

# LONDON BOROUGH OF HAMMERSMITH & FULHAM

**Report to:** Full Council

**Date:** 19/10/2022

**Subject:** Review of the Constitution

**Report of:** The Leader of the Council

**Report author:** David Abbott, Head of Governance

**Responsible Director:** David Tatlow, Director of Corporate Resources and Monitoring Officer

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## SUMMARY

This report asks Council to note and approve a number of updates to the Council's constitution.

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## RECOMMENDATIONS

1. That Full Council approves the revision to the Cabinet Member for Social Inclusion and Community Safety's portfolio and new Lead Member responsibilities detailed in the report.
2. That Full Council appoints Councillor Helen Rowbottom as Lead Member for Flood Mitigation and Councillor Liz Collins as Lead Member for Energy Crisis Support.
3. That Full Council approves that the Members Code of Code be updated to include the requirement for Members to inform the Monitoring Officer if they commit any offence leading to disqualification as outlined in the Local Government (Disqualification) Act 2022.
4. That Full Council approves the revisions to the Constitution listed in the report.

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**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 number of Cabinet Members, Cabinet Member Assistants and Committee Chairs will have an impact on the cost of special responsibilities allowances. A separate report on Members Allowances is included in the agenda and includes the full financial implications.

Alex Pygram, Head of Finance - signed on 6 October 2022

## **Legal Implications**

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

The legal considerations related to the Local Government (Disqualification) Act 2022 are incorporated within the body of the report

Grant Deg, Assistant Director – Legal Services - signed on 9 October 2022

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## **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. 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.
2. In-year amendments were approved by Council to the Scheme of Delegation to Officers to reflect recent changes in organisational structure, legislation updates and changes to the responsibilities of Chief Officers.
3. 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**

4. 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.

### **General Updates and Review**

5. The Monitoring Officer has updated the constitution to remove some duplicate information, rearranged job responsibilities and tweaked the document for general administrative convenience.

## **Cabinet Portfolio Revisions**

6. The report recommends a revision to the Cabinet Member for Social Inclusion and Community Safety's portfolio by inserting 'licensing' into paragraph 4.1 of the portfolio under Street Scene Functions, so that it reads:

### **Street Scene functions**

4.1 Enforcement in respect of licensing, consumer protection, trading standards, street trading, environmental health and public safety, corporate health and safety, pest control, food safety and contaminated land.

## **Creation of Two Lead Members**

7. This report recommends the creation of two new Lead Member posts. The positions will be assigned to support the Cabinet in fulfilling its priorities. The report seeks the appointment of Councillor Helen Rowbottom as Lead Member for Flood Mitigation and Councillor Liz Collins as Lead Member for Energy Crisis Support. The roles' responsibilities are listed below.

- **Lead Member for Flood Mitigation**

Reporting to the Cabinet Member for Public Realm and Climate Change, this post holder will input on policies and plans in the council to ensure that the Council maximises its response to flood mitigation in the borough and promote sustainable drainage across the Council's assets owners and decision makers.

- **Lead Member for Energy Crisis Support**

The postholder will be working with the Cabinet Member for Social Inclusion and Community Safety:

- Overseeing the provision of warm hubs to residents
- Reviewing residents access to energy
- Partnership working with organisations supporting vulnerable residents suffering from significant cost of living pressures.

## **Statutory and Non-Statutory Chief Officers Employment Panel.**

8. This report recommends changing the name of the 'Chief Officer Employment Panel' to the 'Statutory and Non-Statutory Chief Officers Employment Panel'. This is to clarify the remit of the Panel.

## **Prompt Decision Making**

9. To ensure prompt approval of decisions, the Cabinet Member for Economy is granted powers to take urgent decisions in the absence of the Leader and Deputy Leader.

## Register of Authorities Update for s116 Highways Act

10. Highways require the authority to make an application for a stopping up order under s116 Highways Act 1980.

Legislation	Function	Proper Officers
Highways Act 1980	S116 Highways Act 1980 – Application to the Magistrates’ Court to authorise Stopping up order or diversion of highway	Chief Officer for Public Realm, Assistant Director - Environment, Special Projects and Highways

The Monitoring Officer approved this update to the constitution on 19 July 2022. This is being reported for information.

## The Local Government (Disqualification) Act 2022

11. Prior to June 2022, certain sexual offences did not result in a custodial sentence therefore Members were able to retain their role if elected or run for election even if recently convicted.
12. Under the new legislation which came into force on 28 June 2022, individuals that are made subject to the notification requirements set out in the Sexual Offences Act 2003 (commonly known as being put on the sex offenders register), or to Sexual Risk Orders, are disqualified from holding elected office or standing for election as councillors. These measures are not retrospective.
13. It is to be noted that an individual can become subject to notification requirements by committing certain criminal acts or being issued with certain types of civil orders:
  - Being subject to sex offender notification requirements is an automatic consequence of being cautioned or convicted of sexual offences listed in Schedule 3 of the Sexual Offences Act 2003.
  - Sexual Harm Prevention Orders are civil orders intended to protect the public from offenders convicted of sexual or violent offences and result in notification requirements.
  - Notification Orders are civil orders intended to protect the public in the UK from the risks posed by sex offenders who have been convicted, cautioned, warned or reprimanded for sexual offences committed overseas. Notification Orders result in notification requirements.
14. The Council will add a duty under the Members’ Code of Conduct for Members to inform the Monitoring Officer if they are made subject to the notification requirements set out in the Sexual Offences Act 2003 (commonly known as being put on the sex offenders register), or subject to Sexual Risk Orders.