


Non-Executive Report of the: General Purposes Committee Tuesday, 5 October 2021	 TOWER HAMLETS
Report of: Janet Fasan, Director of Legal and Monitoring Officer	Classification: Open (Unrestricted)
Constitution Review	

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, the General Purposes Committee has day-to-day oversight of the document.

This update reports asks the Committee to consider a number of changes to the Constitution. The amendments result from a number of different reviews including those on the Senior Leadership Review, Employee Appeals and Contracts Forward Planning.

Further to the above, a referendum was held in May 2021 which confirmed that the Council would continue operating the Mayoral Model of governance for the next ten years. Officers have therefore started looking at whether there were any small changes to procedures which would help support this model over the next few years. Some proposed changes are listed in this report whilst others (if required) will follow at a later date.

The Committee are asked to note or approve (as required) the changes set out in the appendices to the report but can also determine to forward some or all the amendments to Council for decision.

Recommendations:

The General Purposes Committee is recommended to:

1. Consider the changes in Paragraphs 3.3 to 3.14 of the report and set out in detail in Appendices 1 – 4 to the report.
2. Agree the changes in Paragraphs 3.3 to 3.13 and as set out in Appendices 1 – 4 to the report.
3. To note that the new Employee Appeals process agreed by the Committee on 24 June 2021 will come into effect from 1 November 2021.

4. Note the changes in Paragraphs 3.14 and as set out in Appendices 1 – 4 to the report.
5. Note that the proposed new Member Code of Conduct set out at Appendix 5 may be submitted to Council on 17 November 2021 for consideration, subject to any final comments of the Standards Advisory Committee.
6. To delegate to the Monitoring Officer any consequential changes resulting from the above and to reflect any decisions made at the meeting.

1. REASONS FOR THE DECISIONS

- 1.1 The changes, particularly those relating to the Senior Leadership Review, are necessary to keep the Constitution up to date and to ensure efficient and effective decision-making procedures are maintained.
- 1.2 General Purposes Committee is responsible for oversight of the Constitution and so the changes are presented here for agreement.

2. ALTERNATIVE OPTIONS

- 2.1 None are presented but where the Committee is responsible for agreeing changes to the Constitution it can propose alternative actions or not agree the amendments set out.

3. DETAILS OF THE REPORT

- 3.1 Day-to-day oversight of the Council's Constitution rests with the General Purposes Committee. This report proposes a number of updates taking account of various reviews that have taken place looking to continue the work of strengthening the Council's governance procedures. Each set of changes are described in the paragraphs below and all the changes are then set out as track changes to the Constitution document in the four Appendices to the report.
- 3.2 The Committee are asked to consider all the proposed changes. Most are for agreement but some can be determined by officers under delegated authorities. In those circumstances the Committee are asked to note and comment as required.

Changes to Agree

1 - Senior Leadership Review

- 3.3 The recent Senior Leadership Review amended the Council's officer structure. Changes included a new Corporate Director of Resources and Governance (and Chief Finance Officer) with the Director of Legal becoming the Monitoring Officer. (Under the Constitution, many of these changes are

non-material and can be made by the Monitoring Officer under delegated authority.)

3.4 This review has required a number of amendments to the Constitution. These include:

- Part A – Section 13 (Officers of the Council) – various changes to account for the new structure (including updating the organisational chart) plus a new paragraph setting out the allocation of the Chief Finance Officer and Monitoring Officer roles.
- Generally in the Constitution - Direct replacement of old job titles with the new designations and adjusted lists of functions and responsibilities. In addition the title ‘Chief Finance Officer’ is used where appropriate instead of a specific Job Title. This is so that there will not be a need to make further changes should the Chief Finance Officer role be allocated to a different senior manager during a future re-organisation.
- Part D Section 52 – Merging the Governance and Resources Schemes of Delegation (see paragraph 3.14 below)
- Deputy Chief Executive – amendments to set out the role of the new Deputy Chief Executive role in terms of decision making and deputising for the Chief Executive.

2 - Financial and Procurement Thresholds

3.5 The Council’s Key Decision thresholds were updated in 2019/20 to include a new financial threshold of £1 Million for most decisions. At the time not all the financial and procurement thresholds were adjusted to bring them into line. The appendices set out a number of proposed revisions to bring these thresholds into line with the standard Key Decision thresholds. It is considered that this will improve the efficiency of the Council’s decision-making processes for mid-range decisions. The requirement to publish all officer decisions over £250,000 ensures that transparency can be maintained.

3.6 Changes proposed include:

- Part C – Section 36 (Financial Regulations and Procedure Rules)
 - B11 – adjustment of thresholds and clearer guidance on decisions valued at between £250,000 and £1 Million. Text has also been amended to make it clear that a decision is required of the Executive and not a ‘noting report’.
 - C4 – as above
- Part C – Section 37 (Contracts and Procurement Procedure Rules)
 - Introduction – the new thresholds are set out and clearer guidance provided in a number of places in relation to direct awards and contract variations.
 - As well as Key Decision thresholds being set out, a number of thresholds in Table 1 have been updated (these are externally set thresholds which rise regularly with inflation)

- Clearer reiteration of the requirement to publish decisions over £250,000 through the officer decisions portal.

3 - Changes to the process for appeals against dismissals

3.7 Following the decision at the last General Purposes Committee meeting to agree to proposed changes to the Employee Appeals process, a number of changes have been set out including:

- Part B – Section 19 (Terms of Reference) – Removal of Employee Appeals Sub-Committee (as the new officer led meeting is not a formal council committee) and addition to General Purposes Committee Terms of Reference to receive update reports on employee dismissals and other appeals as appropriate.
- Part B – Section 23 (Corporate Scheme of Delegation – The Chief Executive and CLT) – revised to include reference to the whole Corporate Leadership Team and related job description changes.
- Part B – Section 24 (Functions) – Also revised to reference the full Corporate Leadership Team
- Part C – Section 38 (Officer Employment Procedure Rules) – stating that appeals panels include a Member.

4 - Other HR related updates

3.8 A number of HR related amendments including:

- Officer Employment Procedure Rules (Part C – Section 38) including:
 - Extending the length of interim appointments the Chief Executive can make to six months on the basis that all senior management recruitment processes take longer than the currently allowed three months.
 - Removal of the exemption from the Appointment Sub-Committee process for Deputy and Chief Officer appointments within the Governance Directorate.
 - Clarity on when the Independent dismissal review process applies for the Chief Executive, Monitoring Officer and Chief Finance Officer.
 - A new requirement for permanent appointments to the Monitoring Officer and Chief Finance Officer to be approved by Council.

5 - Hybrid meetings and webcasts

3.9 A small addition to the Council procedure rules (Part B Section 26) to allow for hybrid meeting arrangements. This also take the opportunity to mention webcasts and highlight that meetings can continue even if the webcast fails.

6 - General Governance and Procedural updates

3.10 The Appendices also include a number of proposed procedural changes and improvements for the Committee to consider. The aim of these is to clarify and strengthen some of the procedures related to Council and Executive functions. These have been set out following discussions with officers and Members. The Committee should consider whether it wishes to agree the changes or propose alternatives.

- Mayor's Executive Scheme of Delegation – making the Council Procedure Rules (Part B – Section 26) clearer on the requirement to present this at the Annual Meeting of Council and adding a new requirement that in-year changes be presented at the next available Ordinary meeting of Council for noting (the changes would still come into force when they are announced by the Mayor).
 - Note – if the Committee approve this addition it should consider where on the Council agenda this should be placed.
- Questions at Council – re-worded to highlight the priority given to verbal answers at the meeting and tried to clarify the wording around who answers the questions.
- Call-Ins – it has been suggested that a report be added to the Council agenda setting out for noting any call-ins received by the Executive since the last Council meeting. Proposed wording is set out. The General Purposes Committee should consider whether it wishes to propose Council time is taken up with this business and if so where on the agenda it should be placed.
- Setting out in the Council procedure rules the ability of relevant committees (such as Standards Advisory Committee) to present reports to Council when required.
- Note – further clarifications may be introduced to the Executive Scheme of Delegation should those prove useful. It is for the Mayor to agree any changes to the scheme of delegation.

3.11 Note that a request was also received to add the Mayor as an automatic Member of the Audit Committee, however, having taken advice from Internal Audit this suggestion has not been taken forward. The Chartered Institute of Public Finance and Accounting provides advice that an Elected Mayor (or other Council Leader) should not be a Member of the Council's Audit Committee as it would impact on the Committee's independence.

7 - Member Code of Conduct

3.12 A revised Member Code of Conduct (to replace the existing Part C – Section 31) is being prepared by the Standards Advisory Committee (SAC). This new Code is based on the Model Code of Conduct which was devised by the Local Government Association and published in December 2020. Should this new Code be agreed at the SAC meeting on 30 September (after this agenda has been published) then the new Code of Conduct will be presented to the Council meeting on 17 November for consideration. The draft Code is presented at Appendix 5 to this report.

- 3.13 Should Council agree the new Code, the next significant area of work for the Standards Advisory Committee will be to prepare a new Section 32 (Member Officer Relations Protocol) to follow on from the new Code. This will be reported to Committee at a later date.

Changes to note

- 3.14 The following changes are agreed under delegated authorities and are presented to the Committee for comment and noting.

8 - Non-Material operational changes

- Throughout the Constitution there are non-material changes relating to the senior leadership review and a couple of typographical errors have also been corrected. The Monitoring Officer has delegated power to approve these changes.

Financial Delegations

- Part D – Section 46 (Corporate Operating Procedures) – Amending a number of financial thresholds in line with the above including on income, debtors, leases and disposals. The Chief Finance Officer has delegated power to approve these changes.

HR related changes

- Part D – Section 46 (Corporate Operating Procedures) – Amendments to the levels at which some HR decisions can be taken (generally reducing existing threshold levels). The Chief Executive has delegated power to approve these changes.

Conclusion

- 3.15 The General Purposes Committee are asked to consider and comment on the changes set out in the report and to approve those changes listed in paragraphs 3.3-3.14.

4. EQUALITIES IMPLICATIONS

- 4.1 None specific to this report. However, an effective Constitution is important in helping to ensure the Council can operate clear and transparent decision making.

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 best value and good governance risks if the Constitution is not kept up to date.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

6.1 The proposed changes to the constitution include updates to agreement and reporting of financial decisions to ensure transparency and clarity of roles and responsibilities. Other than these changes, 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

- Constitution report to the Annual Meeting of Council on 19 May 2021 and regular update reports to the General Purposes Committee.

Appendices

- Appendix 1 – Part A of the Constitution with tracked changes
- Appendix 2 – Part B of the Constitution with tracked changes (to follow)
- Appendix 3 – Part C of the Constitution with tracked changes (to follow)
- Appendix 4 – Part D of Supplementary Documents to the Constitution with tracked changes (to follow)
- Appendix 5 – Draft new Member Code of Conduct

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