

 the low tax borough	<b>London Borough of Hammersmith &amp; Fulham</b>  <b>COUNCIL</b>  <b>29 MAY 2013</b>
<b>REVIEW OF THE CONSTITUTION</b>	
<b>Report of the Leader of the Council – Councillor Nicholas Botterill</b>	
<b>Open Report</b>	
<b>Classification - For Decision</b>  <b>Key Decision: No</b>	
<b>Wards Affected: All</b>	
<b>Accountable Director: Tasnim Shawkat, Monitoring Officer</b>	
<b>Report Author: Kayode Adewumi, Head of Governance and Scrutiny</b>	<b>Contact Details: Tel: 020 8753 2499 E-mail: kayode.adewumi@lbhf.gov.uk</b>

## 1. EXECUTIVE SUMMARY

- 1.1. 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. A report on this subject is therefore included on the Annual Council Meeting agenda each year.
- 1.2. The Council's Constitution is based on a model published by the Government following the introduction of the Local Government Act 2000. The Council adopted a new style Constitution in May 2002, with a Leader, Cabinet and Overview and Scrutiny Committees.
- 1.3. In-year amendments were approved by the Council in October 2012 to reflect the making of new Regulations related to private and public meetings of the Executive, and publication of documents and access to them by the public, Councillors and Overview and Scrutiny Committee members. In addition, there were minor changes to the Officers' schemes of delegation and revised titles of posts.
- 1.4. The Constitution was last reviewed at the Annual Council on 30 May 2012.

## 2. RECOMMENDATIONS

- 2.1. That the Council's Constitution be approved and re-adopted for the 2013/14 Municipal Year.

- 2.2. That the establishment of the Wormwood Scrubs Charitable Trust Committee, be approved.

### **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. 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.
- 4.2. 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.
- 4.3. Annually the Constitution is reviewed 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.
- 4.4. 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.

### **5. PROPOSALS AND ISSUES**

#### **Annual Review**

- 5.1. Over the past 12 months, changes have been made to the Constitution to reflect the making of new Regulations relating to private and public meetings of the Executive, and the publication of documents and access to them by the public, Councillors and Overview and Scrutiny Committee members. 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.
- 5.2. The Council's Executive and Scrutiny processes have continued to operate as intended and as laid out in the Constitution over the past year.

#### **Establishment of Committees - Terms of Reference**

- 5.3. There is a report later on this agenda on the establishment of the Health and Well Being Board. This report is requesting the establishment of the Wormwood Scrubs Charitable Trust Committee. At present, the Audit, Pensions and Standards Committee ("APSC") receive an annual governance report regarding the Wormwood Scrubs Trust and are invited to approve the Trust's annual accounts on

behalf of the Council. The Council is the sole trustee of the Trust and is obliged to carry out its duties in accordance with the relevant provisions of the Charities Act 2011 ("the Act").

- 5.4. Further to due consideration of the Act, guidance published by the Charity Commission, and in particular a guidance note prepared between the Local Government Association and the Charity Commission entitled "Councillors Guide: to a Council's role as charity trustee", it is proposed that a committee be constituted to oversee the Trust and ensure that the Council complies with its duties under the relevant legislation.
- 5.5. The Committee will:
  - a. provide greater assurance to the Charity Commission that the Council accepted their recommended way of carrying out its duties as a sole trustee,
  - b. afford greater time for Councillors to oversee the Trust and how it is run, and
  - c. afford local residents and supporters of the Trust greater opportunity to be part of the decision making process when decisions are being taken by the Council acting as sole Trustee.
- 5.6. Attached as **Appendix 1** are the Terms of Reference for the Wormwood Scrubs Charitable Trust Committee which details both the composition and decision making powers proposed for the Committee.

### **Financial Regulations**

- 5.7. As part of the transition to Managed Services across the Tri Borough in 2013-14, it is proposed that the three boroughs try to align the roles, responsibilities and sign off delegations of officers as much as possible, to simplify processes and workflows for services. It is planned that this work will be completed by autumn 2013. It is not envisaged that there will be any changes or re-alignments of Cabinet sign off limits or responsibilities, and all officers will be expected to ensure that they have complied correctly with the financial regulations of each borough before approving decisions on the Managed Services system.

### **Ethical Governance and Standards**

- 5.8. The current ethical governance arrangements were introduced in July 2012. A separate report will be submitted to the Audit, Pensions and Standards Committee in September 2013 outlining the activity undertaken over the previous 12 months. Council will be informed at a later date of any proposals from the Audit, Pensions and Standards Committee.

### **Contract Standing Orders**

- 5.9. Revisions to the Council's Contract Standing Orders are necessary to reflect current legislation, support tri borough working, accommodate best practice and underpin the Council's financial regulations. The main changes include more robust procedures on varying and extending contracts, clearer rules governing social care spot contracts and energy procurement and tri borough procurement

and a reordering of the information to tie in with the procurement cycle. A full list of the changes are attached as **Appendix 2**.

## **6. EQUALITY IMPLICATIONS**

6.1. There are none.

## **7. LEGAL IMPLICATIONS**

7.1. It is important to note that 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 verified by: Tasnim Shawkat, Director of Law 020 8753 2700

## **8. FINANCIAL AND RESOURCES IMPLICATIONS**

8.1. There are no direct financial implications.

8.2. Implications verified/completed by: Kayode Adewumi, Head of Governance and Scrutiny 020 8753 2499

## **9. RISK MANAGEMENT**

9.1. There are no significant risk management implications for this report.

## **10. PROCUREMENT AND IT STRATEGY IMPLICATIONS**

10.1. There are no procurement of IT strategy implications.

10.2. Implications completed by Alan Parry, Procurement Consultant, Telephone: 020 8753 2581

### **LOCAL GOVERNMENT ACT 2000** **LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

<b>No.</b>	<b>Description of Background Papers</b>	<b>Name/Ext of holder of file/copy</b>	<b>Department/ Location</b>
1.	None		