

MINUTES OF A MEETING OF THE CONSTITUTION COMMITTEE

MONDAY 30 JANUARY 2023

Link to Livestream: <https://www.youtube.com/watch?v=oMphuykkFm0>

- Councillors Present:** Deputy Mayor Bramble in the Chair
Cllr Alastair Binnie-Lubbock, Cllr Margaret Gordon,
Cllr Ian Rathbone
- Present virtually:** Cllr Lynne Troughton and Cllr Carole Williams
- Officers in Attendance:** Lucinda Bell (Education Lawyer), Dawn Carter-McDonald (Director of Legal, Democratic and Electoral Services), Peter Gray (Governance Officer), Louise Humphreys (Head of Legal and Governance), Rabiya Khatun (Governance Officer) Natalie Kokayi (Governance Officer), Tessa Mitchell (Governance Team Leader) and Nkencho Okonta (Trainee Solicitor)
- Also in Attendance:** Sudenaz Top and Mia Arthur (Representatives of Hackney Youth Parliament)

(Cllr Rathbone left the meeting at 7.05pm)

The Chair welcomed Cllr Binnie-Lubbock to his first meeting of the Committee, representatives from Hackney Youth Parliament and a member of the public.

1 Apologies For Absence

1.1 There were no apologies for absence.

2 Declarations of Interest - Members to declare as appropriate

2.1 There were no declarations of interest.

3 Consideration Of The Minutes Of The Previous Meeting - 13 July 2022

3.1 Councillors considered the previous minutes of the meeting held on 13 July 2022.

RESOLVED:

That the minutes of the Pensions Committee held on 13 July 2022 were approved as a correct record.

4 Constitution Review - Parts One and Two

- 4.1 Deputy Mayor Bramble introduced the report providing an update on progress by the Constitution Officer Working Group (COWG) with the review of the Council's Constitution and presenting first and final drafts of various sections for review and approval as appropriate and outlined the format of meetings of the Committee going forward. It was highlighted that the date for the adoption of the new Constitution had been extended to July 2023 to allow the Committee further opportunities to reflect on proposed changes, enable consultation with stakeholders and soft testing around access to the website and feedback from young people in the Hackney Youth Parliament (HYP).
- 4.2 Deputy Mayor Bramble reported that officers had received comments from Cllr Troughton in relation to Council Procedure Rules and Part Six, Cllr Gordon in relation to Part Two and Three and some points from Cllr Binnie-Lubbock concerning certain elements of Parts One and Two. The comments regarding wording would be considered by the COWG and would be resolved with Councillors or if further clarity was needed it would be brought to a future Committee meeting, or could be considered by a smaller working group if required.
- 4.3 The Head of Legal and Governance gave a presentation on the Constitution Review update and those elements of the Constitution being considered at the meeting. A brief summary is provided below:
- Update on progress
 - Points to note - Plain English, spelling, amendments, cross- referencing and checks for consistency
 - Final Drafts - Part One: Your Council
 - Final Drafts - Part Two: Articles of the Constitution
 - First Drafts - Part Three: Responsibilities for Functions
 - First Drafts - Part Four: Council Procedure Rules
 - First Drafts - Part Four: Cabinet Procedure Rules
 - First Drafts - Part Six: Public Participation
 - First Drafts - Part Eight: Monitoring Officer Protocol
 - First Drafts - Part Nine: Protocol on Remote Attendance at Meetings
- 4.4 Councillors suggested the following amendments and areas for improvement:

Points to note

- The Head of Legal and Governance confirmed that the COWG had been following the principles of the plain English campaign when reviewing the wording within the Constitution.
- The Head of Legal and Governance stated that Plain English had recommended replacing numbered paragraphs and subparagraphs with bullet points when there was a list. However, concern was noted regarding the challenge of identifying and referring to a particular bullet point in a list that could be more than one page, which could make the document less accessible.

ACTION 1: The COWG to further review whether to retain numbered paragraphs.

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- It was highlighted that the Scrutiny Panel would be reviewing the scrutiny section within the Constitution and invited Councillors from the opposition group to the meeting on 20 February 2023.

Part One - Your Council

- With regard to Rule 1.14 - Sustainability and Climate Change at page 29, it was suggested that environmental benefit should be included as one of the responsibilities for Councillors under decision making.
- With regard to Rule 1.15 - Equalities on page 29, it was suggested that care leavers be added to the protected characteristics group.
- When reviewing the duties of the Monitoring Officer and Section 151 Officer, Councillors asked whether it would be possible for officers to have regard to other cross-cutting policies such as the poverty strategy similar to Rules 1.14 - Sustainability and Climate Change and 1.15 - Equalities. The Director of Legal, Democratic and Electoral Services emphasised that some policies had changed over the years due to internal and external factors and suggested consideration be given to a policy without specifying the policy. The Chair requested that the COWG look further at the core cross-cutting policies within the Council which all residents should be aware of as important policies.
ACTION 2: The COWG to review further the core cross-cutting policies within the Council that all residents should have knowledge of.
- Rule 1.16 on page 29 - Further wording to include that the decision makers must try to identify other appropriate avenues for community engagement and resident participation in the decision making process.
- Page 29 to include a reference to Part Six - Public Participation for visitors wanting to participate in the Council.
- The Head of Legal and Governance highlighted that following the Armed Forces Act 2021, there would be a further amendment to Section B to reference the statutory obligations introduced for certain types of decisions.
- With regard to the definition of citizen, some Councillors suggested that citizen covered a wider group of people such as the business people in the borough who were not residents. It was important to define citizens by their responsibilities and functions rather than define a citizen. Another suggestion had been to include both residents and other citizens.

Part Two - Articles of the Constitution

- Discussion ensued on Rule 3.5 and having a rule for referring to political groups, in particular 'opposition groups'. The Chair indicated that the Constitution should distinguish between opposition groups based on their size and the number of groups. Councillors expressed the view that Rule 3.5 worked well and that it had reflected what the Council had done previously in terms of having majority and minority groups based on the seats won in the election. However, a Councillor requested further consideration be given in relation to an incumbent becoming the Principal Opposition Group in the event of two parties having equal numbers of members and instead to consider whether it should be determined by the group with the largest number of voters, which better reflected residents wishes. A Councillor indicated that it would be good to look at how other Councils dealt with this situation and to provide some options to the Committee. The Head of Legal and Governance

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stated that if opposition groups wanted to be referred to as Opposition Group 1 and 2 consideration would also need to be given to determine which group would speak first after the majority group had spoken in the Council and Cabinet meetings. It was suggested that a rotation approach could be taken. The Chair referred this issue to the COWG for further clarity and for options to be presented to Committee Councillors in an email.

ACTION 3: The COWG to review and present more options relating to 'opposition groups' in an email to the Committee members.

- Councillors noted the inconsistent use of terms within the document such as 'Full Council' or 'the Council' and the 'Council is the Elected Mayor' and Members' and 'Elected Mayor and Councillors'. The Chair stated that an internal cross party working group had agreed to use the term 'Councillors' instead of 'Members'. The Head of Legal and Governance explained that 'the Council' referred to Hackney Council as a local authority, which was a legal entity. The Council meetings held with the entire Councillors were described as being the 'Full Council', and that Committee meetings that involved Council functions were referred to as meetings of the Council. The Mayor had been described as an 'elected member' and other members should be referred to as a Councillor within the document. The Head of Legal and Governance indicated that she would be willing to review the references. The Chair suggested referring to the 'Mayor and Councillors' and removing the use of the word 'Elected Mayor' and Members'.

ACTION 4: The COWG to review the document and replace 'Elected Mayor and Members' with the 'Elected Mayor and Councillors'.

- In relation to Rule 10.5, it was confirmed that joint Ward Forum meetings consisted of two or more Wards Forums holding a meeting jointly to discuss an issue that had cross boundary implications. The Chair indicated that an example of what happened within a Ward Forum could be included in the section as well as a general guide for those residents wishing to attend. Due to the flexibility of Ward Forums, Ward Councillors were responsible for advertising and arranging their meetings. It was suggested at Rule 10.3 on page 63 be amended to insert the word 'can' before 'meet up to three times'.

ACTION 5: The COWG to review this section.

- With regard to Rue 10.8, the Head of Legal and Governance indicated that she would liaise with the Scrutiny Team regarding incorporating more information about how Ward Forum meetings were advertised

ACTION 6: The Head of Legal and Governance to liaise with the Scrutiny Team about providing more information about how Ward Forum meetings were advertised.

Part Three - Responsibility for Functions

- It was suggested that it would be helpful to include a list of examples of executive and non-executive functions in this section and how they operated to make the document more accessible to the public and test people's understanding.

Part Four - Council Procedure Rules

- Rule 5.7 - It was suggested that a deputy for the opposition leader to speak at a Cabinet/council meeting should be included.
- Rule 9.5 - The Head of Legal and Governance explained that 'contemplated legal proceedings' was about the Council receiving a pre-action protocol letter before proceedings were issued by or at the court advising of minded legal proceedings against the Council challenging its decision and also correspondence from any party advising of the intention to take legal proceedings against the council or conversely the Council informing a party. It would not be appropriate to discuss any cases during the legal proceeding stages due to the legal constraints on officers. However, after the proceedings had concluded a full response to questions could be provided.
- Rules 9 and 10 - The Chair emphasised that these rules were helpful in the Council's process of openness and transparency to its residents. It was suggested that a maximum of 8 minutes should be considered for each question received from the public or Councillor.
- Rule 13 - Concern was expressed that the Monitoring Officer could unilaterally change an opposition sponsored business notification into a motion and whether it should be a requirement to consult with the opposition group. It was suggested that the debate time should be increased to a maximum of 15 minutes for a motion and to specify the allocated time for each speaker would be helpful. The Director of Legal, Democratic and Electoral Services indicated that as the Monitoring Officer she worked collaboratively with all political groups and would not change opposition sponsored business unilaterally and this could be clarified in the glossary.
- Rule 23 - Concerns were expressed regarding the record of members' attendance at meetings, in particular that a Councillor could be recorded as present having attended a meeting for a minimum of 15 minutes and Councillors proposed a minimum of 30 minutes for a meeting. The Head of Legal and Governance indicated that if the duration of the meeting was under 30 minutes, technically Councillors would not be considered present under the provisions of the Local Government Act and decisions could not be implemented. A Councillor indicated that she would email the COWG with an alternative suggestion.
- Rule 27 - It was noted that concerns about the time allocated for motions being insufficient had been raised previously and it had been agreed that this would be amended in the new edition of the Constitution. The Head of Legal and Governance outlined the proposed amendment to Rule 27 that suspended the Council's procedure rules to enable debate on motions to extend beyond 30 minutes subject to the meeting closing by 10.30pm without formal notice in advance of the meeting.
- Rule 29 - Councillors agreed that existing Rule 29 concerning smoking at meetings could be deleted. The Chair emphasised that officers could make the changes within the Constitution to reflect changes in the law or policies.
- Rule 30 - Concern was expressed about the wording for the use of electronic devices and it was suggested that the wording should be more general as devices were also used to read speeches. It was noted that there were some issues with the numbering.

ACTION 7: The COWG to review the wording of this rule and the numbering.

- A Councillor requested the inclusion in the section of deputies of leaders of the opposition groups to be able to speak at Cabinet meetings.

Part 6 Public Participation

- Councillors suggested that consultations and Ward Forums should also be included in part six in order to highlight other ways people could contribute to the Council's decision-making process.
- The Chair stated that hyperlinks were being used within the document to make it more accessible and would be tested by stakeholders. The Head of Legal and Governance added that Governance Services had undertaken some project work to update the rules relating to deputations, petitions and questions on the Council's website to make it more accessible and the COWG would be monitoring this approach.
- A Councillor requested that the COWG review and ensure that this section was written in the third person and was consistent with the rest of the document.
- Section B Rule 1.4 - With regard to Licensing Sub-Committees being held remotely and representations made remotely, it was emphasised that the Council needed to mitigate against the exclusion of people in the decision making process that were unable to use electronic devices.
- It was important to set out the process for the scheme of delegations in particular executive committees.
- A Councillor stated that to ensure accessibility, it was necessary to have Committee agenda packs available at Hackney Town Hall for public inspection on request.

ACTION 8: The Head of Legal and Governance undertook to review the legislative provisions regarding access to information and the availability of a hard copy of agenda packs being available for inspection at Hackney Town Hall.

- A Councillor indicated that there should be other forms of communicating such as a video explainer.

- 4.5 A representative from the Hackney Youth Parliament thanked the Council for giving young people in Hackney the platform to engage on the Children and Young People Scrutiny Commission but welcome more young people representation on other Scrutiny Committees to discuss issues such as housing and sustainability, which was impacting on young people's life in Hackney. Councillors were asked to consider further engage with school children to promote the role of the Council and democracy. The representatives of Hackney Youth Parliament were informed that the Scrutiny Panel would be meeting on 20 February 2023.

ACTION 9:

1. The Chair will write to the Chairs of the Council's Scrutiny Commissions in
2. relation to the representation and role of representatives from Hackney Youth Parliament at future meetings going forward,
3. To liaise with the Hackney Youth Parliament and the representative at the meeting providing general information, details of future meetings and an induction session for new representatives joining the scrutiny commission.
4. The Director of Legal, Democratic and Electoral Services stated that as part of the service's commitment to wider engagement they would continue to work

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closely with representatives from Hackney Youth Parliament to get young people involved in soft testing access to the website and getting feedback on accessibility of the Constitution. The Chair emphasised that the Council held Local Democracy Week every year and would work with the Hackney Youth Parliament regarding the strengthening of this offer and providing resources for local schools such as video. The Council would liaise with other organisations to increase young voices in the Council.

Part 8 - Monitoring Officer Protocol

- Rule 2.2 - It was noted that any advice given by the Monitoring Officer should be recorded within the minutes of the meeting.

Part 9 - Protocol on Remote Attendance at Meetings.

- Councillors requested further discussion regarding the protocol on remote attendance at a future meeting and that further comments would be provided by email.
- The Chair stated that consideration needed to be given as to whether Councillors would be able to access agendas from their device.
- It was suggested that a Councillor attending remotely should be required to leave the private/exempt session of the meeting and that any questions relating to the report could be directed through the Chair to ensure the confidential information during this meeting was secure.

ACTION 10:

The COWG to further review:

1. Councillors' comments regarding the protocol on remote attendance at meetings.
2. Consider giving the Chair the discretionary power to allow a Councillor to turn off their camera during a meeting in certain circumstances.
3. Consider whether a Councilor attending remotely, with no voting rights, should be permitted to remain during the exempt/private session of the Council meeting to ensure confidentiality.
4. The Head of Legal and Governance stated that the protocol on remote attendance would be reviewed by the COWG and a draft protocol would be presented at a future meeting.
5. The Governance Officer to arrange two further meeting dates of the Committee in April and May 2023.

4.6 The Chair indicated that any further suggestions or comments could be emailed to the COWG following the meeting.

RESOLVED:

1. **That the final drafts of Parts One and Two of the Constitution appended to this report as Appendices 2 and 3 be approved subject to the additional points raised by Members within the meeting or in email correspondence being resolved.**
2. **That the points raised by Members within the meeting or in email correspondence in respect of the first drafts of those Parts and Sections appended to the report as Appendices 4 to 9 be reviewed by the COWG with amendments as necessary subsequently being made to those Parts and Sections.**

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- 3. That the insertion of cross-references taking place at a later stage and the continuing review by the COWG of all documents for typographical errors and plain English / grammatical improvements be noted.**
- 3. That the revised timetable leading to approval of the Constitution by Full Council in July 2023 be endorsed.**

5 Any Other Business Which In The Opinion Of The Chair Is Urgent

- 5.1 There was no other urgent business.

Duration of the meeting: 5.30pm - 7.55pm