

## London Borough of Hammersmith & Fulham

**Report to:** Full Council

**Date:** 28 April 2021

**Subject:** Review of the Constitution

**Report of:** The Leader of the Council - Councillor Stephen Cowan

**Responsible Director:** Rhian Davies, Monitoring Officer

---

### Summary

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. A report on this subject is therefore included on the Annual Council meeting agenda each year.

---

### Recommendations

1. That the changes to Council Procedure Rules in Appendix 1 be approved.
  2. That Full Council notes that Wormwood Scrubs Charitable Trust Committee meetings and Licensing Sub-Committee hearings can be held virtually without changes to legislation.
  3. That the changes to the Deputy Leader's Portfolio and the Strategic Director for The Environment's scheme of delegation detailed in the report, regarding the Prevent Channel panel function be approved.
  4. That subject to the approval of the recommendations above, the Council's Constitution be adopted for the 2021/22 Municipal Year.
- 

**Wards Affected:** None

---

<b>Our Values</b>	<b>Summary of how this report aligns to the H&amp;F Values</b>
Taking pride in H&F	Ensuring a high standard of governance across the Council.

### Financial Impact

The recommendations in this report have no direct financial implications.

### Legal Implications

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.

---

### **Contact Officers:**

Name: Kayode Adewumi  
Position: Head of Democratic Services  
Telephone: 07899 661869  
Email: [kayode.adewumi@lbhf.gov.uk](mailto:kayode.adewumi@lbhf.gov.uk)

Name: Andre Mark  
Position: Finance Business Partner  
Telephone: 020 8753 6729  
Email: [andre.mark@lbhf.gov.uk](mailto:andre.mark@lbhf.gov.uk)  
*Verified by Emily Hill, Director of Finance*

Name: Grant Deg  
Position: Chief Solicitor Litigation  
Email: [grant.deg@lbhf.gov.uk](mailto:grant.deg@lbhf.gov.uk)

---

### **Background Papers Used in Preparing This Report**

The Council's Constitution: [www.lbhf.gov.uk/constitution](http://www.lbhf.gov.uk/constitution)

---

## **DETAILED ANALYSIS**

### **Proposals and Analysis of Options**

1. Each local authority is required to publish the arrangements it has made to discharge its functions in a 'constitution' prepared in accordance with Section 37 of the Local Government Act 2000. 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. Some of the content of the Constitution is required by law, the remainder is for the Council itself to determine.
2. The Constitution is reviewed at least annually to ensure it continues to promote timely, effective, transparent, and lawful decision making reflecting the arrangements Members have put in place for the running of the Council. The Constitution was last reviewed at the Full Council meeting on 25 February 2021.
3. In-year amendments were approved by Council in relation to Contract Standing Orders, the Departmental Register of Authorities, and Article 11 to reflect the Council's priorities and legislative changes.

4. 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.

### **Reasons for Decision**

5. 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.

### **Changes to Council Procedure Rules**

6. The following changes to the Council Procedure Rules have been proposed:

- **Clarification of the debate procedure at Budget Council meetings.**

It is also proposed that the Budget Council convention that the Leader of the Council have an opportunity to sum up the debate, as with debates on Special Motions, be codified.

- **Clarification of the procedure at virtual Council meetings.**

It is proposed that amendments to report recommendations at virtual meetings must be submitted in advance of the meeting, as with amendments to Special Motions.

7. The proposed changes to the procedure rules can be found in Appendix 1.

### **Virtual meetings - Wormwood Scrubs Charitable Trust Committee and Licensing Sub-Committee hearings**

8. At the beginning of the first national lockdown officers sought legal advice on the possibility of holding virtual meetings for certain committees under existing legislation. Summaries of the advice for Wormwood Scrubs Charitable Trust Committee and Licensing Hearings can be found below.
9. **Wormwood Scrubs Charitable Trust Committee:** The Council's appointment as trustee is under statute as a successor to the Metropolitan Board of Works. The Council has determined pursuant to its constitution that the duties of trustee are to be carried out by a formally constituted committee of the Council, being the Wormwood Scrubs Charitable Trust Committee. There is nothing in the appointing statute which restricts or specifies how a meeting of the Council is to take place when considering trust business. Further, the terms of reference for the Committee state at 4.1 that the role of trustee must be discharged in line with Charity Commission guidance. There is no Charity Commission guidance that would prohibit meetings to take place remotely – in fact the Charity Commission has issued [Coronavirus \(COVID-19\) guidance for](#)

[the charity sector](#), which contains a section on ‘holding meetings online or by telephone’.

10. **Licensing Sub-Committee Hearings:** Hearings under the Licensing Act 2003 are conducted under that legislation, not the Local Government Act 1972 (see s101(15) of the Act, as added by Sch 6 para 58, Licensing Act 2003). The Licensing Act 2003 does not circumscribe how hearings must be heard. Section 9(2) of the Act says that regulations make provisions for the proceedings of Licensing Sub-Committees including “public access” to the meetings but goes on to say that subject to such regulations, each licensing committee may regulate its own procedure and that of its sub-committees. Committees are entitled to set procedures, subject to the regulations. Given that the regulations say nothing express on the topic, the Committee can set the procedures for virtual hearings.
11. In the opinion of the Monitoring Officer and Head of Law it is lawful to hold virtual meetings of Wormwood Scrubs Charitable Trust Committee and virtual Licensing Hearings.

#### **Additions to the Deputy Leader Cabinet Portfolio and the Scheme of Delegation to Officers – Prevent Channel Panel**

12. Channel forms a key part of Prevent. The process adopts a multi-agency approach to identify and provide support to individuals who are at risk of being drawn into terrorism. All local authorities are required to have a Channel panel in their area. More information on Channel can be found here: [Channel Duty Guidance: Protecting people vulnerable to being drawn into terrorism](#).
13. To reflect this new function, the following changes are proposed to the constitution.

Add the underlined to 4.6 of the Deputy Leader’s Executive Portfolio:-

*“The development and implementation of strategies to address the threat of extremism, including the Prevent Strategy and strategic member oversight of the Prevent Channel panel.”*

Add the following paragraph to the Strategic Director for the Environment’s scheme of delegation:-

*“Prevent Channel Panel – In compliance with the statutory requirements set out under sections 36 – 41 of the Counter Terrorism and Security Act 2015, H&F has a Channel panel in place for its area, and has regard to the Channel duty guidance 2020. The designated Channel chair/deputy chair functions are fulfilled by Assistant Director, Adult Safeguarding. The Channel panel function in H&F is discharged through a joint panel with RBKC.”*

#### **List of Appendices**

Appendix 1 – Changes to the Council Procedure Rules