

Committee General Purposes Committee	Date 17th January 2012	Classification Unrestricted	Report No.
Report of: Assistant Chief Executive (Legal Services)		Title: Proposed Amendments to the Constitution	
Originating Officer(s): John S. Williams, Service Head, Democratic Services		Ward(s) affected: All	

REASONS FOR LATENESS AND URGENCY: This report was not circulated with the Committee agenda as it was not possible to compile the information required before that time. The report is nevertheless recommended for consideration at this meeting as it is necessary for the proposed amendments to the Constitution to be submitted to the next ordinary meeting of the Council (25th January 2012) in order to take effect before the Budget Council meeting.

1. Summary

- 1.1 Council on 29th November amended the terms of reference of the General Purposes Committee to include consideration of proposed amendments to the Council's Constitution.
- 1.2 Prior to this the Constitution Working Party was established to give informal, cross-party consideration to Constitutional matters, including making recommendations as part of the annual review of the Constitution undertaken by the Assistant Chief Executive (Legal Services).
- 1.3 The 2011/12 Constitution review commenced on 12th September 2011 and the Constitution Working Party subsequently met again on 19th October. A range of matters were discussed in respect of which work will continue and a report be brought back to the General Purposes Committee in due course.
- 1.4 However, there are a number of matters which are either very straightforward or on which an urgent decision is required and these are set out in the attached report. The most pressing matter for consideration at this stage relates to clarification of certain procedures to be followed at the Budget Council Meeting, which is scheduled to take place on 22nd February 2012.

2. Recommendations

2.1 That the Council be recommended:-

- a) To amend the Budget Council Procedure Rules at paragraph 4.2 of Part 4.1 of the Constitution as proposed at section 4 of this report;
- b) To amend the Budget and Policy Framework Procedure Rules at Part 4.3 of the Constitution as proposed at section 5 of this report;
- c) To re-designate the Deputy Chair of Council as 'Deputy Speaker'; and
- d) To amend paragraph 27.1 of the Council Procedure Rules as proposed at section 7 of this report to facilitate the trial period of recording Council meetings.
- e) To authorise the Assistant Chief Executive (Legal Services) to amend the text of the Constitution as necessary to give effect to the agreed changes.

3. Review of the Constitution 2011/12

- 3.1 The Constitution Working Party 2011/12 convened on 12th September 2011 to begin the annual review of the Council's Constitution. The Working Party met on two occasions and considered a range of matters proposed by officers and Members in relation to possible amendments to enhance the efficient operation of the Constitution.
- 3.2 Further work is required on some of the detailed proposals and this will continue. However, in respect of a number of proposed amendments it is possible to bring forward proposals at this stage. An early decision is required in particular on proposed amendments to the Budget Council Meeting Procedure Rules so that the changes can be in place ahead of the Budget Meeting which is scheduled for 22nd February.
- 3.3 On 29th November 2011 the Council made the consideration of amendments to the Council's Constitution a responsibility of the General Purposes Committee. The recommended changes to be made at this stage are therefore set out below.

4. Budget Council Meeting Procedure Rules

- 4.1 The budget making process in February/March 2011 was the first such process in Tower Hamlets under the Mayoral form of executive. The procedures to be followed at the Budget Council Meeting(s), particularly in relation to any proposed amendment of the Mayor's proposals, are substantially governed by statutory provisions. Within this however, a number of potential amendments have been identified to the Council's own

procedure rules to clarify and improve the process, building on the experience of 2011.

(a) Deadline for amendments

- 4.2 Currently any amendments for the Budget Meeting must be submitted by noon on the day before the meeting. Officer comments are then drafted and circulated with the amendments. However if the amendments are extensive, the comments can take some time to prepare so the amendments may not be made available to Councillors until just before the meeting.
- 4.3 It is suggested that the deadline for amendments should be brought forward by 24 hours to noon on the second working day before the meeting and the amendments and officer comments should be circulated to the Mayor and all Councillors, with any officer comments that are available, at least 24 hours before the meeting.

(b) Timing of amendments/extension of meeting

- 4.4 The rules provide that, other than amendments notified in advance as above, no further substantial amendment may normally be moved at the budget meeting. However it is important that there is some opportunity at the first budget meeting only for Members to move new amendments, to ensure that the final outcome of the debate reflects the wishes of the majority of Members - for example by omitting, or agreeing a different combination of, elements of any amendments that are already on the table. The rules therefore enable the Council to agree, subject to the advice of the Monitoring Officer, Section 151 Officer and Head of Paid Service, that an amendment without notice can be debated.
- 4.5 The normal 'guillotine' procedure at Council Procedure Rule 9.2 applies equally to the Budget meeting. Under this procedure, at the expiry of the time limit for the meeting, any amendments and motions still on the table are put to the vote and determined without further debate.
- 4.6 However, the budget debate must not be curtailed if there are still matters that have not been adequately discussed and/or Members who have not had the opportunity to speak. In particular the Council must have adequate time to debate any amendment that is moved and accepted for debate. This may be problematic if an attempt is made to move a new amendment close to the end of the allocated time for the meeting.
- 4.7 The Speaker will remind the Council at the start of the meeting of the importance where possible of all amendments being moved at the beginning of the debate or as soon as the need for the amendment is identified; and before moving to the 'right of reply' and voting stage of the meeting will give a final invitation for any further amendments. No new amendment may be proposed once the call for the vote has commenced.

4.8 In addition it is proposed that the Constitution be amended as follows:-

- At the first Budget Council meeting, if a new amendment is moved during the final 30 minutes of the time allocated for the meeting, the meeting will automatically be extended by up to 30 minutes to enable that amendment to be debated before the guillotine procedure comes into operation. This will apply even if a previous extension has already been agreed.
- At the end of the 30 minutes if the debate is not complete, the guillotine process will come into operation in the normal way and the vote will proceed on the amendments and substantive motion the meeting will conclude, unless the Monitoring Officer and Section 151 officer advise the Speaker that the matter has not been sufficiently discussed – in this case the meeting will continue to consider any outstanding amendment(s) and any further amendments that may arise directly as a consequence of those amendments only.
- Nothing in the above provisions should extend the meeting beyond a total duration of five hours, at which point the guillotine process shall come into operation.

5. Policy Framework

5.1 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 issued under Section 13 of the Local Government Act 2000 list a number of plans and strategies, the adoption of which is reserved to full Council. The Regulations also empower a Council to specify other plans and strategies, not included in the mandatory list, that shall also be reserved to the Council to adopt. The mandatory and discretionary plans and strategies specified are collectively known as the 'Policy Framework' and special rules apply to their development and adoption:-

- The adoption or approval of the plan or strategy is the responsibility of the full Council;
- The Mayor and Executive have responsibility for preparing the draft plan or strategy for submission to the full Council; and
- If the Council wishes to amend the Mayor's proposals, the Local Authorities (Standing Orders) (England) Regulations 2001 set out the dispute resolution procedure to be followed. The Council must inform the Mayor of any objections which it has to his proposals (i.e. the amendments it wishes to agree) and must give the Mayor at least five working days to reconsider his proposals and re-submit them (amended or not, with reasons) to a further Council meeting. If at this further meeting the Council still wishes to amend the Mayor's revised proposals, such a decision requires a two-thirds majority of the Members present and voting. If no valid amendment at the further meeting receives two-

thirds support, the Mayor's proposals are deemed adopted in accordance with the regulations.

5.2 On 29th November 2011, the Council agreed to add four discretionary strategies to the Tower Hamlets 'Policy Framework':-

- The Employment Strategy;
- The Enterprise Strategy;
- The Waste Strategy; and
- The Open Space Strategy.

5.3 It is proposed that the Budget and Policy Framework Procedure Rules at Part 4.3 of the Constitution be updated to reflect that fact that the procedures set out at paragraph 5.1 above now apply to these four strategies as to the Budget proposals and the other mandatory and discretionary items included in the Council's Policy Framework.

6. Deputy Speaker

6.1 The Council on 29th November 2011 agreed that the position of Chair of Council would be re-designated as 'The Speaker of Council'. The Speaker is designated as the Borough's First Citizen.

6.2 No change was agreed at that time in respect of the designation of the Deputy Chair of Council.

6.3 For the avoidance of doubt it is now proposed that the position of Deputy Chair of Council be re-designated Deputy Speaker.

7. Recording of meetings

7.1 The Council on 29th November 2011 also agreed that for a trial period of three months, all meetings of the Council will be audio recorded and stored.

7.2 Currently the Council Procedure Rules do not allow for recording of the Council meeting without the express permission of the Speaker. In order to facilitate the trial period agreed by the Council it is proposed that Council Procedure Rule 27.1 should be amended to state:-

'No photography or video or audio recording of any kind by Members, guests or members of the public may take place at any Council meeting without the express permission of the Speaker. The Council may determine that the proceedings of the Council Meeting shall be audio recorded by the officers and those recordings stored in accordance with a policy agreed by the Council.'

8. Comments of the Chief Financial Officer

8.1 This report proposes amendments to the Constitution as detailed in sections 4 to 7 above. There are no direct costs arising from the proposals.

9. Concurrent report of the Assistant Chief Executive (Legal Services)

9.1 The legal implications have been incorporated into the body of this report.

10. Implications for One Tower Hamlets

10.1 The Constitution provides for efficient, accountable and transparent decision-making to the benefit of all local residents and communities.

11. Anti-poverty implications

11.1 There are no direct anti-poverty implications arising from the recommendations in this report.

12. Implications for the reduction of crime and disorder

12.1 There are no direct implications for the reduction of crime and disorder arising from the recommendations in this report.

13. Strategic Action for a Greener Environment (SAGE)

13.1 There are no direct SAGE implications arising from the recommendations in this report.

LOCAL GOVERNMENT ACT, 2000 (SECTION 97)

LIST OF "BACKGROUND PAPERS" USED IN THE PREPARATION OF THIS REPORT

Brief description of "background paper"	Name and telephone number of holder and address where open to inspection
Notes of Constitution Working Party meetings September/October 2011	John Williams 020 7364 4204