



London Borough of Hammersmith & Fulham

COUNCIL

22 OCTOBER 2014

**REVIEW OF THE COUNCIL'S CONSTITUTION - MID YEAR CHANGES**

**Report of the Leader of the Council – Councillor Stephen Cowan**

**Open Report**

**Classification:** For Decision

**Key Decision:** No

**Wards Affected:** All

**Accountable Director:** Tasnim Shawkat, Monitoring Officer

**Report Author:** Kayode Adewumi,  
Head of Governance and Scrutiny

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## 1. EXECUTIVE SUMMARY

- 1.1. The Council at its meeting on 16 June 2014 agreed revisions to the Constitution and re-adopted the document for the 2014/15 Municipal Year. Further revisions were approved at the meeting held on 23 July 2014.
- 1.2. This report recommends additions to the Cabinet portfolios to cover emerging responsibilities and addition to the officer Schemes of Delegation to incorporate new legislation (the Anti-Social Behaviour Crime and Policing Act 2014 and Explosives Act 2014). In response to the Openness of Local Government Bodies Regulations 2014, it also seeks approval to change Standing Orders to ensure the Council fully complies with the changes in legislation.
- 1.3 Changes to the Licensing Committee and Licensing Sub Committee Terms of Reference are proposed to clarify the Committees' powers in relation to Street Trading. Minor updates and changes to officer job titles and responsibilities within the officer Schemes of Delegation, approved by the Monitoring Officer under delegated authority, are also recommended for endorsement. Lastly, approval is sought to the appoint three members to the Corporate Parenting Board.

## 2. RECOMMENDATIONS

- 2.1. That the additions and amendments to the Council's Constitution, as summarised in paragraphs 5.2 of the report be approved, and that the minor changes to the officer Schemes of Delegation referred to in paragraph 5.7 to 5.9 be noted.

- 2.2. That standing Order 21.g be amended as outlined in paragraph 5.6 in the report.
- 2.3. That Councillors Caroline Needham, Sue Fennimore and Joe Carlebach be appointed to the Corporate Parenting Board.
- 2.4. That the amendments to the Licensing Committee and Licensing Sub Committee Terms of Reference as outlined in paragraph 5.9 of the report be approved.

### **3. REASONS FOR DECISION**

- 3.1. The Council's Monitoring Officer is required to keep the Council's Constitution up to date 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 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.
- 4.2. This report seeks approval to changes and additions to the Constitution to ensure that it remains up to date and fit for purpose. The changes and additions, and the reasons for them, are set out section 5.

### **5. PROPOSAL AND ISSUES**

#### **CHANGES TO THE CONSTITUTION**

- 5.1 The following changes to the Constitution have been proposed.

#### **Minor Amendments to Cabinet Member Portfolios**

- 5.2 Approval is sought to minor amendments to the portfolios of the Leader and the Cabinet Member for Social Inclusion :

a) **The Leader:** Paragraph 1.9 of the Leader's portfolio authorises him as follows:

"Appointing or nominating and where appropriate removing the Authority's representatives on appropriate outside bodies".

In addition to outside bodies, there are some other entities (e.g. wholly-owned companies) to which the Council nominates representatives. Approval is therefore sought to extend paragraph.1.9 so that the meaning covers all types of appointments. The additional wording also clarifies the nomination, approval and removal powers to a wide range of external bodies.

"Appointing or nominating and where appropriate removing the Authority's representatives on appropriate outside bodies, charitable organisations and Council-owned companies and subsidiaries".

b) **The Cabinet Member for Social Inclusion:** To add to this portfolio “The development and implementation of strategies to address the threat of extremism, including the Prevent Strategy”, to ensure that this area of the Council’s responsibilities has proper Executive oversight.

### **Filming, Blogging and Tweeting from Public Meetings**

- 5.3 At its meeting on 23 October 2013 Council revised Standing Orders to enable members of the public to film, photograph or record for social media any meeting of the Council that is open to the public. It noted that the Monitoring Officer will (in conjunction with the Overview and Scrutiny Board) from time to time provide guidance on the taking of photographs, filming, recording or other means of communication of the proceedings of any meeting.
- 5.4. The Overview and Scrutiny Board at its meeting on 26 November 2013 approved the following guidance:
- Members of the public may film, photograph or record for social media any meeting of the Council that is open to the public. Members of the public wishing to do so are asked to make themselves known to Council officers so that appropriate provisions can be made
  - Private meetings or discussions of agenda items containing exempt or confidential information (as defined by paragraph 3 of Schedule 12A of the Local Government Act 1972, as amended) may not be filmed or recorded.
  - Filming and photography may not be allowed when young or vulnerable people are speaking or in attendance.
  - Filming, photographing or any other form of recording must not be disruptive to the meeting or distracting to the participants or observers of the meeting.
  - Filming and photographing should be conducted using hand-held devices and users should remain seated at all times. Standing up, walking or roving whilst filming or photographing is not allowed .
  - The Mayor or Chairman of the meeting may order that filming or photography must stop if it is being disruptive to the conduct of the meeting.
  - Larger film crews with roving cameras are only to be permitted with advance authorisation of at least one working day before the meeting commences.
  - Recordings of meetings can be shared online, however if they are edited to misrepresent proceedings, the Council may request that recordings are removed.
- 5.5. The Openness of Local Government Bodies Regulations 2014 amends the law dealing with public access to meetings allowing any person attending a meeting of the Council which is open to the public to report on the meeting. The Council must so far as is practicable provide reasonable facilities for doing so. Reporting includes filming, photographing or making an audio recording. Any member of the public reporting on the meeting may use the internet to publish, post or share their report and publication or dissemination of their report may take place at the time of the meeting or afterwards. Guidance ‘Transparent and Open Local Government’ has been issued by the Department for Communities and Local Government to make the public aware of their rights to attend and report on meetings.
- 5.6. Council is asked to incorporate this guidance into standing orders to comply with the new legislative requirement. *This existing Standing Order 21(g) to be deleted and replaced to read:*

- (g) The Council will provide reasonable facilities for any member of the public to report on meetings that are open to the public:
- Members of the public may film, photograph or record for social media any meeting of the Council that is open to the public. Members of the public wishing to do so are asked to make themselves known to Council officers so that appropriate provisions can be made.
  - Private meetings or discussions of agenda items containing exempt or confidential information (as defined by paragraph 3 of Schedule 12A of the Local Government Act 1972, as amended) may not be filmed or recorded.
  - Filming and photography may not be allowed when young or vulnerable people are speaking or in attendance.
  - Filming and photographing should be conducted using hand-held devices and carried out in a way which is conducive to the good order and conduct of the meeting.
  - Attendees should be informed that a meeting is being photographed, filmed or recorded.
  - The Mayor or Chairman of the meeting may order that filming or photography must stop if it is being disruptive to the conduct of the meeting.
  - Larger film crews with roving cameras are obliged to agree authorisation at least one working day before the meeting commences.
  - Recordings of meetings can be shared online, however if they are edited to misrepresent proceedings, the Council may request that recordings are removed.

### **New Anti-Social Behaviour Crime and Policing Act 2014**

- 5.7 The new Anti-Social Behaviour Crime and Policing Act 2014 will come into effect on 20 October 2014. Within the Act is the ability for Council officers to be able to issue Community Protection Notices and for Fixed Penalty Notices to be issued if the Notices are breached.

Approval is sought for these powers to be added to the Scheme of Delegation of the Bi-borough Executive Director of Environment, Leisure and Residents Services and Executive Director of Housing and Regeneration and for named officers within that department to be authorised to discharge them.

### **New Explosives Regulations Act 2014**

- 5.8 The new Explosives Regulations 2014 came into effect on 1 October 2014. The regulations consolidate and revoke the following acts: Control of Explosives Regulations 1991 (SI 1991/1531); the Placing on the Market and Supervision of Transfers of Explosives Regulations 1993 (SI 1993/2714); the Marking of Plastic Explosives for Detection Regulations 1996 (SI 1996/890); the Manufacture and Storage of Explosives Regulations 2005 (SI 2005/1082); and the Identification and Traceability of Explosives Regulations 2013 (SI 2013/449). This will allow officers to ensure that businesses who are registered to sell explosives are compliant with the Regulations and do not compromise public safety.

Approval is sought for these powers to be added to the Scheme of Delegation of the Bi-borough Executive Director of Transport and Technical Services and for named officers within that department to be authorised to discharge them.

## **Licensing Committee and Licensing Sub Committee Terms of Reference**

- 5.9 The Council on 12 November 1990 adopted the London Local Authorities Act 1990. Under Part III of the Act, the Council adopted the powers and functions in relation to Street Trading. The Council has operational designated Street markets within the borough which it maintains. Council is requested to amend both the Licensing Committee and Sub Committee's terms of reference to make it clearer how street trading license and designation powers will be exercised. The officers' scheme of delegation will also be updated to reflect these changes.

### Licensing Committee – Terms of Reference (Addition)

- To make regulations prescribing standard conditions to be attached to street licences, to revoke, to refuse to grant, to refuse to renew and to make or vary the conditions attached to a street trading licence.
- To designate streets as prohibited or licence streets.

### Licensing Sub Committee – Terms of Reference (Addition)

- To make regulations prescribing standard conditions to be attached to street licences, to revoke, to refuse to grant, to refuse to renew and to make or vary the conditions attached to a street trading licence.
- To designate streets as prohibited or licence streets, where the determination of the matter could not wait until the subsequent meeting of the Licensing Committee.

## **5.10. Corporate Parenting Board Appointment**

The Corporate Parenting Board currently consists of 3 Councillor members, but only 1 (Councillor Sue Macmillan) was appointed by the Council on 16 June 2014. Council is requested to increase the membership to 4 members and appoint Councillors Caroline Needham, Sue Fennimore and Joe Carlebach to the board, bringing the total number of Councillor members to 4.

## **5.11. Scheme of Delegation of Powers**

The Scheme of Delegation of powers to officers in part 3 of the Constitution sets out the titles of the post-holders to whom powers are delegated. There have been a number of changes to the titles of such posts, as well as certain minor changes in the relevant legislation, which require to be reflected in the Constitution.

## **6. OPTIONS AND ANALYSIS OF OPTIONS**

- 6.1. These have been addressed in the report above.

## **7. CONSULTATION**

- 7.1. The relevant Councillors have been consulted.

**8. EQUALITY IMPLICATIONS**

8.1. There are none.

**9. LEGAL IMPLICATIONS**

9.1. 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.

9.2. Implications verified by: Tasnim Shawkat, Director of Law 020 8753 2700

**10. FINANCIAL AND RESOURCES IMPLICATIONS**

10.1. There are no direct financial implications.

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

**11. RISK MANAGEMENT**

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

**12. PROCUREMENT AND IT STRATEGY IMPLICATIONS**

12.1. There are no procurement of IT strategy implications.

**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		