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| <b>TITLE OF REPORT – REVIEW OF THE COUNCIL’S CONSTITUTION</b>  |                                       |
| <b>COUNCIL MEETING</b><br><b>26<sup>TH</sup> FEBRUARY 2020</b> | <b>CLASSIFICATION:</b><br><b>OPEN</b> |
| <b>MONITORING OFFICER</b><br><b>SUKI BINJAL</b>                |                                       |

1. **SUMMARY**

- 1.2 The Council’s Monitoring Officer (MO) has carried out a review of the Council’s Constitution. The review methodology is outlined in paragraph 5 below.
- 1.3 Full Council must approve any changes to the Constitution other than those already authorised to be made by the Council’s Monitoring Officer. The changes proposed in this report are not within the scope of the MO’s delegation.
- 1.4 Any resolution of Full Council to approve changes to the Constitution will also require the written consent of the Elected Mayor.
- 1.5 The current Constitution is online and can be reviewed there. There is an appendix 1 attached to this report for your reference and consideration which is a schedule summarising the changes proposed. The draft of the revised Constitution highlighting the proposed changes can be found [here](#). You may view a hard copy by contacting the Governance Services Office which is located in Hackney Town Hall.
- 1.6. Approval is sought to agree the suggested changes as set out in appendix 1 and to also delegate permission to the MO (in consultation with Deputy Mayor Bramble, portfolio holder for legal and governance and the Elected Mayor), to continue to carry out any inconsequential changes that might be necessary before the revised Constitution is published.

Accordingly, this report seeks the approval of Full Council to agree the recommendations as set out in paragraph 2 below.

- 1.7 This report also sets out the future framework for reviewing the Council's Constitution including areas (constitutionally related) identified during this review for further consideration, discussion and potential development.

## **2. RECOMMENDATIONS**

### **Full Council is requested to**

- 2.1 Agree the changes proposed to the Council's Constitution as set out in the schedule of changes attached as Appendix 1 to this report and
- 2.2 Delegate to the Council's Monitoring Officer to continue to make any necessary inconsequential changes in consultation with Deputy Mayor Bramble and the Elected Mayor.

## **3. BACKGROUND**

- 3.1 The purpose of the Constitution is to set out clearly how the Council operates, how decisions are made and the procedures it follows, to ensure it is well organised, transparent and accountable to local people.
- 3.2 Under the Council's Constitution there is a duty to monitor and review the Constitution. Other than minor inconsequential changes, the Council's Constitution has not been reviewed in its entirety since 2011.
- 3.3 The Council has, over the past few years, followed an approach to amend and adopt changes as and when necessary, for example to reflect legislative changes or to update the terms and references of some Committees.
- 3.4 As a result of not following a holistic and planned programme of work to either refresh or review the Constitution, this has led to inconsistencies in both content and style.
- 3.5 Accordingly, Deputy Mayor Bramble requested the Council's MO to carry out a comprehensive review of the Constitution.

## **4. SCOPE OF THE REVIEW.**

4.1 It was agreed (in consultation with Deputy Mayor Bramble) that at this stage the scope of the review was not to propose substantive changes to the current Constitution, such as to the Articles, terms of reference (functions) of committees and the order of proceedings for meetings but to suggest housekeeping alterations to bring the Constitution up to date.

4.2 As an exception to the above, it was agreed that where the Constitution is ambiguous and not helpful, suggested amendments would be proposed. For example, the Council's petition scheme needs clarity as to the procedure, as does the process for residents to be able to address/ask questions at Cabinet meetings.

## **5. THE METHODOLOGY AND CONSULTATION WITH ALL COUNCILLORS**

5.1 The following process (as agreed between Deputy Mayor Bramble and the MO), was followed:

- The MO, supported by officers (via an officer's working group), has reviewed the Constitution page by page.
- The MO kept a schedule (an audit trail) of the changes proposed by officers, referencing the reasons for the suggested amendments. This is attached as Appendix 1 - the schedule of changes proposed.
- This schedule and relevant documents (the current Constitution highlighting the proposed changes) were circulated and shared with all Councillors for discussion, review and comments.

## **CONSULTATION WITH ALL COUNCILLORS**

- Consultation took place with all Councillors via the existing Member's Reference Group (MRG), which is a cross party group (a forum open for all Councillors to attend) that meets to discuss policy and/or operational issues that affect all Councillors.
- At a MRG meeting, held on the 5th November 2019, the background and process to the Constitution review was discussed.
- Subsequently, all Councillors were invited to attend further focus sessions held on the 12th November, 17th December 2019 and the 6th January 2020 to discuss parts 1-3, part 4 and parts 5-6 of the Constitution respectively.
- Suggested amendments from officers were shared with all Councillors, before each meeting for review and comment. Comments were also invited after each meeting.

## **6. OUTCOMES FROM THE CROSS PARTY FOCUS SESSIONS**

- 6.1 The Constitution has now been fully reviewed and discussions have taken place with the Councillors that attended the focus sessions. Some further suggestions and comments were also received (by email) from Councillors who were unable to attend the sessions.
- 6.2 Attached at appendix 2 is a list of the Councillors that attended the MRG focus sessions, including a list of Councillors that responded to the review by email.
- 6.3 As a result of the focus sessions, a number of non-substantive changes were proposed and agreed in principle, for example:
- referring to Members throughout the document as Councillors, where possible
  - amending all references from his/her to their, where possible
  - inserting hyper-links, visuals and flowcharts, where possible
  - adding a glossary, rather than a definitions section
- 6.4 At the last focus session, held on the 6th January 2020, it was agreed to reorder the Council's Petition Scheme, so that it provides clarity without the need to provide a detailed audit trail.
- 6.5 Overall, the proposed changes recommended are housekeeping, or they reflect legislative updates, or to provide clarity where necessary.

6.6 The attached Appendix 1 is a schedule detailing proposed changes. Part A of the schedule sets out the proposed (blanket) changes throughout the document, which were approved by Councillors that attended the MRG sessions, without the need to highlight every change in the document.

## **7. ELECTED MAYOR'S ENDORSEMENT**

7.1 Under Article 15.4, of the current Constitution unless the change relates only to the operation of Overview and Scrutiny functions, any resolution of Full Council to approve a change to the Constitution will have no effect without the written consent of the Elected Mayor.

7.2 The Elected Mayor has reviewed the proposed changes and his comments have been incorporated.

## **8. FUTURE FRAMEWORK FOR REVIEWING THE CONSTITUTION**

8.1 The Constitution does not stipulate the process or how often the document should be reviewed. A Constitutional Review Group is in place which meets monthly and will continue to pick up any emerging issues. It is suggested that a full review of the constitution should take place once every four years in line with the local election cycle.

8.2 It is proposed that the Council modernises its Constitution through a principles based review and the programme of work will be agreed with the Elected Mayor and Deputy Mayor Bramble.

8.3 A principles based review is usually carried out to unpick the Constitution, modernise it, and ensure it is accessible for residents. Any changes would need to be in line with the principles under Article 1 and 15 of the Constitution.

For example, to:

- review and change the current style
- ensure it is digital and fit for purpose
- continue to remove any unnecessary (ambiguous) duplication
- make changes in line with good and improved governance practices
- update terminology
- re-order the Procedure Rules so that they reflect actual proceedings of Council meetings
- where possible, continue to insert visual and web links
- remove some protocols from within the Constitution that are either not required by law or are not necessary, especially if they are available elsewhere on the Council's website.

8.5 It is proposed that a principles based review commences in 2020, following the agreement (at Full Council on the 26<sup>th</sup> February 2020) of changes arising from the current page-by-page review.

8.6 It is further proposed that Councillor engagement continues via a series of additional MRG focus sessions.

## **9. CONFIRMATION OF THE MONITORING OFFICER'S ROLE WITH REGARD TO THE CONSTITUTION**

- 9.1 It is good governance practice for the MO to regularly review the Constitution and where necessary to suggest revisions in accordance with Article 1 and 15 of the Constitution.
- 9.2 Separate from any principles based review, the MO remains responsible for making in year minor amendments, following any statutory or regulatory change, or to rectify errors, or to update arrangements as a result a other external factors as per Article 15.5 of the Council's Constitution.
- 9.3 The MO will keep an audit of the changes in 9.2 above and the reasons for the amendments. These changes will not require Full Council approval.
- 9.4 The MO will discuss and notify the Cabinet portfolio holder responsible for legal and governance, of any such changes made and then if necessary will provide an update at an appropriate Council meeting.

## **9. OTHER ISSUES FOR FUTURE DISCUSSION**

- 9.1 Councillors that attended the focus group discussions raised wider issues that were not within the scope of this initial review, a schedule of these issues have been collated and will be reviewed in the Constitution review group. Examples of these areas for future development include:-
- the terms of reference for committees
  - the Budget and Policy Framework
  - procedure for motions - i.e. the process and definitions

## **10 COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES**

There are no immediate financial implications.

## **11. COMMENTS OF THE DIRECTOR, LEGAL & GOVERNANCE SERVICES**

- 11.1 The Local Government Acts 1972 and 2000 (as amended) require all Local Authorities to have in place and maintain an updated written Constitution.
- 11.2 A Local Authority must prepare and keep up to date a document (referred to as its Constitution), which contains:-
- (i) a copy of the authority's Standing Orders (to govern the general function of that authority).
  - (ii) to maintain Contract Standing Orders
  - (iii) a copy of the authority's Code of Conduct for Members (under section 28 of the Localism Act 2011),
  - (iv) such information as the Secretary of State may direct, and
  - (v) such other information (if any) as the Authority considers appropriate.
- 11.3 The Council could be judicially reviewed if Councillors take decisions, which are

contrary to published policy, protocols and procedures.

## 12 EQUALITY IMPACT

12.1 There are no immediate equality issues.

## 13.3 RISK MANAGEMENT

| Risk Description  | Likelihood | Impact   | Mitigation Measures   |
|---|------------|----------|---|
| It is a high risk not to regularly review the Constitution and ensure it reflects current practice and Legislation. | Unlikely   | High/Bad | As a core principle of good governance the Council keeps its Constitution under regular review and amends it, both to reflect experience and changing circumstances |

## APPENDICES

Appendix 1 A schedule summarising the changes proposed

Appendix 2 List of Councillors that attended the MRG focus sessions including Councillors that responded to the review by email

## BACKGROUND PAPERS

None

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