

ESTABLISHMENT OF A CONSTITUTION COMMITTEE	
COUNCIL 26 January 2022	CLASSIFICATION: Open Appendix 1
WARD(S) AFFECTED N/A	
Director: Dawn Carter-McDonald, Monitoring Officer and Director of Legal and Governance Services	

1. SUMMARY

- 1.1 This report seeks to establish a Constitution Committee whose broad remit will be to
- review areas in the Constitution to ensure that they are fit for purpose and propose appropriate changes;
 - receive requests to review certain areas of the Constitution;
 - consider changes proposed by Members, Officers and Committees; and
 - recommend proposed changes to Council for approval.

2. RECOMMENDATIONS

- 2.1 That Council
- Establish a Constitution Committee whose terms of reference are set out at Appendix 1.
 - Approves the membership of the Constitution Committee as set out in Appendix 2.

3. BACKGROUND

- 3.1 Hackney Council's Constitution in its current form dates from May 2011. Since 2011 there have been 30 re-issues of the Constitution. Changes have been made:
- to reflect changing legislation;

- to reflect the updated terms of reference of various Council Committees, Panels, Commissions and Sub-Committees;
- to correct errors;
- to change terminology; and
- to introduce greater clarity around certain Council procedures etc.

However, the Council has not during this time embarked upon a complete review and refresh of the Constitution.

3.2 During the summer of 2021, the Governance Service undertook a survey of Members and Senior Officers and how useful the current Constitution was in terms of explaining the decision-making structures and processes and how accessible it was as a document. Although the response rate was not particularly high, certain threads could be drawn out from the responses:

- Little knowledge / public awareness of the Constitution amongst residents, businesses and other organisations;
- The Constitution is complex and needs simplification;
- Large sections are not easy to understand and it is not easy to navigate;
- Needs to be greater awareness of scrutiny functions; and
- No mention of digital ways to engage.

The responses would demonstrate support for a wider review of the Constitution.

3.3 Views on a review and refresh of the Constitution, and how that might be progressed, have also been sought in a number of informal meetings, such as Members' Reference Group, which has demonstrated support not only for a review of the Constitution but also for the establishment of a Constitution Committee.

3.4 Now that the worst of the additional pressures brought by both Covid-19 and the cyber attack have largely abated, this is a perfect opportunity to undertake a wider review and refresh of the Constitution.

3.5 The review would **not** seek to change the balance of decision-making within the Council or how decisions are made generally, rather it would aim to provide greater clarity for the public and Members alike as to how the Council operates and improve upon the information provided to the public / businesses / other organisations generally with regards to the operation of the Council and with particular reference as to how they can become involved with the formal aspects of Council decision-making.

3.6 To support that review and refresh, it is proposed that a Constitution Committee be established. The proposed terms of reference for the Committee are set out at Appendix 1.

- 3.7 It is proposed that the Committee would initially determine how best the required contents of the Constitution can be organised and then consider the wording for all sections of the Constitution from drafting prepared by the Officer Constitution Group. If significant amendments are suggested by the Committee, then Officers would undertake further work on those sections and bring them back to a future meeting of the Committee. Only once the Constitution Committee is content with all of the proposed wording would the amended form of the Constitution be reported to full Council for approval / adoption. However, the precise organisation of the work would be a matter for the Constitution Committee to determine at their first meeting.
- 3.8 The current arrangements are for proposed amendments to be prepared by the Officer Constitution Group and for these then to be considered at various informal meetings, including Members' Reference Group, prior to being reported to full Council for approval or being taken forward by the Monitoring Officer in the case of minor amendments.
- 3.9 It is considered that the establishment of a Constitution Committee would:
- Improve transparency for residents and Members, as the Committee would meet in public and papers would be publicly available;
 - Provide greater structure and formality to this critical and important work;
 - Provide greater certainty as to delivery in a timely manner; and
 - Raise the importance and visibility of the Constitution across the Council and amongst the public.
- 3.10 If time permits within the Council's schedule of meetings, the intention would be to hold one meeting of the Constitution Committee in advance of the elections in May 2022 so that the parameters for this work can be set, thus permitting the Officer Constitution Group to commence drafting.

4. COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

- 4.1 Based upon the current Member Allowances' Scheme, no financial implications arise as a consequence of establishing a Constitution Committee.

5. COMMENTS OF THE DIRECTOR OF LEGAL AND GOVERNANCE SERVICES

- 5.1 Section 37 of the Local Government Act 2000 requires that the Council must prepare and keep up to date a document known as the Constitution which contains a copy of the Council's standing orders,

a copy of the Council's code of conduct, and such other information (if any) as the Council considers appropriate. In addition, Article 15 of the Constitution requires the Monitoring Officer to monitor and review the operation of the Constitution and to make recommendations for the way in which it could be amended in order to achieve its purposes.

- 5.2 Previously there was also a requirement that the Constitution had to comply with any direction issued by the Secretary of State which detailed the information that any constitution ought to contain. That requirement has been repealed (in so far as authorities in England are concerned); however, the direction remains a useful checklist for what matters a constitution ought to cover.
- 5.3 In addition, in preparing or keeping up to date the Constitution, the Council must also have regard to any guidance issued by the Secretary of State under section 9Q of the Act. Guidance previously issued by the Secretary of State entitled "Modular constitutions for English local authorities" has now been archived, but it remains extant and will be of relevance to the work of the Committee.
- 5.4 With regards to the establishment of Committees, Council is responsible for establishing, and all appointments to, its non-executive committees and commissions as set out in Part 2 - Article 4 of the Constitution. The Council is required, under sections 15-17 of the Local Government & Housing Act 1989 and the Regulations made under that act, to comply with political balance rules when appointing 'Ordinary' Committees (i.e. committees appointed under Sections 101 and 102 of the Local Government Act 1972). These Rules provide that seats on 'Ordinary' Committees must be allocated in line with the following principles in order of precedence:
- (a) That not all seats on a body are allocated to the same political group.
 - (b) That the majority of seats on the body are allocated to a political group which has a majority of the Council's membership.
 - (c) That, subject to principles (a) and (b) above, the total number of seats across all the ordinary Committees shall be allocated to each political group in the proportion of their size on the Council as a whole.
 - (d) That, subject to principles (a) to (c) above, seats on each individual body shall be allocated to each political group in the same proportion as to their size on the Council as a whole.

APPENDICES

Appendix 1 - Constitution Committee Terms of Reference

Appendix 2 - Nominations received for membership of the Constitution Committee (to follow)

BACKGROUND PAPERS

None.

Report Author	Louise Humphreys Head of Legal and Governance Services louise.humphreys@hackney.gov.uk Tel 020 8356 4817
Comments of the Group Director of Finance and Corporate Resources	Jackie Moylan Director, Financial Management jackie.moyland@hackney.gov.uk Tel: 020 8356 3032
Comments of the Director of Legal and Governance	Dawn Carter-McDonald Director of Legal and Governance Services dawn.carter-mcdonald@hackney.gov.uk Tel: 020 8356 6234