

Non-Executive Report of the: General Purposes Committee Tuesday, 8 December 2020	 TOWER HAMLETS
Report of: Asmat Hussain, Corporate Director, Governance and Monitoring Officer	Classification: Open (Unrestricted)
Annual Constitution Review	

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

Executive Summary

As reported in the first paragraph of the Constitution, its purpose is to set 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, others are for the Council to determine.

General Purposes Committee led a significant review of the Constitution in 2018-19 leading to the agreement of a revised Constitution at Council on 17 July 2019. Further to this, Directorate Schemes of Delegation were added over the next year and by August 2020 the Constitution was complete.

However, it is important that the Constitution is seen as a living document and is kept under regular review to ensure it is up to date and meets the Council's requirements. It has therefore been agreed to establish a yearly report to the General Purposes Committee setting out recent changes and updates and giving the Committee the opportunity to request reviews of particular sections as required.

Some of the amendments presented will be for noting having been agreed under relevant delegated authorities, others will be for the formal agreement of the Committee.

Recommendations:

The General Purposes Committee is recommended to:

1. To consider the report.
2. To note the Constitution changes listed in Paragraphs 3.6 to 3.10 and set out in the Appendices to the report.
3. To agree the Constitution changes listed in Paragraphs 3.11 to 3.25 and set out in the Appendices to the report.

4. Subject to the recommendations above, to agree the revised constitution.
5. To consider whether to propose any further changes or to ask officers to undertake reviews of particular sections of the Constitution.

1. REASONS FOR THE DECISIONS

- 1.1 Having an up to date and effective Constitution is key to ensuring the operation of good governance at the authority. As General Purposes Committee has general oversight of the Constitution it is asked to review and consider changes to the Constitution as set out in the report to ensure the Constitution can remain up to date and effective.

2. ALTERNATIVE OPTIONS

- 2.1 The Committee can propose alternative amendments and can also request a more detailed review of particular sections of the Constitution as required.

3. DETAILS OF THE REPORT

- 3.1 The General Purposes Committee led a significant review of the Constitution in 2018-19 leading to the agreement of a revised Constitution at Council on 17 July 2019. Further to this, Directorate Schemes of Delegation were added over the next year and by August 2020 the Constitution was complete.
- 3.2 However, it is important that the Constitution is seen as a living document and is kept under regular review to ensure it is up to date and meets the Council's requirements. It has therefore been agreed to establish a yearly report to the General Purposes Committee setting out recent changes and updates and giving the Committee the opportunity to request reviews of particular sections as required.
- 3.3 This report sets out all the changes proposed since the final directorate Scheme of Delegation was added in August 2020.
- 3.4 The Committee are therefore asked to consider all the specific changes set out in this report and shown as track changes in the attached updated Constitution at Appendices 1-4.
- 3.5 Some of the amendments presented will be for noting having been agreed under relevant delegated authorities, others will be for the formal agreement of the Committee.

Constitution changes to be noted

- 3.6 The changes set out in this section are being made under the various delegations set out. The Committee are asked to note the changes. However, where a change is not purely factual the Committee may object/amend the proposed changes.

Officer Structure Chart

- 3.7 The officer structure chart (Part A – Section 13) has been updated to reflect that James Thomas is now the Corporate Director, Children and Culture and that Vicky Clark is covering for the currently vacant Divisional Director Property and Major Programmes post. As factual changes these can be agreed by the Monitoring Officer and are presented to the Committee for noting.

Executive Scheme of Delegation and related changes

- 3.8 In advance of the Cabinet meeting held on Wednesday 28 October, the Mayor presented an updated Executive Scheme of Delegation to the Monitoring Officer. The main change made was to allow for all-Cabinet Member voting at meetings of the Cabinet and any Cabinet Sub-Committees. This updated scheme was subsequently circulated to all Members through the Members Bulletin.
- 3.9 Subject to the advice of the Monitoring Officer, the Mayor has authority to update the Executive Scheme of Delegation as he sees fit and the Monitoring Officer has authority to make consequential factual changes where required such as to the Terms of Reference of the Cabinet.

Corporate Operating Procedures – officer delegations

- 3.10 The Chief Executive, who has delegated authority to agree changes to the Corporate Operating Procedures, is considering changes to add a line under Section F5 to clarify thresholds for agreeing to compensation payments relating to Data Protection breaches. An example change is shown in Appendix 4 but will only be added to the full Constitution if so agreed by the Chief Executive. The Committee are asked to note this potential change.
- 3.11 All above changes are presented for comment and noting.

Constitution changes to be agreed

- 3.12 The following changes are not agreed under delegated authorities and require the Committee to approve/amend the proposed changes or forward individual items to Council to approve.

Terms of Reference

3.13 A number of tweaks to the Terms of Reference for various Committees are set out in the updated Constitution:

- Council / General Purposes Committee – at the last meeting it was noted that the GPC Terms needed to be updated to reflect the fact that GPC now had wider powers to make amendments to the Constitution under the guidance of the Monitoring Officer. This change is now reflected in the Constitution along with the linked point made in the Council Terms of Reference.
- Overview and Scrutiny Committee (and Sub-Committees) – the Terms of Reference have been updated to reflect the two Co-Optees which are appointed to this Committee.
- Health and Wellbeing Board – updated to reflect the current Lead Member title for the Cabinet Member for Adults, Health and Wellbeing.

Key Decision Threshold

3.14 When the Constitution was reviewed in 2019/20 a new financial threshold for Key Decisions was incorporated of £1 Million for Savings or Expenditure, including capital expenditure. However, this failed to fully take account of the existing, higher, threshold for capital expenditure set out in the Schemes of Delegation. For example, the previous constitution (2017 version) on Page 485 (Part B6 - Financial Management Standards in the Officer Procedure Rules) stated:

LEVEL 4 EU Procedure	Over £172,514 (Supplies & Services) Over £4,322,012 (Works)	Corporate Director	PIF must be completed. Cabinet approval & Tollgate process to be followed for contract above £250,000 – Supplies and Services; above £5million – Works. Tender process to follow the requirements of the EU & Public Contracts Regulations 2006.
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3.15 The above delegations were carried over into the 2019 Constitution. Under the Schemes of Delegation and Corporate Operating Procedures, Corporate

Directors have the delegated ability to make decisions relating to capital works of £5 million pounds.

- 3.16 However, Key decisions are reserved to the Mayor under the constitution. By defining a key decision relating to capital works as being valued at only £1 million pounds this has had the unintended effect of dropping the delegation value to the same £1 million. The original intention was to ensure that Corporate Directors could make decisions up to £5 million i.e. the value shown in the operating procedures is the correct one and not the one shown in Part A for Key Decisions.
- 3.17 An amendment is therefore proposed to Part A to bring it into line with the operating procedures. Note that further changes may be required to procurement rules especially if rules are adopted to replace EU procurement arrangements.

Council Meeting Filming Protocol

- 3.18 At the last meeting of the Committee on 6 October 2020, the Filming Protocol was agreed for inclusion in Part D of the Constitution subject to final adjustments around detailing that the Council also webcasts meetings and also setting out more detail on when there may be restrictions on filming individuals at meetings.
- 3.19 These changes have now been made and the Filming Protocol has been added as Part D Section 55 of the Constitution.

Member Code of Conduct

- 3.20 The Standards Advisory Committee on 15 October 2020 agreed to the addition in the Member Code of Conduct a new Appendix setting out a bullying and harassment policy. This followed a recommendation from the Committee into Standards in Public Life which recommended such a section be included in Council Member Codes of Conduct.

Adoption Panel

- 3.21 Adoption arrangements are now managed through a regional adoption agency. It is therefore proposed to move the Adoption Panel Terms of Reference from Section 20 (Terms of Reference – Other Bodies and Panels) to Section 21 (Terms of Reference – Joint Committees) and to make related text changes as set out.
- 3.22 Consequent amendments may also need to be made to the Adoption Panel Meeting Procedure Rules set out in Part D of the Constitution but these can be made under delegated authority if required.

Overview and Scrutiny Committee changes.

- 3.23 The Overview and Scrutiny Committee meeting on Monday 23 November, considered a report proposing updates to the Overview and Scrutiny procedures in relation to a 'Councillor Call for Action'.
- 3.24 The new Councillor Call for Action procedure allows Councillors to raise particular issues of concern through Overview and Scrutiny as a last resort where other methods of resolution have been exhausted. This report is also presented separately on the General Purposes Committee agenda. The Committee are asked to agree the changes set out in relation to the Councillor Call for Action report. However, it is proposed that the Councillor Call for Action Procedure itself is added to Part D of the Constitution as that will give Overview and Scrutiny delegated authority to amend the procedure in the future as the Committee sees fit.
- 3.25 The Overview and Scrutiny Committee are also due to shortly consider a report setting out a number of adjustments to the Overview and Scrutiny Procedure Rules. These will be presented to General Purposes Committee once agreed by OSC.

Common Seal of the Council

- 3.26 The Corporate Director, Governance holds the Common Seal of the Council and may require it be used to seal documents as necessary. An amendment is proposed to Section 14 Paragraph 7 of the constitution to allow that seal to be applied electronically.

Section Reviews and other amendments

- 3.27 The above paragraphs set out those sections where changes have been made. However, this annual report allows the Committee to also consider whether it would like to commission reviews of any other specific sections of the Constitution.
- 3.28 Where a Section of the Constitution is the responsibility of a different Committee (such as the Member Code of Conduct or the Scrutiny Procedure Rules) then that Committee should be requested to undertake the review and report back to General Purposes Committee.
- 3.29 The Committee may also wish to suggest any small amendments to the Constitution where they consider these add clarity or improve on existing procedures. Subject to the advice of the Monitoring Officer, these could then be approved and added to the changes set out in Appendices 1-4.
- 3.30 One additional change for consideration has been requested by a member of the public who has asked that when presenting a petition to Council, the petitioners be asked whether they have any links (for example family ties) to the Mayor/Councillors who will be considering the petition. This can be added to the Petition Scheme if considered useful.

4. EQUALITIES IMPLICATIONS

4.1 There are no specific equalities implications arising from 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 There are no specific statutory implications set out in this report.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

6.1 There are no direct financial implications arising from this report.

7. COMMENTS OF LEGAL SERVICES

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

7.2 Under the Council's Constitution, the General Purposes Committee has delegated power to make the amendments referred to in this report.

Linked Reports, Appendices and Background Documents

Linked Report

- None.

Appendices

- Appendix 1 – 4 – Revised Parts 1 to 4 of the Constitution

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