

<p align="center">London Borough of Hammersmith & Fulham</p> <p align="center">FULL COUNCIL</p> <p align="center">16 OCTOBER 2019</p>		
REVIEW OF THE CONSTITUTION		
Report of the Leader of the Council – Councillor Stephen Cowan		
Open Report		
Classification: For Decision Key Decision: No		
Wards Affected: None		
Accountable Director: Rhian Davies, Monitoring Officer		
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1. EXECUTIVE SUMMARY

- 1.1 This report asks Council to approve more efficient financial practices through new financial thresholds, the creation of two new committees and a change to the key decision threshold.
- 1.2 The Monitoring Officer has reviewed the current thresholds in line with our Ruthlessly Financially Efficient policy and has concluded that the proposed thresholds as set out in this report will now enable the Council to act nimbly in line with other modern Councils.

2. RECOMMENDATIONS

That Council agree:

- 2.1 That the new financial thresholds outlined in paragraph 5.6 of the report, be approved.
- 2.2 That authority be delegated to the Assistant Director of Legal and Democratic Services to update Financial Regulations and the constitution, and update and amend Contract Standing Orders.
- 2.3 That the key decision threshold be increased from £100,000 to £300,000.

- 2.4 That a Cabinet Urgency Sub-Committee be created with the Terms of Reference as attached at Appendix 1.
- 2.5 That a Standard Committee be established with the Terms of Reference as attached at Appendix 2.
- 2.6 That any spend in excess of £20 million of the Budget framework be approved by Full Council (increasing the limit from £5 million).
- 2.7 That the Pension Fund Sub-Committee's quorum be amended to 2 Councillors.
- 2.8 That the Audit and Pensions Committee's terms of reference be noted at Appendix 3.

3. REASONS FOR DECISION

- 3.1 The Council's Monitoring Officer is required to review the Council's Constitution each year to ensure that its aims and principles are given full effect in accordance with Article 15 of the Constitution.

4. INTRODUCTION AND BACKGROUND

- 4.1 The Constitution sets out how the Council operates, how decisions are made and the procedures that are followed to ensure business is conducted in an efficient, transparent, and accountable manner.
- 4.2 The Monitoring Officer has a duty to keep the Constitution under review and has delegated authority to amend the Constitution where there has been a change in law, job title, structure, rearrangement of job responsibilities or for general administrative convenience. All extensive changes to the Constitution, however, must be approved by Full Council. The last in-year amendments were approved at the Full Council meeting on 17 July 2019

5. PROPOSALS AND ISSUES

Financial Regulations - Decision Making Thresholds

- 5.1 This is out of kilter with the decision-making thresholds in other London Boroughs, see Appendix 4. Most H&F decisions require Cabinet approval which means that the Cabinet agenda can be lengthy and regularly concerned with relatively low-value contract awards.
- 5.2 The current thresholds are:
 - The Chief Executive (CE) and Strategic Leadership Team (SLT) members have authority to spend up to £24,999;
 - Cabinet Members can authorise spend between £25,000 and £99,999; and
 - thereafter all decisions must be taken to Cabinet.

- 5.3 The proposals within this report provides the Chief Executive/SLT members and Cabinet Members with greater powers within the Ruthlessly Financially Efficient safeguard of all Financial Implications being verified by the Strategic Director, Finance and Governance or the Deputy section 151 Officer, with those Officers consulting the relevant Cabinet Member, where necessary, when such decisions are taken. The proposals enable the Council to take swifter decisions.
- 5.4 It is proposed that the thresholds for decision making for all Chief Officers be increased up to £1.5 million for contracts involving capital expenditure and/or property disposals and up to £500,000 for revenue spending. **All spend must be contained within agreed budgets as part of the budgets set by Full Council.** If agreed, this proposal will require the decision maker to consult with their Cabinet Member before undertaking any significant spend.
- 5.5 All Cabinet Members will have authority to approve Procurement Strategies up to £5 million and award any contracts which exceed £1.5 million (unless the Leader or Cabinet reserve the decision). These thresholds apply to the receipt of grants and new income.
- 5.6 The new thresholds distinguish between revenue and capital spend as set out below:

CAPITAL	Procurement strategy Approval	Contract Award Approval
Up to the EU Threshold for services (currently £181,302)	Not applicable	CE/SLT Members
Between EU Threshold for services up to £1.5m	CE/SLT Members in consultation with the relevant Cabinet Member	CE/SLT Members in consultation with the relevant Cabinet Member
£1, 500,001 - £5m	The relevant Cabinet Member	The relevant Cabinet Member
In excess of £5m	Cabinet	The relevant Cabinet Member
REVENUE	Procurement strategy Approval	Contract Award Approval
Up to the EU Threshold for services (currently £181,302)	Not applicable	CE/SLT Members
Between EU Threshold for services up to £500,000	CE/SLT Members in consultation with the relevant Cabinet Member	CE/SLT Members in consultation with the relevant Cabinet Member
£500,000 - £5m	The relevant Cabinet Member	The relevant Cabinet Member
In excess of £5m	Cabinet	The relevant Cabinet Member

Conditions

- 5.7 To ensure RFE safeguards have been put in place:
- i. The authority to spend is dependent on verifiable evidence that the Service holds the budget and where appropriate Officers are complying with the Council's Contract Standing Orders.
 - ii. The thresholds refer to total value over the lifetime of the contract rather than annual values.
 - iii. Officers will comply with the Council's Contract Standing Order at all times.
 - iv. Only Committee Services will despatch decision reports to Members and publish their decisions. Report authors will no longer request that Members sign a report as Committee Services will be responsible for obtaining member approval.
 - v. All Contract procurement strategy/ award decisions will require evidence that the decision has been properly authorised, such evidence will be uploaded onto capitalEsourcing.

The recording process is set out below and summarised in the table:

- For strategy/contract awards under £50,000 an email containing confirmation from Finance that the budget is in place will suffice as evidence.
- Contract strategy/ award decisions between £50,000 and up to £300,000 (key decision threshold) will complete a shortened report template.
- All contract strategy/ award decisions exceeding the key decision threshold will need to be recorded on the Council's full report template and published via Committee Services.

Under £50k	£50,000 to £300,000	£300,000 and above
Written evidence of approval with Finance comments	Shortened version of template report	Full template report published

Contract Standing Orders and Financial Regulations

- 5.8 The proposed changes above will affect the Council's Contract Standing Orders, Financial Regulations and the constitution. It is requested that Council delegate authority to the Assistant Director of Legal and Democratic Services to update Financial Regulations and constitution, and update and amend Contract Standing Orders. The Contracts standing orders changes will include the new thresholds and waivers.

Increase Key decisions threshold

- 5.9 The key decision threshold is currently £100,000, it is proposed that this be increased to £300,000 so that only the most significant in terms of financial or local impact are published and taken by the Cabinet or Cabinet Members. This will enable swifter decision making as decisions of up to £300,000 can be implemented immediately rather than having to wait for the call-in period of 3 clear days to expire.

Creation of a Cabinet Urgency Sub-Committee

- 5.10 It is proposed that the Council create an “Urgent Sub-Committee” of the Cabinet which will take significant decisions which cannot wait until the next scheduled Cabinet meeting. The Sub-Committee membership would consist of all Cabinet members and the quorum would be 3. All papers for the Sub-Committee would be published 5 clear days before the meeting. The Sub-Committee will further reduce the need for Leader’s Urgency decision reports.

Establishment of a Standards Committee

- 5.11 The Committee on Standards in Public Life's report on local government ethical standards, was published on 21 January 2019. The report proposed a number of best practices and recommendations. The report can be accessed at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777315/6.4896_CO_CSPL_Command_Paper_on_Local_Government_Standards_v4_WEB.PDF
- 5.12 One of the recommendations is that Councils should have Standards Committees. This report is therefore requesting that the council establish a standalone Standards Committee now rather than wait for the legislative change which would be required to make each Council have a Standards Committee.
- 5.13 The Standards Committee would only need to meet at the request of the Monitoring Officer. The new Independent Persons would be invited to attend the Committee and one of the three will act as the chair. The Committee could assist the Monitoring Officer to implement the best practices before the anticipated legislative changes to bring into force the recommendations of the report.
- 5.14 The proposed Terms of Reference for the Standards Committee are attached as **appendix 2**. The Audit, Pensions and Standards Committee would become the Audit and Pensions Committee and its Terms of Reference as **appendix 3** would be amended to remove all references to Standards, the three sub-committees would be abolished as they would be established, as required, from the Standards Committee.

Budget Framework

- 5.15 That any spend in excess of £20 million of the Budget framework to be approved by Full Council (increasing the limit from £5 million).

Pensions Funds Sub Committee's quorum

5.16 The Pensions Fund Sub-Committee currently consists of 4 Councillors and one co-opted member. The quorum for this meeting needs to be amended from 3 to 2 members based on 50% of the membership. The co-optee is non-voting therefore is not taken into account when determining the quorum.

6. EQUALITY IMPLICATIONS

6.1 The equalities implications of this decision have been considered to be neutral.

6.2 *Implications completed by: Kayode Adewumi, Head of Governance and Scrutiny 020 8753 2499.*

7. LEGAL IMPLICATIONS

7.1 The Local Government Act 2000 requires the Council to have and maintain a Constitution. The Monitoring Officer is satisfied that the Council's Constitution continues to fulfil its stated purposes, as set out in Article 1 of the Constitution.

7.2 *Implications completed by: Rhian Davies, Assistant Director of Legal and Democratic Services 07827 663794*

8. FINANCIAL IMPLICATIONS

8.1 There are no direct financial implications.

8.2 *Implications verified by: Emily Hill, Assistant Director, Corporate Finance, Tel: 020 8753 3145.*

9. BUSINESS IMPLICATIONS

9.1 There are no direct business implications.

9.2 *Implications completed by: Kayode Adewumi, Head of Governance and Scrutiny 020 8753 2499.*

LOCAL GOVERNMENT ACT 2000

LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT

Committee on Standards in Public Life - January 2019

List of Appendices

Appendix 1 - Cabinet Urgency Sub-Committee - Terms of Reference

Appendix 2 - Standards Committee - Terms of Reference

Appendix 3 - Audit and Pensions - Terms of Reference

Appendix 4 - Benchmarking data