

	London Borough of Hammersmith & Fulham COUNCIL 20 MAY 2015
REVIEW OF THE CONSTITUTION	
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	
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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 model Constitution in May 2002, with a Leader, Cabinet and Overview and Scrutiny Committees.
- 1.3. This report proposes the creation of a new Cabinet Portfolio, changes to the Scheme of Delegation and Contracts Standing Orders. It also seeks an increase from 2 years to 3 years (extendable for a further three years) of the Pensions Board Members' term of office. Finally, it requests Members to note the Council's Membership of the Joint Health Overview and Scrutiny Committee (JHOSC) and the changes made by the Monitoring Officer under delegated powers during the year.
- 1.4. The Constitution was last reviewed at the Annual Council on 16 June 2014.

2. RECOMMENDATIONS

- 2.1 That a new Cabinet Member post be created (portfolio details in Appendix 1) and amendments be made to all the relevant Cabinet Portfolios to reflect the new shared responsibilities.
- 2.2 That the amendments to the Council's Constitution as set out in the report including changes to Officer Scheme of Delegation, Appendix 2 (Executive Director of Adult Social Care and Health - Scheme of Delegation) and Appendix 3 (Contracts Standing Orders) of the report, be agreed.
- 2.3 That the Pensions Board Members' term of office be increased from 2 years to 3 years (extendable for a further three years).
- 2.4 To note that the Council's Membership of the Joint Health Overview and Scrutiny Committee (JHOSC) will be one voting member only with a named substitute member to whom the Borough's vote can be transferred when the nominated voting member is unavailable.
- 2.5 To note the changes made to the Constitution by the Monitoring Officer under delegated powers.
- 2.6 That subject to the approval of recommendations above, the Council's Constitution be adopted for the 2015/16 Municipal Year.

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 In-year amendments were approved by Council to:
 - increase the Policy and Accountability Committees co-optees to up to 5 non-voting members

- enable Cabinet Members to set up advisory Groups which can advise on policy issues
- change the Licensing Committee and Licensing Sub Committee Terms of Reference to clarify the Committees' powers in relation to Street Trading
- create two Lead Member posts outside the Cabinet
- allow Members to receive Council Summons electronically
- some further in year changes to reflect updates to the Officer Scheme of Delegation as a result of changes in legislation, reorganisations and revisions to officer titles and posts were also made.

4.5 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

CABINET MEMBER PORTFOLIOS

5.1 The Administration is proposing the creation of a Cabinet Member portfolio for Commercial Revenue and Resident Satisfaction. The primary responsibility of this portfolio is to generate commercial revenue, improve residents' satisfaction and ensure the Council is properly geared to effectively respond to public concerns at every level of its operation.

5.2 The Cabinet Member portfolio will cover:-

Commercial Revenue Generation

5.3 The Administration has an objective of putting more money back into residents' pockets. Therefore, it intends to look at every commercial opportunity for raising revenue and thus delivering greater value to residents.

Resident Satisfaction

5.4 The Administration has noticed that too often residents' engagement with the council is in stark contrast with their experience of engaging with the best organisations elsewhere. High performing organisations in competitive environments make it a priority to increase customer satisfaction and improve the customer experience. Therefore, the Administration aims to improve residents' experience when dealing with the council or experiencing its services. This role will be responsible for building a culture of continuous improvement and a commitment to total customer satisfaction which is central to its objectives.

5.5 This role also combines a cross-cutting portfolio with shared responsibility across the Cabinet to develop, implement and monitor strategic policies and programmes.

- 5.6 The size of the Council's Cabinet will increase by one Member to 10. The Cabinet (Executive) will consist of the following ten Members (portfolio details in Appendix A):
- The Leader
 - The Deputy Leader
 - Cabinet Member for Children and Education
 - Cabinet Member for Commercial Revenue and Resident Satisfaction
 - Cabinet Member for Economic Development and Regeneration
 - Cabinet Member for Environment, Transport and Resident Services
 - Cabinet Member for Finance
 - Cabinet Member for Housing
 - Cabinet Member for Health and Adult Social Care
 - Cabinet Member for Social Inclusion
- 5.7 Council is requested to approve the creation of a new Cabinet Member post and approve amendments to all the relevant Cabinet Portfolios to reflect new shared portfolio responsibilities.

NEW ANTI-SOCIAL BEHAVIOUR CRIME AND POLICING ACT 2014 (PUBLIC SPACE PROTECTION ORDERS)

- 5.8 The Anti-Social Behaviour Crime and Policing Act 2014 introduced powers enabling the Council to issue Public Space Protection Orders.
- 5.9 Paragraph 2.1 (Community Safety functions) of the Deputy Leader's portfolio will be amended to read "The development, monitoring and implementation of the Council's policies and powers in relation to reducing crime and anti-social behaviour". The amendment will allow the Council to act upon the new powers.

PENSION BOARD (TERM OF OFFICE)

- 5.10 In line with the Public Service Pensions Act 2013, Council on 25 February 2015 established a Pension Board to assist the Council to monitor and ensure compliance with the regulations and other legislation relating to the management of the Pension Fund.
- 5.11 Our Shared Services Councils approved their Pension Board Members' term of office to be three years (extendible for a further three years) rather than the two as previously agreed by H&F. This report is asking the Council to align H&F Pension Board Members' term of office with that of the Royal Borough of Kensington & Chelsea and Westminster City Council.

CONTRACTS STANDING ORDER

- 5.12 These proposed changes have been brought about by new statutory requirements contained in the Public Contracts Regulations 2015 that were enacted on 26 February 2015. A minor consequence of the new Regulations is the introduction of a £25,000 threshold and it is proposed to increase internal thresholds in line with their provisions. Council is requested to agree the amended Contracts Standing Order attached as appendix 3 to this report.

THE NORTH WEST LONDON JOINT HEALTH OVERVIEW AND SCRUTINY COMMITTEE (MEMBERSHIP)

- 5.13 The Health, Adult Social Care and Social Inclusion Policy and Accountability Committee at its meeting on 4th February 2015 considered two options for H&F membership of the Joint Health Overview and Scrutiny Committee (JHOSC):
- one nominated voting member from each participating council, plus one other nominated member to whom the vote can be transferred (on the basis of that member being an elected member of the council they are representing), Or
 - nominate one voting member only with a substitute member. The vote can also be transferred to the substitute member where he or she is an elected member of the council and the voting member is unavailable.
- 5.14 The Committee agreed that the Council should nominate one voting member only with a named substitute member to whom the Borough's vote can be transferred to when the nominated voting member is unavailable. This has been reflected in the Council's appointment to the JHOSC.

SCHEME OF DELEGATION

The Care Act 2014

- 5.15 The Care Act which received Royal Assent on 14 May 2014, is the most significant legislative change to Adult Social Care for over 60 years, introducing new responsibilities for local authorities. It has major implications for adult care and support providers, people who use services, carers and advocates.
- 5.16 The Act consolidates over a dozen pieces of legislation within a single modern law. In summary the Care Act:
- Delivers commitments made in the "Caring for our future: reforming care and support" White Paper to put in place a modern care system that enables people to prevent and postpone the need for care and support,
 - Strengthens the rights for carers to access support,
 - Introduces a new adult safeguarding framework,
 - Takes forward recommendations made by the Dilnot Commission (on the funding of care and support) to introduce a cap on the costs that people will have to pay for care in their future.
- 5.17 In light of the new legislation, proposed changes to the Executive Director of Adult Social Care scheme of delegation is set out in Appendix 2 of the report for approval.

Monitoring Officer's Updates to Scheme of Delegation

- 5.18 As in previous years, the detailed Scheme of Delegation (which sets out how responsibilities are assigned from the Council to its Executive Directors and other officers) have been reviewed and updated where necessary throughout the year. The Monitoring Officer approved under delegated authority changes to the Chief Executive and Executive Director of Finance and Corporate Governance schemes of delegation as a result of Jane West's secondment to Royal Borough of Kensington & Chelsea and Westminster City Council. Also changes were made to the Executive Director of Housing and Regeneration scheme of delegation to reflect the current vacancy.

New Scheme of Delegation Updates

- 5.19 The proposed amendments to the Scheme of Delegation to officers in the Planning Division are primarily to update recent changes to the structure of the division, and to reflect updates to relevant legislation. The revised division structure has necessitated changes to certain job titles as well as reintroduction of the Senior officer level which had been absent from the structure for several years.
- 5.20 A modification is made to the powers delegated to officers to determine planning applications, item 221, whereby an exclusion relating to compliant small scale domestic applications is applied to Members' requests for decisions to be made by Committee.

Legislative Changes

- 5.21 The changes relate in particular to matters covering Listed Buildings that were amended in the Enterprise and Regulatory Reform Act 2013, aimed at reducing the burden of regulation.

Revised Layout

- 5.22 As previously agreed, except for the Scheme of General Delegation to Chief Officers, the Chief Executive's Scheme of Delegation and the Schemes of Delegation to the Executive Director of Finance and Corporate Governance, Section 151 Officer, the Monitoring Officer and the Director of Law, these Schemes will not form part of the main Constitution document but will be maintained as Annexes to it, in order to reduce the size and complexity of the document.
- 5.23 The main changes are set out in the body of this report. The Council is recommended to approve these changes and note the minor changes to statutory functions and the titles of officer posts which have already been approved by the Monitoring Officer under delegated arrangements. If the changes proposed in this report are agreed, there will be consequential changes to terminology and nomenclature throughout the Constitution.

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 or 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**

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