include any additional plans and strategies within the definition of the Council's Policy Framework. The consequence would	CWG agreed to review this once the review of functions was complete.

ADSO Number	Recommendation	Change made / why of interest
	be that these would be developed by the Executive but would need to be approved by Council.	
3.17	There is a catch all at 7(p) which arguably would include other matters which should be determined by Council such as the designation of the Monitoring Officer but, for ease of reference, it would be useful to list as many as possible. Would this list of functions be better contained in Part B?	The whole list has been moved to Part B to create a proper Terms of Reference for Council and it has also been expanded.
3.18	There is at least one Council function which is listed in the local choice functions in Part D but is not cross referenced in Part A 7 or Part B 19 3.	CWG noted that comments in relation to ensuring the functions in Part D were properly cross-referenced came up a number of times and was a priority area for consider.
	Section 8	
3.21	At 17 Cabinet Responsibilities – these are set out in section 29 and form part of the Executive Procedure Rules. This does not aid accessibility. They would usually be expected to be included at Part B. To further complicate navigation the procedure for executive decision-making is in Part D.	<p>Noted that the Mayor will need to agree these changes.</p> <p>It was agreed that the Executive Terms of References should move to the main Executive Procedure Rules.</p> <p>Further adjustments such as around procedures to be considered.</p>
	Section 10	
3.28 – 3.31	<p>This section only refers to the Development Control and Licensing Committees and not to other regulatory and administrative committees.</p> <p>Conversely other sections describe both the committee and, in the case of Council, its detailed remit.</p> <p>A list of other committees is contained in section 3 how decisions are made, but this section does not describe their role and functions.</p> <p>This is illustrative of a lack of consistency in the style, contents and format of the</p>	Significantly revised and increased information on 'other' non-executive committees.

ADSO Number	Recommendation	Change made / why of interest
	constitution which is confusing and makes navigation difficult.	
3.32 – 3.36	<p>The Licensing Committee appears to discharge both statutory licensing functions which fall under the Licensing Act 2003 and non -statutory licensing functions. Non statutory licensing functions fall under the overall responsibility of Council whereas statutory licensing functions do not. Moreover, the statutory licensing committee is not subject to the rules on political balance. This can be useful when forming subcommittees or panels. It has also been held in recent case law that Licensing committee meetings can be held virtually whereas “ordinary” committees cannot.</p> <p>Most authorities form two committees, one to discharge statutory licensing functions and one to discharge general licensing functions but with the same membership and meeting concurrently.</p>	Reviewed. Proposed new Terms of Reference for two Licensing Committees will be taken to the existing Licensing Committee for their consideration.
	Section 13	
3.41	Clause 1. Is it the Council or the Head of Paid Service on behalf of the Council? See Clause 5. Potential confusion over the use of ‘Council’ and ‘the Council’.	Proposed amendment agreed.

Actions/questions/comments from the ADSO Review Report – Part B

3.12 The CWG then considered a number of proposed changes/questions relating to Part B. Again, the following table sets out the highlights, whilst the full list is in Appendix 2.

3.13 A track changed version of Part B is set out in Appendix 4 to this report.

Number	Recommendation	Comment
	Section 19	
3.51	The numbering in this section is very confusing on first reading as section 19 then has 19 subsections with no clear visual distinction on the numbering.	Following feedback CWG have agreed to reorder the Terms of Reference section so that the main Committees are generally in alphabetical order but the permanent sub-committees now sit directly after the TORs for their parent body (e.g. Appointment Sub-Committee

Number	Recommendation	Comment
		TORs are after the Human Resources Committee).
3.52 – 3.55	<p>Council</p> <p>Under summary description, strictly the Council is responsible for all non-executive functions with the exception of statutory licensing.</p> <p>It would ease navigation if the remit of Council was contained either in Part A or Part B and not spread across the two. Part D also contains additional functions which are reserved to Council but not referred to in Parts A or B. A note to 19 3 says that additional information is contained in Part B but there is also additional information in Part D (see comment above).</p> <p>The intention of 19 3 is to list those functions of Council that are non-delegable. However, the list given is not a comprehensive list.</p> <p>We would question whether changes, other than minor changes, to the constitution can be delegated by Council to the General Purposes Committee (see s9P Local Government Act 2000). We would expect this to be listed as a Council function.</p>	<p>Have taken out the list of responsibilities from Part A and created a proper Terms of Reference for Council.</p> <p>As part of the medium term structure review look to create one Section specific to Council.</p> <p>In relation to the powers of the General Purposes Committee, the Committee only agree smaller scale changes with large changes being forward to Council for adoption. Council also has an opportunity at its annual meeting to consider and endorse all changes agreed throughout the year.</p>
	Section 20	
3.91, 3.93, 3.94, 3.95	<p>As stated above these do not need to be included in the constitution. Where they do not involve elected members, for example the Children’s Social Care Complaint Review Panel, it may be advisable for them to be removed to avoid any potential confusion.</p> <p>It follows that if these bodies do not need to be included, neither do their rules of procedure (part D refers).</p> <p>We have suggested that these could be contained in a separate supplemental document.</p>	<p>CWG agreed that most ‘Other Bodies and Panels’ should be moved across to the Supplementary Documents Pack but that those involving Members should remain in the main constitution.</p> <p>Difficult to be entirely consistent in the TORs across these bodies as they are managed by lots of parts of the council.</p>

Number	Recommendation	Comment
	Numbering of functions under each body is inconsistent. Numbers, bullet points, letters.	
	Section 22	
3.106 – 3.108	<p>Numbering after “1” needs correcting.</p> <p>Summary description should read “the Cabinet is <u>a</u> forum...</p> <p>Clause 6, not sure why delegations granted by the Grants Determination Sub-Committee are listed.</p>	<p>Minor amends made.</p> <p>It was agreed to propose to the Mayor that Executive TORs are moved to the main Executive Procedure Rules.</p>
	Section 24	
3.116	At 24 6 we would query the propriety of the power to accept late bids – 6c refers	<u>MO is reviewing.</u>
3.117	It is extremely difficult for a lay person to fully understand the provisions relating to the Executive.	To be considered as part of medium-term review.
	Council Procedure Rules	
3.119	<p>At 1.3 (c) we understand that the purpose of this rule is to ensure fair allocation of time but consider that it may cause confusion as it is not clear if it applies individually or collectively. It might be better to specify a minimum and a maximum time so as to ensure the 45 mins is not exceeded and members do not lose out.</p> <p>Where it states the 45 minute debate will end with the Mayor or Mayor’s appointee, it is assumed this is within the 45 minute allocation.</p>	(State of the Borough Debate) CWG discussed options for the state of the borough debate and proposals for changes are set out below.
3.123a	At 10 questions by councillors at 10.5 (a) 9 clear days is quite a long period to specify for questions by members. We will compare this timeframe with other similar authorities. It is however acknowledged that this allows sufficient time for the question to appear on the agenda.	Retain existing timetable.
3.124	At 11.7 consideration could be given to frequency of debates with reference to the size of the political group. In other words, the number of motions which can be moved by a political group is directly related to the size of that group in	CWG considered this and some proposals are set out below for GPC to consider.

Number	Recommendation	Comment
	relation to the overall political composition of the Council.	
3.126	At 14.1 new (j) to request a recorded vote Requires 20 members to support a recorded vote. We consider this to be quite a high threshold. What is the number for committees?	CWG considered this and some options are set out below.
3.131	At 22.1 this would be better contained in an advice note or protocol.	Have reduced this section and referred across to the Filming Protocol in the Supplementary Documents.
	Petition Scheme	
3.136	Should this be included as part of the Council Procedure Rules or referenced separately?	Agreed to move it to the Supplementary Documents.
	Executive Procedure Rules	
3.156	1.5 does not cover what will happen in situations to decisions that, whilst not delegated, are the responsibility of a decision maker who has an interest.	To be reviewed.

3.14 Three of the above areas developed into more details discussions and options were considered by the CWG. The commentary and some suggested options are set out below:

State of the Borough Debate

3.15 The holding of an annual 'State of the Borough' debate at the Annual Council meeting was an idea introduced in the last Constitution review. The intention was that it provided a yearly opportunity for Members to have an hour-long general discussion on issues of the day, the strengths and weaknesses of Council services and any other issues considered important without the formality of requiring motions, recommendations, votes etc.

3.16 However, most years the debate has not taken place because it was usually felt that a 'political' item did not suit the Annual Council meeting which was more ceremonial and celebratory in nature.

3.17 On a more practical level there were also issues as the procedure was written when the Council did not have as many ungrouped Councillors and it was also felt the 15 minute introductory speech by the Mayor was too long.

3.18 CWG were asked whether they would like to remove the debate from the Constitution but there was general support for the idea but agreement it should be moved to either the first or last Ordinary Council meeting of the year.

3.19 If this were to happen then changes would need to be made to the order of business as there would not be the space to add this 'on top' of the other items of business.

3.20 Options for changes include:

- Move to the first or last Ordinary Meeting of the Year
- Substituting the debate instead of the two motions for debate is the most straightforward swap. Or the debate motions could be slightly shortened (20 mins each) and Member Questions taken out.
- The Mayor's introduction could be reduced to 6 minutes with a 4 minute response from the Leader of the Opposition. The Mayor could then close the debate with a 5 minute response at the end. The remaining 45 minutes could be split proportionally between groups as before except that it could be specified that each ungrouped Member has 1 minute to speak.

Opposition Motions for Debate - ordering

3.21 It was noted at CWG that, with five opposition motions for debate throughout the year, and a rule that rotates the opposition debate between groups, a very small opposition group could get a disproportionate number of debates (two) against three for a large opposition group.

3.22 It was therefore suggested that the debates should be divided up proportionally (although it was noted that with only five debates a year (or four if the State of the Borough changes are agreed) the calculation could only be rough).

Requests for a recorded vote

3.23 At present, any Member can request that their own vote be recorded in the minutes of the meeting.

3.24 Should a Member wish to see a full record of all votes on an item they would need the support of 19 other Councillors for that request to be accepted and a full recorded vote to be heard. CWG agreed that GPC should consider whether this number should be reduced.

General Updates

3.25 The recent CWG meeting also considered a number of other items that had arisen through previous discussions or were the result of other changes:

Issue/Suggestion	Changes Made	Location
Deputy Mayor	CWG agreed wording to make it clear that should, the position of Mayor fall vacant, the Deputy Mayor is empowered to act until a new Mayor is elected.	Part A Section 8 Para 11

Organisational Structure Chart	Updated with new appointments.	Part A Section 13
Section 19 Development and Strategic Development Terms of Reference	Added small changes agreed by the Committees earlier in the year.	Part B Section 19
Petition Scheme	Agreed to move this to the Supplementary Documents Pack.	Part D Supplementary Documents
Chair of Meeting	CWG agreed new wording making it clear that the Chair of a meeting had the power to make minor amendments to meeting procedures where this would improve democratic engagement (exclusions applied for example on planning and licensing matters where there were set procedures)	Part B Council Procedure Rules Para 7
Electronic voting	Given the earlier discussions around recorded vote thresholds, officers were asked to explore whether the Council Chamber systems could be upgraded to include electronic voting.	Council Procedure Rules 16

Matters to note

3.26 Two minor additions to Schemes of Delegation have been agreed by the relevant Corporate Directors and will be added to the Constitution. They are set out here:

Communities Scheme of Delegation

Greater London Council (General Powers) Act 1972 Section 17 – Power to require registered keeper to disclose driver at time of offence.	Communities	Public Realm	Parking	Investigator
--	-------------	--------------	---------	--------------

Corporate Scheme of Financial Delegations (additions red and underlined)

Amount	Approval Level	Comment/Role
<£1k	Approval Level 1	Designated Appropriate approval level for each establishment role is by determined by Budget Holder
£1k-£5k	Approval Level 2	Designated by Budget Holder
£5k-£25k	Approval Level 3	Designated by Budget Holder
£25k-£50k	Approval Level 4	Designated by Budget Holder
£50k-£250k	Service Manager/Head	Designated in partnership with finance
£250k-£1m	Divisional Director	Designated in partnership with finance
£1m-£5m	Corporate Director	Person in Corporate Director Role Deputy Section 151 Officer
>£5m	Chief Exec	Person in Chief Exec Role Section 151 Officer Deputy Section 151 Officer
	Journal Approval	Finance Manager
	Cost Centre Forecast and Sales Order Approval	Budget Holder

Procurement Rule Changes

- 3.27 GPC are also asked to note that a change to the Procurement procedures was agreed at the Council meeting held on 20 November. This will also be incorporated into the Constitution.

Part D Supplementary Documents – Standards Advisory Committee

- 3.28 The Standards Advisory Committee (SAC) is currently reviewing its Procedures which are set out in Part D (Supplementary Documents, Section 54). There are likely to be further changes following the conclusion of this review but in the meantime, one change has been agreed which will be implemented:

From

- (a) To recommend to the Monitoring Officer whether or not any complaint of a breach by the Mayor, a Councillor or a co-opted member of the Members Code of Conduct should be referred for investigation by the Monitoring Officer or an investigator appointed by the Monitoring Officer; and where a complaint has been subject to such investigation, to recommended whether or not the complaint should

proceed to hearing. Where the Monitoring Officer considers that a complaint should not be subject to investigation or should not proceed to hearing, they shall convene an Investigation and Disciplinary Sub-Committee of the Standards Advisory Committee comprising at least 3 different Members of the Standards Advisory Committee (comprising 2 of the co-opted members and 1 Councillor) which shall make the final decision on the matter;

to

If requested by the Monitoring Officer in accordance with their powers conferred in the Council's Code of Conduct for Members (Constitution Section 31 Appendix C):

- (a) To advise the Monitoring Officer whether or not any complaint of a breach by the Mayor, a Councillor or a co-opted member of the Members Code of Conduct should be referred for investigation by the Monitoring Officer or an investigator appointed by the Monitoring Officer;*
- (b) To advise the Monitoring Officer whether or not any complaint that has been subject to such investigation should proceed to hearing.*

To discharge the duties in (a) or (b), the Monitoring Officer shall convene an Investigation and Disciplinary Sub-Committee of the Standards Advisory Committee, comprising at least 3 Members of the Standards Advisory Committee (comprising 2 of the co-opted members and 1 Councillor);

Next Steps

- 3.29 The General Purposes Committee are asked to review all the items set out above (and in the Appendices to the report).
- 3.30 It is proposed that most of the changes that have been set out from the above are small amendments or factual corrections and should be implemented following the agreement of GPC.
- 3.31 However, it is proposed that the larger changes set out below, if agreed, should be collated along with upcoming work on Parts C and D to the Constitution and presented collectively to Council for final agreement, this includes areas such as:
 - Proposals to move whole Sections of the Constitution to Supplementary Documents.
 - Changes to the Executive Procedure Rules and related Sections which require agreement of the Mayor.
 - Council Procedure Rule changes.
 - Any other changes the Committee should be forwarded to Council.

4. EQUALITIES IMPLICATIONS

4.1 None specific to this report.

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 None specific to this report.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

6.1 There are no direct financial implication from agreeing the amendments to the constitution.

7. COMMENTS OF LEGAL SERVICES

7.1 Paragraph 9 of Section 19 of Part B of the constitution shows the terms of reference for the General Purposes committee. Amongst other things the committee may “consider and make non-material changes to the Council’s Constitution”. Therefore, the Committee may approve the amendments referred to in this report if it is satisfied that such amendments are non-material.

Linked Reports, Appendices and Background Documents

Linked Report

- Regular Constitution Update reports to the General Purposes Committee and the annual adoption of the Constitution by Council at its annual meeting in May.

Appendices

- Appendix 1 – Detailed updates to Part A following the ADSO review
- Appendix 2 – Detailed updates to Part B following the ADSO review
- Appendix 3 – Track Changed Constitution Part A

- Appendix 4 – Track changed Constitution Part B

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

Appendix 1 – Full list of Part A Changes from ADSO Review

ADSO Number	Recommendation	Comment
	Section 2	
3.2	At Section 2 Clause 4. May require clarification on Executive decision making given the reference to Kings George’s Field Charity Board and the Grants Determination Sub-Committee (Sect 2, clause 6 page 7 and Sect 3, clause 3. Clause 4 page 9). Additionally, HWB referred to in Section 3, clause 14 highlights HWB has responsibility for ‘some Executive’ functions.	Suggested new wording across Paragraphs 4 - 6
3.3	At Section 2 clause 5 this should read “the Mayor appoints a Deputy Mayor and (up to eight) additional Cabinet Members who form the Council’s Executive (currently specifies nine which would result in an executive of eleven)	Typo amended
	Section 3	
3.4	At 3 clause 7 is that clause required? Does it not go without saying?	Keep unchanged
3.5	At 3 clause 18 - strictly the Council has responsibility for all non-executive functions except licensing functions which are discharged through a statutory licensing committee (with the exception of approval of Licensing Authority Policy Statement).	Amended
3.6	It is noted that clause 21 lists committees which have been established. Would this more logically sit under section 10 which describes the Council’s regulatory and non-executive committees?	Change made.
3.7	At clause 23 the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012 do not set a financial threshold on executive decisions that must be recorded but it is accepted that a financial ceiling is necessary for practical purposes. The Regulations simply state that “Executive decision means a decision made or to be made by a decision maker in connection with the discharge of a function which is the responsibility of the executive of a local authority.”	Noted – retain threshold – (review level as per Part 2 ADSO report)

ADSO Number	Recommendation	Comment
3.8	We will compare threshold levels set by other comparable authorities in our (ADSO) Phase 2 review.	<u>To do</u>
	Section 6	
3.9	At 6 clause 3 suggest 'living or working in Tower Hamlets' and remove 'here'.	Adjusted
3.10	Should Freedom of the Borough appear under the section headed members of the Council? Honorary Aldermen are not members of the Council. This would be better contained in a protocol explaining their role and how they are appointed.	Question for CWG – where would you like this to go?
3.11	<p>At 6 21, given the express wording of s249 and section 176 of the Local Government Act 1972, are you satisfied that the Council has power to reimburse expenses to honorary aldermen for attending civic events?</p> <p>Section 249: An honorary alderman [F8or honorary alderwoman] of a principal council may attend and take part in such civic ceremonies as the council may from time to time decide, but shall not, as such, have the right—</p> <p>(a) to attend meetings of the council or a committee of the council (including a joint committee upon which they are represented); or</p> <p>(b) to receive any such allowances or other payments as are payable under sections 173 to 176 above [F9or Part 8 of the Local Government (Wales) Measure 2011]</p> <p>Section 176: Payment of expenses of official and courtesy visits, etc.</p> <p>[F1 (1) Subject to subsection (2) below, a local authority may—</p> <p>(a) defray any travelling or other expenses reasonably incurred by or on behalf of any members in making official and courtesy visits, whether inside or outside the United Kingdom, on behalf of the authority;</p> <p>(b) defray any expenses incurred in the reception and entertainment by way of official courtesy of distinguished persons visiting the area of the authority and persons representative of or connected with local government or other public services whether inside or outside the United Kingdom and in the supply of information to any such persons.</p> <p>(2) In the case of a visit within the United Kingdom, the amount defrayed under this section by a local authority in respect of the expenses of any member of the authority in making a visit within the United Kingdom shall not exceed the payments which he would have been entitled to receive by way of travelling allowance or subsistence allowance</p>	<p>General Power of Competence Section 1 of the Localism Act 2011 – minimal expenditure clearly defined circumstances.</p> <p>Monitoring Officer content to leave the wording as is.</p>

ADSO Number	Recommendation	Comment
	<p>under section 174 above if the making of the visit had been an approved duty of that member.</p> <p>[F2] (3) In this section “local authority” includes a joint authority, [F3]an economic prosperity board, [F4]and [F5] a combined authority [F5...F6]</p>	
	<p>Section 7</p>	
<p>3.13 – 3.14</p>	<p>These are set out in Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.</p> <p>Section 7 2 Policy Framework needs to be amended to include the plans and strategies not currently listed.</p>	<p>Reviewed. Potential additions identified.</p>
<p>3.15</p>	<p>You may also wish to consider whether you want to include any additional plans and strategies within the definition of the Council’s Policy Framework. The consequence would be that these would be developed by the Executive but would need to be approved by Council.</p>	<p>For CWG to consider</p>
<p>3.16</p>	<p>Section 7 7 Functions of the Council needs to be checked against the Functions and Responsibilities Regulations and other legislative requirements. Certain functions must be determined by Council but the Council can decide that additional functions must be determined by them and not delegated to committees, sub-committees or officers.</p>	<p>Reviewed. Potential additions identified.</p>
<p>3.17</p>	<p>There is a catch all at 7(p) which arguably would include other matters which should be determined by Council such as the designation of the Monitoring Officer but, for ease of reference, it would be useful to list as many as possible. Would this list of functions be better contained in Part B?</p>	<p>The whole list has been moved to Part B to create a proper Terms of Reference for Council and it has also been expanded.</p>
<p>3.18</p>	<p>There is at least one Council function which is listed in the local choice functions in Part D but is not cross referenced in Part A 7 or Part B 19 3.</p>	<p><u>Review required.</u></p>
<p>3.19</p>	<p>At 7 (c) do Council not approve the necessary changes to the Budget and Policy Framework to enable the decision to be taken but the Executive still make the decision in most cases?</p>	<p>New wording added to new Part B Terms of Reference</p>

ADSO Number	Recommendation	Comment
	<p>This will depend on whether the decision in question rests with the Executive or Council. Not all decisions in the policy framework sit with the Executive. If Council decides, following call-in, that a decision was inside the policy framework and therefore not properly processed the decision would need to be referred back to the relevant decision maker. The wording needs to be changed accordingly to reflect this.</p>	
	<p>Section 8</p>	
3.20	<p>At 8 clauses 14 and 16. Might be advisable to add at the end of those paragraphs “and notify the Chief Executive as soon as a replacement is made.”</p>	<p>Wording added (but notify MO not CE)</p>
3.21	<p>At 17 Cabinet Responsibilities – these are set out in section 29 and form part of the Executive Procedure Rules. This does not aid accessibility. They would usually be expected to be included at Part B. To further complicate navigation the procedure for executive decision-making is in Part D.</p>	<p><u>Consider how best to set out Exec matters as part of medium term structural review of constitution.</u> <u>Unamended at this point.</u></p>
	<p>Section 9</p>	
3.22	<p>At 9 Overview and Scrutiny, although it is mentioned elsewhere in the Constitution, should greater emphasis be given to pre-decision scrutiny?</p>	<p><u>For the Scrutiny Review</u></p>
3.24 – 3.27	<p>You may wish to give consideration to the Overview and Scrutiny arrangements. At present there is a single Overview and Scrutiny Committees and subcommittees of overview and scrutiny which are appointed by the main committee. Would it be better to have dedicated overview and scrutiny committees rather than subcommittees under the umbrella of a single Overview and Scrutiny Committee?</p> <p>There are differing approaches to Overview and Scrutiny and there is no “one size fits all” approach. They could be arranged around portfolio areas (although this can sometimes encourage silo working) or based on thematic issues. Cross cutting committees can better address cross cutting strategic issues.</p> <p>In any event, careful consideration needs to be given to the Scrutiny Sub-committees’</p>	<p><u>For the Scrutiny Review</u></p>

ADSO Number	Recommendation	Comment
	<p>terms of reference. Scrutiny can assist the Mayor by testing collaboration etc.</p> <p>As advised, there is no “right answer” in respect of overview and scrutiny arrangements. However, we will look at comparisons with other similar authorities in our Phase 2 review.</p>	
	Section 10	
3.28 – 3.31	<p>This section only refers to the Development Control and Licensing Committees and not to other regulatory and administrative committees.</p> <p>Conversely other sections describe both the committee and, in the case of Council, its detailed remit.</p> <p>A list of other committees is contained in section 3 how decisions are made, but this section does not describe their role and functions.</p> <p>This is illustrative of a lack of consistency in the style, contents and format of the constitution which is confusing and makes navigation difficult.</p>	<p>Have moved the list of Committees to this section and have included a little information on all Non-Exec Committees that don't have a whole Section dedicated to them. Have also slightly trimmed the info on Planning and Licensing.</p> <p>Note Licensing section will require further revision to cover new structure.</p>
3.32 – 3.33	<p>The Licensing Committee appears to discharge both statutory licensing functions which fall under the Licensing Act 2003 and non -statutory licensing functions. Non statutory licensing functions fall under the overall responsibility of Council whereas statutory licensing functions do not. Moreover, the statutory licensing committee is not subject to the rules on political balance. This can be useful when forming subcommittees or panels. It has also been held in recent case law that Licensing committee meetings can be held virtually whereas “ordinary” committees cannot.</p> <p>Most authorities form two committees, one to discharge statutory licensing functions and one to discharge general licensing functions but with the same membership and meeting concurrently.</p>	Reviewed – see proposed new TORs

ADSO Number	Recommendation	Comment
3.34	Any delegations from the Licensing Committee should be set out under the remit of the Committee as it is the Committee and not Council that grants these delegations.	Reviewed – see proposed new TORs
3.35	At 10 13 it says that the Licensing Committee and Licensing Subcommittee Terms of Reference are at Part B section 19. Whilst they are in fact set out in Part B 19 sections 13 and 14, the numbering in Part B 19 is quite confusing given the manner in which it is set out.	Reviewed see Part B comments.
3.36	Part B 19 at 13 states that the Licensing Procedure Rules are contained in Part D section 54 but they are in fact contained in Part D 53. Part C section 34 contains the Licensing Code of Conduct. As a result, the remit and procedures relating to licensing are spread across 4 different parts of the constitution. Some simplification would be beneficial.	Reviewed – see proposed new TORs Note Part C Section 34 will need review following structure changes.
3.37	At 11 it should read “vary a licence” not “a license”.	Section revised to remove that line.
	Section 11	
3.38	Numbering is wrong as it goes from 11 to 12. 12 should be one etc.	Amended – numbering now correct.
3.39	Clause 16 appears to suggest that the committee has 2 sets of procedure rules. However, Part B 19 18 does not set out the rules of procedure but, rather, describes the remit of the Committee. However, the remit is set out again in Part D but with more detail. There should be a single description of the remit in one part of the constitution. We would suggest that this should be Part B.	<u>Being reviewed with the Standards Advisory Committee</u>
	Section 12	
3.40	At 12 clause 13. Can the Council or the Executive or an officer delegate “functions” to another authority? Similarly, wording in clause 15. The Council remains responsible for the function.	<u>Basic principle ok but review wording re officer powers.</u>
	Section 13	
3.41	Clause 1. Is it the Council or the Head of Paid Service on behalf of the Council? See Clause 5. Potential confusion over the use of ‘Council’ and ‘the Council’.	Amended 2 nd para re HOS
	Section 15	

ADSO Number	Recommendation	Comment
3.42	It should be made clear at 3 that the rules cannot be suspended so as to override statutory requirements.	Amended
3.43	At clause 4 INSERT "as" before "contained" and "in" after "contained" in the last sentence.	Amended

Appendix 2 – Full list of Part B changes following ADSO Review

ADSO Number	Recommendation	Comment
3.44	We would suggest that this Part and subsequent parts are numbered separately to avoid confusion. At present it is difficult to distinguish between the different parts as the numbering follows sequentially.	Keep as is. Specific reason why Sections are numbered sequentially as alternative was causing confusion.
3.45	We would also suggest that decision making procedures (in other words rules of procedure) are all moved to Part C (some appear in Part B and some in Part D which is confusing). Other rules are in Part C under codes and protocols. This means that in order to find a relevant set of procedure rules it is necessary to search in parts B, C and D.	Part of medium-term constitution structure review.
	Section 16	
3.46	Is it possible to sub-delegate a delegation – para 1.3? Knowles implies you can although we would expect this to be to a named individual.	Typo amended Sub-delegation ok.
	Section 17	
3.47-3.49	<p>Section 17 sets out that where local choice functions are delegated to committee these are set out in the relevant committee remits at section 19 and, where they are delegated to officers, they are set out in Part D at 44. This does not make the executive/non-executive split for those functions clear. Moreover, Part D at 44 actually contains some delegations to committees and some functions which are reserved to Council as well as officer delegations. These are not picked up in Council and Committee remits.</p> <p>It would be preferable if the local choice functions were clearly set out in Part B.</p> <p>At present it is necessary to refer to Part D to see which functions are delegated to committee, which are delegated to officers and</p>	<u>Retain local choice functions in Part D but review against Committee Terms of Reference.</u>

ADSO Number	Recommendation	Comment
	which are reserved to Council for decision.	
	Section 19	
3.50	Has the Council established Council? See 19 number 2.	Changed to 'The Authority...'
3.51	The numbering in this section is very confusing on first reading as section 19 then has 19 subsections with no clear visual distinction on the numbering.	Following feedback have reordered the TORs to group them so that Sub-Committee TORs follow their parent Committee.
3.52 – 3.55	<p>Council</p> <p>Under summary description, strictly the Council is responsible for all non-executive functions with the exception of statutory licensing.</p> <p>It would ease navigation if the remit of Council was contained either in Part A or Part B and not spread across the two. Part D also contains additional functions which are reserved to Council but not referred to in Parts A or B. A note to 19 3 says that additional information is contained in Part B but there is also additional information in Part D (see comment above).</p> <p>The intention of 19 3 is to list those functions of Council that are non-delegable. However, the list given is not a comprehensive list.</p> <p>We would question whether changes, other than minor changes, to the constitution can be delegated by Council to the General Purposes Committee (see s9P Local Government Act 2000). We would expect this to be listed as a Council function.</p>	<p>Have taken out the list of responsibilities from Part A and created a proper Terms of Reference for Council.</p> <p>As part of the medium term structure review look to create one Section specific to Council.</p>
3.56 – 3.58	Reference needs to be made to CIPFA guidance on the role and functions of Audit Committees and the remit reviewed accordingly. Whilst adherence to the guidance is not a legislative requirement, regard should be had to the guidance as it reflects best practice.	<p>CIPFA guidance was considered by Audit Committee.</p> <p>Can add Statement of Accounts to TORs for Audit Committee?</p>

ADSO Number	Recommendation	Comment
	<p>It is understood that the remit of the Audit Committee is currently in the process of review in the light of the CIPFA guidance and therefore we have not included detailed comments in this report.</p> <p>We cannot see reference to approval of the Statement of Accounts and Expenditure in the remit in Part B. However, in Part D at 43 Council functions it is listed at 45 as a responsibility of the Audit Committee. There is no cross referencing under the remit of the Audit Committee in Part B. It should be included in the Part B remit for ease of navigation.</p>	<p><u>Officers to consider if any further changes are required.</u></p>
<p>3.59 – 3.60</p>	<p>HR Committee</p> <p>This needs to be cross referenced with the requirements of the Local Authorities (Standing Orders) (England) Regulations 2001. It would be helpful to specify the composition – namely a non-executive committee but to include at least one member of the executive. It may be helpful to refer to the executive notification procedure in Schedule 1 Part 1 5 of the Standing Orders. It would appear that the recommendation as to the appointment of the Head of Paid Service falls under the remit of the Human Resources Committee rather than the Appointments Subcommittee. However, the Appointments Subcommittee is described as an “ad-hoc subcommittee to...determine senior officer appointments.” This is confusing.</p> <p>The remit of the Appointments Subcommittee and of the Employee Appeals Subcommittee should appear immediately after the remit of the Human Resources Committee rather than before (see comment below).</p>	<p>Discussions have taken place with HR colleagues on the options for revising the TORs.</p> <p>Proposed revised TORs being developed.</p>
<p>3.61 – 3.62</p>	<p>Employee Appeals Sub-Committee</p>	<p>Retain as is.</p>

ADSO Number	Recommendation	Comment
	<p>It would aid navigation if the Human Resources Committee, Appointments Subcommittee and Employee Appeals Subcommittee appeared sequentially in the Constitution with the remit of the Human Resources Committee being set out first before its subcommittees. Appeals Sub-Committees can be established by General Purposes Committee which is also a potential confusion. Whilst members can be involved in officer appeals below Chief Officer level, it is not considered good practice to do so. However, the remit of the Employee Appeals Subcommittee appears to preserve such a right.</p> <p>Should a separate subcommittee be established to deal with chief officer appeals?</p>	
3.63 – 3.66	<p>General Purposes</p> <p>It is not clear from the remit if this committee is responsible for general licensing functions although clause 10 appears to include a “catch all” delegation.</p> <p>However, Part D at 43 Council Functions lists the non-executive functions in the Functions and Responsibilities Regulations and it would appear from this that general licensing functions, where not delegated to officers, fall under the remit of the Licensing Committee and not General Purposes.</p> <p>We have already highlighted the need to separate statutory and non-statutory licensing functions.</p> <p>There are however also functions which appear on the list of functions in Part D 43 and which fall to the General Purposes Committee (for example 1D1, 1D 6. 1D 7, 1F1, 1I 50). These need to</p>	<u>To review</u>

ADSO Number	Recommendation	Comment
	be cross referenced in Part B or, ideally, included in the remit set out in Part B.	
3.67 – 3.68	<p>Overview and Scrutiny</p> <p>At 19.6, 10, 11 and 15 (Scrutiny) it would aid navigation if the remit of the Overview and Scrutiny Committee were followed by the remits of its subcommittees. At present the remit of the Children and Education Scrutiny Subcommittee appears at 19.6, the Health and Adults Scrutiny Subcommittee at 19.10, the Housing and Regeneration Scrutiny Subcommittee at 19.11 and the Overview and Scrutiny Committee at 19.15.</p> <p>Changes to Health Scrutiny, which come into force in January 2024, will need to be picked up. Please see attached link: https://www.cfgs.org.uk/blog-dhsc-confirms-new-health-scrutiny-arrangements-to-start-in-january/</p>	<p>Ordering of TORs changed.</p> <p><u>Health Scrutiny changes to do.</u></p>
3.69	<p>SDC and DC</p> <p>Similarly, it may be helpful if the remits of 17 Strategic Development Committee and 7 Development Committee appeared sequentially.</p>	<p>Proposed new ordering set out. CWG to consider whether to group (and if so where)</p>
3.70 – 3.73	<p>Human Resources</p> <p>This states that the HR committee is responsible for chief officer appointments but this is also the remit of the Appointments Subcommittee.</p> <p>Similarly at 5 it includes determining officer appeals but there is an Employee Appeals Subcommittee established for this purpose. This all needs to be tidied up. Paragraph 6 incorrectly refers to paragraph 6 above. It should read “paragraph 5”. Paragraph 6 refers to the Subcommittee comprising 5 members whereas at 8 Employee Appeals</p>	<p>Discussions have taken place with HR colleagues on the options for revising the TORs.</p> <p>Proposed revised TORs being developed.</p>

ADSO Number	Recommendation	Comment
	<p>Subcommittee it states that it is a “panel of three members.” The subcommittee should reflect political balance as well as gender and ethnicity.</p> <p>3.72 It is recommended that a dedicated subcommittee be established to deal with disciplinary action against chief officers and the Head of Paid Service reflecting the provisions in the Local Authorities (Standing Orders) (England) Regulations 2001. The Officer Employment Procedure Rules also refer to a Panel comprising the two Independent members but clause 4 appears to include these in the membership of any subcommittee established to deal with disciplinary matters.</p> <p>3.73 The remit could include consideration of the pay policy statement and making recommendations to Council on the same.</p>	
3.74 – 3.76	<p>Licensing Committee</p> <p>The remit currently includes both statutory and non-statutory licensing functions. The remit should be limited to statutory licensing functions (see earlier comments).</p> <p>It includes local choice functions set out in section 17 of the constitution but section 17 does not make clear what these are. In any event, these are non-executive functions.</p> <p>The remit should include the scheme of delegation to officers by the statutory licensing committee as well as the delegations to the Licensing Subcommittee. This would be clearer if, under 13 1 delegation of functions, it stated “not specifically reserved to the Licensing Committee or Licensing Subcommittee.”</p>	Reviewed see separate proposed TORs.

ADSO Number	Recommendation	Comment
3.77 – 3.90	<p data-bbox="379 275 826 309">Standards Advisory Committee</p> <p data-bbox="379 342 962 1003">This states that it is an advisory committee under s102 (4) of the Local Government Act 1972. The rationale for this appears to be to enable the Council to give voting rights to independent co-opted members under s13(4) of the Local Government and Housing Act 1989. However, as an advisory committee, it has no delegated decision-making powers. However, it then purports to give delegated decision-making powers to subcommittees to determine dispensation requests and to conduct standards hearings. Clearly if the subcommittees are exercising delegated powers the independent co-opted members cannot have voting rights.</p> <p data-bbox="379 1037 946 1227">Note also that the Members Allowance Scheme refers to functions of the Committee which are not included in its remit (see post under Members Allowance Scheme).</p> <p data-bbox="379 1261 962 1742">In Part D 53 the remit of the Standards Advisory Committee and of the Hearing Subcommittee and Hearings (Appeal) Subcommittee are also set out, but in more detail than in Part B. It is not obvious that they are to be found in Part D as Part B refers to Part D containing Standards Advisory Committee Procedures and they are titled “committee procedures” in Part D. The remit should be clearly set out in Part B and not replicated in Part D which should contain rules of procedure only.</p> <p data-bbox="379 1776 938 1921">It is noted that Part D contains detailed provisions as to the composition of the Hearing Subcommittee. These should be contained in Part B.</p> <p data-bbox="379 1955 962 2024">It is also noted that the Subcommittee comprises 2 co-opted members and one</p>	<p data-bbox="986 275 1353 309"><u>Being reviewed with SAC</u></p>

ADSO Number	Recommendation	Comment
	<p>elected member. We do not think this is correct as the Subcommittee is a decision-making body determining whether or not there has been a breach of the code of conduct and making recommendations as to sanctions. It should therefore comprise at least 3 elected members. If co-opted members are to be included, they cannot carry voting rights.</p> <p>The hearing subcommittee, before making any decision, must have regard to any views of the Independent Person whether or not the Independent Person attends the hearing. This is not referenced in the procedure.</p> <p>It is noted that there is provision for a Hearing Appeal Subcommittee. This is not necessary given the limited range of sanctions.</p> <p>If the appeals subcommittee is to be retained then the size of the committee will need to be increased as the hearing subcommittee and appeal subcommittee will each need to comprise at least 3 elected members and the same members cannot sit on both the hearing subcommittee and the appeal subcommittee.</p>	
	Section 20	
3.91, 3.93, 3.94, 3.95	<p>As stated above these do not need to be included in the constitution. Where they do not involve elected members, for example the Children’s Social Care Complaint Review Panel, it may be advisable for them to be removed to avoid any potential confusion.</p> <p>It follows that if these bodies do not need to be included, neither do their rules of procedure (part D refers).</p> <p>We have suggested that these could be contained in a separate supplemental document.</p>	<p>Moved these to Supplementary Documents (Part D).</p> <p>CWG Question – keep those which involved Members?</p> <p>Difficult to be entirely consistent in the TORs across these bodies as they are managed by lots of parts of the council.</p>

ADSO Number	Recommendation	Comment
	Numbering of functions under each body is inconsistent. Numbers, bullet points, letters.	
3.92	We would question whether the Fostering Panel should include elected members although we recognise that this is a matter for the Council to determine. We will review practice at other similar authorities in our Phase 2 review.	This was previously discussed and determined we would include elected members in the pool.
3.96	Pension Board. Details under functions needs tidying as there is a stray bullet point etc.	<u>To amend.</u>
3.97	SACRE mixture of bold numbering in 'functions' column.	<u>To amend.</u>
Section 21		
3.98 – 3.104	<p>As above, numbering awry after 3.</p> <p>At 21 5 Inner North East London Joint Health Overview and Scrutiny Committee</p> <p>Again numbering awry. "1" appears after introduction in 21 5.</p> <p>Additionally, mixture of numbers, letters etc under Responsibilities.</p> <p>Fifth paragraph is an advisory statement not a description of remit.</p> <p>At seventh paragraph should read "appointed" not "appointment"</p> <p>It also effectively includes procedure rules which could be separated and located elsewhere</p>	These aren't our bodies so difficult to amend. Leave for now.
3.105	Should the Regional Adoption Panel be included here if it is not a member body?	Moved to Supplementary Documents (Part D)
Section 22		
3.106 – 3.108	<p>Numbering after "1" needs correcting.</p> <p>Summary description should read "the Cabinet is a forum..."</p>	<p>Minor amends made.</p> <p>Propose to move the TORs into the main Executive</p>

ADSO Number	Recommendation	Comment
	Clause 6, not sure why delegations granted by the Grants Determination Sub-Committee are listed.	Procedure Rules for ease of reference. See example in track changed Part B.
	Section 23	
3.110	At 23 2 strictly it is the Mayor not the Council that delegates executive functions to officers	Amended.
3.111	In the second bullet point the statutory licensing committee not council delegates statutory licensing functions	Amended but also needs to link to Licensing Committee review.
3.112	At 23 7 fourth paragraph, we would suggest the word “report” be replaced with the words “refer the decision..”	Amended.
3.113	At 23 17 the Mayor etc after “reserve to themselves” ADD “non-operational” “decisions delegated to officers”	No actual legal split. Leave as is.
	Section 24	
3.114	At 24 (c) second paragraph should this provision be contained in rules of procedure as there is a danger of it being overlooked? 24 is essentially a description of functions.	Retain as is.
3.115	The whole section combines role descriptions and delegated powers. It would aid transparency if these were separated.	Retain as is but consider as part of medium term review.
3.116	At 24 6 we would query the propriety of the power to accept late bids – 6c refers	<u>MO is reviewing.</u>
3.117	It is extremely difficult for a lay person to fully understand the provisions relating to the Executive.	To be considered as part of medium-term review.
3.118	There is a description in Part A 3 at 4, then a further description at Part B 22. The actual Mayoral Scheme of Delegation is then found in the Executive Procedure Rules at Part B 29. This is not assisted in the way the numbering is presented as there is no visual distinction between the numbering of different parts. The numbering appears to restart at 29 3. Reference also needs to be made to the procedure for executive decision making at Part D 53. This makes finding and understanding the relevant provisions unnecessarily complex.	Terms of Reference moved, will continue to look at structure of Executive related information as part of medium term structure review.

ADSO Number	Recommendation	Comment
	Council Procedure Rules	
3.119	<p>At 1.3 (c) we understand that the purpose of this rule is to ensure fair allocation of time but consider that it may cause confusion as it is not clear if it applies individually or collectively. It might be better to specify a minimum and a maximum time so as to ensure the 45 mins is not exceeded and members do not lose out.</p> <p>Where it states the 45 minute debate will end with the Mayor or Mayor's appointee, it is assumed this is within the 45 minute allocation.</p>	<p>(State of the Borough Debate) Question to GPC</p> <p>Slight amended to cover issue raised.</p>
3.120	<p>At 2 Budget Meetings there appears to be potential for confusion if more than 1 amendment can be moved and they are then voted on in turn. An amendment, if carried, would normally become the substantive motion to which further amendments were moved.</p>	<p>The current procedure is consistent with how we manage amendments generally at Council.</p>
3.121	<p>At 4.2 should be amended to read "when requested the Monitoring Officer will, in consultation with the Chief Executive, call a meeting ..."</p>	<p>Amended</p>
3.122	<p>At 6.2 it is not clear if this means additional items or further information relating to a report already on the agenda. If it is an additional item the Chair has to accept the item as urgent business. It should also include reasons for lateness. There are also procedural requirements in respect of key decisions.</p>	<p>Amended</p>
3.123	<p>At 9.3 if motions not dealt with are deemed to have fallen this would appear to prevent them being debated again for a 6 month period (see 11.5). They could instead stand adjourned to the next meeting. However, it is acknowledged that this could cause a backlog depending on numbers. An alternative would be to let them drop, meaning that they would need to be resubmitted as not discussed (put).</p>	<p>Amended to say drop rather than fall.</p>
3.123a	<p>At 10 questions by councillors at 10.5 (a) 9 clear days is quite a long period to specify for questions by members. We</p>	<p>It has proven difficult to have a shorter period and still get them on the agenda.</p>

ADSO Number	Recommendation	Comment
	will compare this timeframe with other similar authorities. It is however acknowledged that this allows sufficient time for the question to appear on the agenda.	Alternative would be to just table questions after the agenda has gone out (or just on the day). Current process works ok.
3.124	At 11.7 consideration could be given to frequency of debates with reference to the size of the political group. In other words, the number of motions which can be moved by a political group is directly related to the size of that group in relation to the overall political composition of the Council.	At the moment if an opposition group of 2 and one of 18 then get roughly same number of motions for debate. With only 5 motions for debate a year though any proportionality could end up being pretty crude.
3.125	At 12.1 new (s) to request a recorded vote.	Added
3.126	At 14.1 new (j) to request a recorded vote Requires 20 members to support a recorded vote. We consider this to be quite a high threshold. What is the number for committees?	This has been the number for a long time. We do not have a recorded vote process at Committees.
3.127	At 16.2 any “matter” not “mater”	Amended
3.128	At 16.4 delete the word “of” so that it reads “or any other voting method...”	Amended
3.129	At 16.5 suggest it be made clear that the request should be made prior to the vote being taken.	Amended
3.130	At 21.1 reword “will order the person to leave.”	Amended
3.131	At 22.1 this would be better contained in an advice note or protocol.	Have reduced this section and referred across to the Filming Protocol
3.132	At 25 it is recommended that the rules on appointment of substitute members be reviewed. There are no express legislative provisions which allow for the appointment of substitute members but the prevailing view is that it is permissible (with the exception that substitute members cannot be appointed to the Executive) and most Councils operate substitute schemes. Some Councils also take the view that substitution is not permissible in respect of the statutory Licensing Committee	Amended in particular made it clear that subs must also undertake mandatory training (which is what we currently require).

ADSO Number	Recommendation	Comment
	presumably because the Licensing Act 2003 requires the Council to establish a committee which must discharge those functions.	
31.133	We would question whether the substitution can be for part of the meeting only.	Amended as per CWG discussion.
31.134	We are not aware of any other Councils that allow for substitution for part of the meeting only. Moreover, to avoid any confusion there are often strict rules as to the appointment of substitutes. There should be a requirement for mandatory training for substitutes on certain committees before they can participate.	Amended in particular made it clear that subs must also undertake mandatory training (which is what we currently require).
31.135	At 25.3 reword as follows: "in the case of Licensing Committee/Subcommittee being inquorate after 15 minutes the legal advisor has authority...."	Amended
Petition Scheme		
3.136	Should this be included as part of the Council Procedure Rules or referenced separately?	Proposing to move to Supplementary Documents
3.137	Under scope of petition make clear that Monitoring Officer has authority to reject. "Petitions may be rejected (INSERT) by the Monitoring Officer if it...."	Amended
3.138	The procedure for hearing petitions is expressed as an appendix to an appendix. This is confusing.	Not an issue if move it all to Supplementary Documents.
3.139	Petition scheme Appendix 1. Petition presentation procedures for 30-1999 and in excess of 2000 signatures. Paras 2. No one should introduce new issues, not just interpreters.	Amended
Access to Information Procedure Rules		
3.140	At 11.5 section 8 of Schedule 12A of the 1972 Act lists: <ul style="list-style-type: none"> • The Companies Acts (as defined in s2 of the Companies Act 2006) • The Friendly Societies Act 1974 • The Friendly Societies Act 1992 • The Cooperative and Community Benefit Societies Act 2014 • The Building Societies Act 1986, or 	<u>Legal review to do</u>

ADSO Number	Recommendation	Comment
	<ul style="list-style-type: none"> • The Charities Act 2011 	
3.141	At 18.2 add “As soon as reasonably practicable after the Proper Officer has complied with 18.1 above, he or she must make available at the offices of the relevant local authority a notice setting out the reasons why compliance with rule 14.1 is impracticable and publish that notice on the Council’s website (see s10 the Local Authority (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.	Amended
3.142	At 19.1 needs amending – “...has obtained the (INSERT) agreement from” REMOVE and the agreement (RETAIN) that the taking of the decision.....	Amended
3.143	Add similar wording at 19.2 (see s11 of the Regulations cases of special urgency)	Amended
3.144	At 20.2 (a) replace the word “decisions” with the word “options”	Amended
3.145	At 23.2 – the constitution states elsewhere (Part A, Clause 3, para 17) that officers cannot take key decisions unless delegated by the Executive. It might be worth listing such decisions that are delegated for the purposes of transparency and clarity. Furthermore, decisions over £250,000 need to be consulted with the Mayor. Secondly, the Constitution states the Mayor takes all decisions. Is it the Mayor who would delegate such decisions or the Executive?	<p>Noted – if there were any permanent delegations of key decisions we should think of where to put them but as it stands there aren’t.</p> <p>Think is ok apart from that.</p>
3.146	At 25.5 consider expanding to include reference to “need to know” principles.	Part of the medium term structural review.
	Budget and Policy Framework Procedure	
3.147	Should these be retitled Budget and Policy Framework Procedure Rules?	Amended
3.148	At 2.1 isn’t strictly correct. Council cannot “substitute its own proposals” without first sending it back to the Executive (s3 of Schedule 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 refers).	Amended

ADSO Number	Recommendation	Comment
3.149	The Rules would benefit from tidying up to make the required legislative procedure absolutely clear.	<u>To do</u>
3.150	Should the need for a recorded vote on a budget decision be reflected in the Rules?	<u>Need to work out where to put this. (or put in Council procedure Rules – voting)</u>
3.151	At 4.4 wouldn't this provision be better contained in the Access to Information Procedure Rules?	4.4 talks about the decision process rather than the access to information process so ok where it is.
3.152	At 5.1 "...within such limits (INSERT) and the requirements as shall be laid down in the Financial Procedure Rules."	Not sure that is quite right either but have amended to try and make it clearer.
3.153	At 7 Call-In – it might be obvious but the procedure does not appear to specify what will happen if the MO is of the view the matter is not outside of the budget and policy framework. If nothing else, it should say the MOs guidance is final. Those requesting the call-in will be notified.	Minor amendment made.
	Executive Procedure Rules	
3.154	At 1.3 (c) and (d) can delegations be sub-delegated to unspecified officers etc.	Review – amended to explain that permanent delegations should be added to the scheme of delegations.
3.155	At 1.5 (b) and 1.5 (c) should be amended to read "and in the case of either interest it might appear..."	Amended
3.156	1.5 does not cover what will happen in situations to decisions that, whilst not delegated, are the responsibility of a decision maker who has an interest.	<u>To be reviewed</u>
3.157	At 1.6 should specify who decides location of meeting. The directions require the location to be specified in the constitution so it may be advisable to state a location which can be changed by giving notice.	Amended
3.158	At 1.7 why must the statutory deputy Mayor always be present to constitute a quorum?	The Stat Deputy Mayor is the only person who can take decisions if the Mayor isn't there so has to be present. No point continuing if he isn't.
3.159	At 2.2 (c) do they have a standing invitation to private meetings or should this provision be qualified?	<u>To review.</u>

ADSO Number	Recommendation	Comment
3.160	At 2.6 amend fifth line to read written questions) which should be submitted....”	<u>To review.</u>
3.161	At 5.5 do job share provisions potentially breach limit on size of Executive (maximum of 10) if both treated as members of Executive? It could potentially be one post 0.5 x 2 with one SRA shared.	We dealt with this at the time by technically only having one of them in the Cabinet at a time (rotated each six months). Covered in para 5.2 5.5 amended a typo
3.162	At 6 – if we have understood this correctly, the Mayor has decided NOT to give any power to Cabinet collectively but may give individual decision-making powers to Cabinet portfolio holders (6.1 and 6.3 refer). The role of Cabinet, therefore, is to debate decisions made by the Mayor but with the Mayor taking the decision. Individual portfolio holders can only take decisions if they are first approved by the Mayor (Part D 53 procedure for executive decision making refers).	Yes - correct. (Note he has delegated powers to Grants Determination Sub-Committee.)
3.163	This is confusing. If the Mayor has not delegated any decisions to the Executive what is the purpose of Cabinet? This might need to be clarified under the Executive Procedure Rules. If there are decisions for the ‘Executive to take’ maybe list them.	Perhaps we could add by way of clarification that (as things currently stand) the cabinet operates as an opportunity for cabinet members and the Mayor to engage in public discussion prior to his reaching a formal decision?
3.164	At 8.1 this should read “the Mayor has not delegated any Executive powers ...”	Amended
3.165	Similarly at 8.2 and 8.3 the reference should be to “executive” powers to avoid any confusion.	Amended
	Overview and Scrutiny Procedure Rules	
3.166	The statutory Scrutiny Officer is not listed in the list of statutory officers.	Needs a change anyway. Amend. (but they are listed under Statutory Officers in Part D)
3.167	At 5 (iii) should this expressly reference a limitation on the power to scrutinize regulatory decisions? (it is referred to at 30)	<u>Probably should. To review.</u>

ADSO Number	Recommendation	Comment
3.168	At 6(b) the appointment of subcommittees is still subject to political balance rules (see s9FA (6) Local Government Act 2000 “an overview and scrutiny committee of a local authority or a subcommittee of such a committee is to be treated as .. a body to which s15 Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies). Task and Finish or Working Groups could be appointed to avoid strict application of the political balance rules.	<u>We do make them proportionate but we can make that clear. Review as part of scrutiny review.</u>
3.169	At 16 it should be made clear that Council has to decide to exercise power to co-opt but that committee may select the co-optee (see s102 Local Government Act 1972).	<u>Review</u>
3.170 – 3.171	<p>What does 23 “the Chair of the Overview and Scrutiny Committee may decide to lead any Scrutiny Subcommittee” mean in practice?</p> <p>Can he or she effectively take over as chair where the Overview and Scrutiny Committee has appointed someone else to chair?</p>	<u>Review</u>
3.172	<p>Specific Role of the Scrutiny Committee and Sub-Committees</p> <p>Would this be better contained in a Protocol in which event it would not need to be included in the constitution?</p>	<u>Consider as part of Scrutiny Review.</u>
3.173	Should there be a requirement to produce a Work Programme?	<u>Review.</u>
3.174	At 36 is a requirement for the Executive to consider a report “at one of its future meetings” too vague? Should the subcommittees not report back to the main O and S committee who will then present the report to the Executive? Is there any reason why this should not be considered at their next meeting? (40 also refers)	<u>The reason it was written like this was because timescales could be quite tight going to the ‘next’ meeting – but can review.</u>
3.175	At 49 should this expressly exclude regulatory decisions?	<u>Review.</u>

ADSO Number	Recommendation	Comment
3.176	At 52 this seems unduly draconian towards officers particularly given child-care and other commitments.	<u>Review.</u>
3.177	At 54 onwards it is suggested that the provisions for call in be reviewed and that the procedures be compared with those of other authorities operating a Mayoral Model.	<u>Can consider when looking at ADSO Stage 2 review.</u>
3.178	You may also wish to look at the recent publication “The use of call-in: guidance for English authorities.” Their guidance suggests that call-ins should only be considered by Council where the decision may be contrary to the Budget and Policy Framework (this could be made clear in the rules).	<u>Other types of call-ins don’t go to Council so will look at clearer wording.</u>
3.179	Last two sentences of 54 need to be reworded.	<u>Review</u>
3.180	At 54 officers do not have power to make key decisions under the current executive scheme of delegation (although it is appreciated that this may change).	Officers can take key decisions if they are delegated to them (e.g. CE made Grants decision).
3.181	At 55, 56 and 57 it is not the Monitoring Officer who is exercising the call-in. Rather, they are implementing the request to call-in.	<u>Review</u>
3.182	At 56 (b) it should read “representatives”	Amended
3.183	Rules of Procedure for O&S Subs These are contained in Part D and each subcommittee has separate rules of procedure. Consideration should be given to the necessity of having separate rules. Could they be incorporated into the general rules or, as a minimum, one set of procedure rules be drafted to cover all subcommittees?	<u>Review</u>