



CONSTITUTION COMMITTEE SUPPLEMENTARY PAPERS

Thursday 27 April 2023
at 10.00 am Hackney Town Hall

The live stream can be viewed here:

<https://youtu.be/GHeNZ7SWR5g>

Members of the Committee:

Councillor Alastair Binnie-Lubbock
Deputy Mayor Anntoinette Bramble (Chair)
Councillor Margaret Gordon
Councillor Ian Rathbone
Councillor Simche Steinberger
Councillor Lynne Troughton

Mark Carroll
Chief Executive
26 April 2023
www.hackney.gov.uk

Contact: Natalie Kokayi
Governance Officer
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Constitution Committee

Thursday 27 April 2023

Agenda

4 Constitution Review (Pages 7 - 28)

Appendix 5 updated – Proper Officer Function
Appendix 9 Terms of Reference, example

The main agenda can be viewed here:

<https://hackney.moderngov.co.uk/ieListDocuments.aspx?CId=602&MId=5649>

APPENDIX 5

Part Eight - Officers Section A - Proper Officer Functions

The posts below are Proper Officers for the Council. Specific responsibilities are attached to each role.

If any of these Officers are unable to act or the post is vacant, the Chief Executive will nominate another officer to act in their place.

The Chief Executive is appointed as Proper Officer for all existing or future statutory provisions, where no Proper Officer appointment has been made.

	Function exercised by	Function	Statutory provision
1	Chief Executive	Certification of documents as a decision of any Officer of the Council exercising delegated powers.	Greater London Council (General Powers) Act 1969
2	Chief Executive	The Officer to whom a person elected to the office of Councillor shall deliver a declaration of acceptance of office on a form prescribed by rules.	s83(1) Local Government Act 1972

	Function exercised by	Function	Statutory provision
3	Chief Executive	The Officer before whom a declaration of acceptance of office of Speaker or Deputy Speaker may be made	s83(3)(b) Local Government Act 1972
4	Chief Executive	The Officer to whom written notice of resignation of elected office shall be delivered.	s84 Local Government Act 1972
5	Chief Executive	To declare any vacancy in any office under the Section.	s86 Local Government Act 1972
6	Chief Executive	The Officer by whom a meeting of the Council for the election of the vacant office of Chairperson of the Council may be convened.	s88(2) Local Government Act 1972
7	Chief Executive	The Officer to whom notice in writing of a casual vacancy occurring in the office of Councillor may be given by two local	s89(1)(b) Local Government Act 1972

	Function exercised by	Function	Statutory provision
		government electors for the Borough.	
8	Chief Executive	To give notice and send summonses in respect of any Council meeting.	s99 and Schedule 12 Local Government Act 1972
9	Chief Executive	To give public notice of any meeting to which the public are entitled to attend, provide copies of agenda and facilities for the press.	s100 Local Government Act 1972
10	Chief Executive	The Officer to exclude from committees, sub committees, Council or Executive meeting agendas any information to be dealt with in a meeting room which the public are likely to be excluded.	s100B(2) Local Government Act 1972
11	Chief Executive	The Officer to supply to any newspaper copies of documents supplied to Members of committees, sub-committees, Council or Executive meetings in	s100B(7)(c) Local Government Act 1972

	Function exercised by	Function	Statutory provision
		connection with an item for consideration.	
12	Chief Executive	The Officer to supply to any newspaper copies of documents supplied to Members of committees, sub-committees, Council or Executive meetings in connection with an item for consideration.	s100C(2) Local Government Act 1972
13	Chief Executive	The Officer to prepare a list of background papers for reports considered by committees, sub-committees, Council or the Executive.	s100D(1)(a) Local Government Act 1972
14	Chief Executive	The Officer to determine which documents constitute background papers and ability to charge for the provision of such documents	s100D(5) and s100H Local Government Act 1972

	Function exercised by	Function	Statutory provision
15	Chief Executive	The Officer to decide which documents are not, by virtue of containing exempt information, required to be open to inspection.	s100F(2) Local Government Act 1972
16	Chief Executive	To maintain a register of the names and addresses of Councillors and membership of committees, lists of delegations and the like.	s100G Local Government Act 1972
17	Chief Executive	The Officer to whom money properly due from officers shall be paid.	s115 Local Government Act 1972
18	Chief Executive	The Officer responsible for the keeping of the roll of freeman.	S248 Local Government Act 1972
19	Chief Executive	The Officer responsible for the receipt of notices regarding the address to which summons to meetings is to be sent.	Paragraphs 4(2)(b) and 4(3), Schedule 12 Local Government Act 1972

	Function exercised by	Function	Statutory provision
20	Chief Executive	Officer responsible for the certification of true copies of resolutions.	Paragraph 25(7), Schedule 14 Local Government Act 1972
21	Chief Executive	The Officer to certify copies of any resolution, order, report or minutes of proceedings of the Authority as evidence in any legal proceedings.	s41 Local Government (Miscellaneous Provisions) Act 1976
22	Chief Executive	Notices requiring details of interest in land.	s16 Representation of the People Act 1983
23	Chief Executive	The Registration Officer for the purpose of the registration of electors.	s8 Representation of the People Act 1983
24	Chief Executive	The Returning Officer at an election of London Borough Councillors.	s35 Representation of the People Act 1983

	Function exercised by	Function	Statutory provision
25	Chief Executive	Acting Returning Officer at an election of a Member of Parliament.	s28 Representation of the People Act 1983
26	Chief Executive	The Officer responsible for the grant and supervision of exemptions from political restriction.	S3A Local Government and Housing Act 1989
27	Chief Executive	The Officer to be designated Head of the Paid Service	s4 Local Government and Housing Act 1989
28	Chief Executive	The Officer to hold on deposit the list of politically restricted posts and provide certificates as to whether a post is politically restricted	s2 Local Government and Housing Act 1989
29	Chief Executive	The Officer responsible for ensuring a proper record is made of Executive decisions and that the Authority's Executive Meetings and Key Decisions Notice is	Local Government Act 2000

	Function exercised by	Function	Statutory provision
		published in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.	
30	Chief Executive	To make payments of relevant allowances in accordance with the Council's Members allowances scheme	Local Government Act 2000
31	Chief Executive	To defray expenses of any Members making official and courtesy visits, receptions and entertainment of distinguished persons visiting the Borough.	Local Government Act 2000
32	Chief Executive	Responsible person for ensuring that the Council complies with statutory requirements relating to complaints made to the Council about its public health functions and, where necessary, action is taken	Health and Social Care Act 2012

	Function exercised by	Function	Statutory provision
		in light of the outcome of such complaints.	
33	Chief Executive	The Officer responsible for ensuring that the Council, in the exercise of its functions, have due regard to the need to prevent people vulnerable from being drawn into terrorism	Counter Terrorism and Security Act 2015
34	Group Director, Finance & Corporate Resources	Proper Officer for Births, Deaths and Marriages.	Registration Services Act 1953
35	Group Director, Finance & Corporate Resources	The Officer to make statutory declarations and issue any certificate with regard to securities held by local authority companies.	s146 Local Government Act 1972
36	Group Director, Finance & Corporate Resources	The Officer to be responsible for the proper administration of the Authority's financial affairs (and to issue a report to Members if there is or is likely to be unlawful expenditure or an	s151 Local Government Act 1972

	Function exercised by	Function	Statutory provision
		unbalanced budget).	
37	Group Director, Finance and Corporate Resources	Notification to the Council's auditor of any meeting to be held under Section 15 of the 1988 Act (meeting to consider any report of the Chief Finance Office under Section 114).	S116 Local Government Finance Act 1988
38	Group Director, Finance and Corporate Resources	Provision of information to the Secretary of State in relation to the exercise of his powers under this Act as and when required.	s139A Local Government Finance Act 1988
39	Group Director, Finance and Corporate Resources	Requirement to report to Council annually on the robustness of estimates and financial reserves	Local Government Act 2003
40	Director, Legal, Democratic & Electoral Services	Authorising Officers to attend court and appear on behalf of the Council under Local Government Act 1972 and the County Courts Act 1984.	s223 Local Government Act 1972 s60 County Courts Act 1980

	Function exercised by	Function	Statutory provision
41	Director, Legal, Democratic & Electoral Services	The Officer to receive and retain statutory documents on behalf of the Authority	s225(1) Local Government Act 1972
42	Director, Legal, Democratic & Electoral Services	The Officer to certify photographic copies of documents.	s229(5) Local Government Act 1972
43	Director, Legal, Democratic & Electoral Services	The Officer to receive documents required to be served on the Authority.	s233 Local Government Act 1972
44	Director, Legal, Democratic & Electoral Services	The Officer to authenticate documents on behalf of the Authority.	s234(1) & (2) Local Government Act 1972
45	Director, Legal, Democratic & Electoral Services	The Officer to certify printed copies of bylaws.	s238 Local Government Act 1972
46	Director, Legal, Democratic & Electoral Services	The Officer to be designated Monitoring Officer.	s5 Local Government and Housing Act 1989

	Function exercised by	Function	Statutory provision
47	Director, Legal, Democratic & Electoral Services	To certify Council records for the purposes of admitting the document in evidence in civil proceedings.	Civil Evidence Act 1985
48	Director, Legal, Democratic & Electoral Services	Certification of relevant powers to enter into contracts.	Local Government (Contracts) Act 1997
49	Director, Legal, Democratic & Electoral Services	To ensure that copies of the Constitution are available for inspection.	Local Government Act 2000
50	Director, Legal, Democratic & Electoral Services	Responsibility for establishing and maintaining a register of Councillors and co-opted members interests, and for ensuring that it is published on the Council's website.	Section 29 Localism Act 2011
51	Group Director, Climate, Homes & Economy	The Officer to act as Local Registrar as defined in Section 3 of the Land Charges Act 1975.	s19 Local Land Charges Act 1975

	Function exercised by	Function	Statutory provision
52	Group Director, Climate, Homes & Economy	The appointment of a suitably qualified person as the Council's Medical Advisor on Environmental Health and Proper Officer for notifiable diseases.	Public Health (Control of Diseases) Act 1984 and The Milk and Dairies (General) Regulations 1969
53	Director of Public Health	The exercise by the authority of its functions under section 2B, 111 or 249 or Schedule 1 – health improvement duties to take steps to improve the health of the people in the area.	s73A(1)(a) Health and Social Care Act 2012
54	Director of Public Health	The exercise by the authority of its functions by virtue of section 6C(1) or (3) – The exercise of the Secretary of State's public health protection or health improvement functions that they delegate to local authorities, either by arrangement or under regulations – these include services mandated by regulations.	s73A(1)(b) Health and Social Care Act 2012

	Function exercised by	Function	Statutory provision
55	Director of Public Health	Anything done by the authority in pursuance or arrangements under section 7A – Any public health activity undertaken by the local authority under arrangements with the Secretary of State.	s73A(1)(c) Health and Social Care Act 2012
56	Director of Public Health	The exercise by the authority of any of its functions that relate to planning for, or responding to, emergencies involving a risk to public health.	s73A(1)(d) Health and Social Care Act 2012
57	Director of Public Health	The functions of the authority under section 325 of the Criminal Justice Act 2003 – the local authority’s role in coordinating with the police, the probation service and the prison service to assess the risks posed by violent and sex offenders.	s73A(1)(e) Health and Social Care Act 2012
58	Director of Public Health	Other public health functions that the Secretary of State may specify in	s73A(1)(f) Health and Social Care Act

	Function exercised by	Function	Statutory provision
		regulations.	2012
59	Group Director & all Chief Officers	To have regard to the effect of the exercise of any function on the need to prevent crime and disorder and offending by children and young persons.	S13 and 37 Crime and Disorder Act 1998
60	The Chief Executive, Group Directors and Service Directors	Power to authorise officers to enter premises and seize items where the Council has a power of seizure under this Act and to perform other related duties (return and security of seized items).	Criminal Justice and Police Act 2001
61	Group Director, Children & Education	To apply for the discharge or variation of a Child Safety Order.	s12 Crime and Disorder Act 1998
62	Head of Overview & Scrutiny Ward Forums	The Officer designated as Scrutiny Officer.	Section 9FB Local Government Act 2000.

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APPENDIX 9

Appendix 9 for Constitution Committee 27 April 202

Meetings of the Cabinet Procurement Insourcing Committee

Functions

Cabinet Procurement and Insourcing Committee is responsible for the functions set out below:

1. The Committee is authorised by Cabinet to give detailed consideration on all issues relating to procurement practice and policy and to award all high-risk contracts, including all contracts above £2m regardless of their risk rating. The Committee may also reserve to itself the consideration to award any contract for any other procurement listed on the Procurement Pipeline (Procurement Forward Plan).
2. The Committee will exercise the following functions and those matters which flow from them, which are executive functions and advise, as appropriate on:
 - improving the quality of public services to better meet the needs of all local Citizens through the skilful use of procurement as a function to support Council priorities;
 - ensuring the Council's procurement processes deliver Value for Money (VFM) outcomes where VFM is defined as the optimum combination of both whole life costs and quality (or fitness for purpose).
3. The Committee will oversee the progress of all contracting activities on the Procurement Forward Plan.
4. The Committee will oversee those procurements put before it under the Gateway process to ensure:
 - they are consistent with Hackney's procurement policy and procedures and the Council's statutory obligations as advised by Officers;
 - the "make or buy" decision is robust and consistent with achieving best value for the Council, where best value is defined as providing services that are efficient, effective and deliver Value for Money.
 - the procurement approach will achieve best value for the Council, promoting procurement options that, where consistent with this duty, have regard to opportunities for collaborating with partners at local, regional, and national level, are designed to deliver a mixed economy

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of service provision, with ready access to a diverse, competitive range of suppliers providing quality services, including small firms, social enterprises, minority businesses and voluntary and community sector groups.

- contract awards are made having regard to identification of the most economically advantageous tender (MEAT), considering issues such as quality, performance, delivery, continuity of supply and whole life costs.
 - that the Benefits Realisation of contracts are considered and that lessons learned are captured.
5. The Committee will give consideration to proposals for insourcing of existing outsourced contracts as part of options appraisal for future service provision. Where there is a clear demonstration that this option will consistently achieve best value for the Council and its residents, the Committee will have the power to approve the insourcing of contracts.
 6. The Committee will review and where appropriate award contract variations as set out in Contract Standing Orders.
 7. The Committee will be responsible for considering any procurements that are referred to the Committee by the Chair of Hackney Procurement Board (an officer panel established in accordance with Contract Standing Orders).
 8. The Committee has the discretionary right to refer any report at Gateway 2 or 4 review for decision by Cabinet,
 9. The Committee will also consider and advise, as appropriate, on:
 - a corporate approach to best value in Procurement and ensuring all departments of the Council comply with these principles;
 - value for money studies following consideration by those bodies with appropriate responsibility for the specific area of work;
 - the use of procurement to support the Council's wider Equalities, Environmental, In-sourcing Services, Social and Community Benefit objectives
 10. The Committee will be responsible for considering any procurements that arise from the acceptance of an Expression of Interest under Section 81 of the Localism Act 2011.

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Type of Committee

Cabinet Procurement Insourcing Committee is an Executive committee under delegated authority of the Elected Mayor.

[Non-executive]

This is a non-executive committee established by Full Council to discharge regulatory functions.

Membership

[Executive]

The membership of the Committee is appointed by the Elected Mayor and will include the Cabinet Member portfolio holder for Finance and X number of Cabinet members.

[Non-executive]

Membership of this Committee is appointed in accordance with political balance at Full Council.

Chairing arrangements

[Executive]

This Committee is chaired by the Cabinet Member portfolio holder for finance.

In the absence of the Chair, and subject to availability, the Elected Mayor will Chair this Committee.

[Non-executive]

The Chair and Vice Chair of this committee is appointed at Full Council. In the absence of the Chair or Vice Chair, and subject to being quorate, the Committee members can agree who may preside over the meeting based on the number of those present in person.

Quorum and Voting Arrangements

The quorum for a meeting of this Committee is two members of the Cabinet which must include the Chair. If neither of them are present the meeting will not be quorate.

Substitute

Substitutes to the Committee will be appointed by the Elected Mayor for the purposes of establishing a quorum and will have the same voting rights as regular committee members.

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Order of Business

- Receive apologies;
- Receive any declarations of interest from elected members;
- Consider any items of urgent business
- Approve the minutes of the previous meeting;
- Review procurement pipeline to ensure that appropriate plans and resources are in place to re-procure or insource existing contracts before they expire
- Receive questions from, and provide answers to, members of the public on matters covered on the agenda;
- Receive questions from, and provide answers to Councillor questions on matters covered on the agenda;
- Consider any matters delegated by Cabinet.
- Consider reports as set out in the agenda.
- Receive details of any procurement related decisions taken by Officers as key decisions under delegated authority.
- Consider any report that any two of the Council's statutory Officers, acting within their statutory duties, decide ought to be considered by the Committee.

Who may attend?

Meetings of the Committee will normally be open to the public, unless confidential or exempt information is to be discussed.

Location

This Committee meets at the Council's main offices or any other suitable location.

You can also view meetings online in accordance with the Access to Information Procedure Rules in Part X of the Council's Constitution with the Protocol on Recording and Livestreaming Council Meetings set out in Part X of the Constitution.

Questions to the Committee

A member of the public who lives, works, or studies in the Borough can ask a question of the Committee with one supplementary question relating to an item on the agenda.

A Councillor may ask a question of the Committee with one supplementary question relating to an item on the agenda.

The total amount of time for questions with notice at the Committee will be no more than 15 minutes.

If the Chair agrees, a member of the public can ask a question at the Committee without having given notice. If a question without notice is asked, the Chair will

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explain that it might not be possible to give a full answer at the meeting and that a written response will be provided.

Frequency of meetings

The Committee meets on dates set out in the Council's meetings calendar.

Papers and Notice

The agenda and any papers for the Committee will be issued at least 5 working days in advance of the meeting, except in the case of matters of urgency.

Review

The terms of reference will be reviewed on an annual basis, or as necessary, to support the functions and objectives of this Committee. Updates to the terms of reference will be proposed to the Monitoring Officer for further consideration and approval at Full Council.

Last reviewed: Date xxx

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