

Title of Report	Adoption of New Constitution
For Consideration By	Constitution Committee
Meeting Date	12 July 2023
Classification	Open
<u>Ward(s) Affected</u>	N / A
Director	Dawn Carter-McDonald, Director of Legal, Democratic and Electoral Services

1. Introduction

- 1.1. This report updates members of the Constitution Committee on activities carried out since the last meeting of the Committee in May 2023 and provides members with the final version, save for any final typographical or grammatical corrections, of the Constitution which will be presented to Full Council on 26 July 2023 for adoption.

2. Recommendations

- 2.1. **That the Committee determines how to refer to opposition groups within paragraph 2.5 of Article 3.**
- 2.2. **That the Committee note the outcome of the public engagement exercise.**
- 2.3. **That, subject to any amendments required to fulfil the Committee's resolution concerning the reference to opposition groups in paragraph 2.5 of Article 3 and any further typographical or grammatical corrections, that the Committee recommend to Full Council that the Constitution accompanying the report in Appendix 2 be adopted.**

3. Background

- 1.1. This report focuses on those matters raised by the Constitution Committee at its last meeting in May 2023, when the Committee considered the Constitution in its entirety. It also deals with the outcome of the public engagement exercise that was carried out.

References to Opposition Groups in Article

- 3.1. Members of the Committee will recall the discussion at the last meeting around the wording of paragraph 3.5 of Part Two, Article 3 (Articles of the Council, Members of the Council). For ease of reference the current wording is reproduced below:

The political party, or combination of parties, with the largest number of members who are not members of the Majority Group shall form the Principal Opposition Group. In the event of two parties having equal numbers of members following an election, the Principal Opposition Group will be the incumbent Opposition Group. Other political parties will be Minority Opposition Groups

- 3.2. The Committee asked the Constitution Officer Working Group (COWG) to undertake some benchmarking to ascertain how other local authorities deal with the question of how to refer to opposition groups where they have the same number of members and how a decision is reached as to who takes precedence for determining, for example, who responds first following the Elected Mayor's statement at Full Council meetings.
- 3.3. The outcome of the benchmarking exercise is that of those Councils we have checked who have more than one opposition group (Peterborough City Council, Cheshire West and Chester Council, Southampton City Council, London Borough of Tower Hamlets, Sutton Council, Royal Borough of Kensington and Chelsea), none include any information in the similar Article of their Constitution or elsewhere on these points.
- 3.4. The COWG considers that any one of the following options could be applied:
- (1) Leave the text as is such that the Principal Opposition would be the group who had the majority of opposition seats before the election;
 - (2) Delete that part of the Constitution so that there is no reference as to what happens in the event of an equality of seats;
 - (3) Amend the text so that it becomes the responsibility of the opposition groups to determine amongst themselves who will be the Principal Opposition and if agreement cannot be reached then lots will be drawn (or similar);
 - (4) Amend the text so that the decision is based upon the drawing of lots (or similar) as happens with elections;
 - (5) Amend the text so that the decision is determined by adding up all of the votes cast for the relevant Councillors at the election and the group with the highest number of votes becomes the Principal Opposition Group; or

- (6) That the groups with an equal number of seats take it in turns to be the Principal Opposition group for the electoral term, whether on a yearly or two-yearly basis.

Council Procedure Rules - Motions

- 3.5. The COWG has again considered how the Council Procedure Rules deal with motions. The text at the beginning of Rule 14 has been amended to provide greater clarity as to the types of motion that might arise - procedural and calls by Councillors for matters to be discussed at meetings. The COWG has also sought to differentiate between the two types of motions where relevant in the rules around motions which follow (rules 15 - 17 inclusive)
- 3.6. Separately a protocol is being drawn up around administrative arrangements with regards to motions submitted by Councillors for discussion at Full Council. This will not form part of the Constitution but will sit alongside it as an internal document. This will enable greater responsiveness in terms of making changes to administrative arrangements as the new Constitution 'beds in'.

Council Procedure Rule 25 - Conduct of the Elected Mayor and Councillors

- 3.7. This rule has been amended following the discussion at the last meeting to retain the requirement to stand when addressing a meeting, subject to the caveat that this applies where a person is able to do so to avoid discrimination and promote inclusivity.

Engagement

- 3.8. A summary report of the outcome of the public engagement exercise appears at Appendix 1 to this report.
- 3.9. The Committee will note that 17 people took part in the survey through Hackney Matters. Of those 17 people, 4 responded that they knew that the Council had a Constitution, but only 2 respondents indicated that they knew how to find a copy. Only 1 respondent indicated that they had read all or any part of the existing Constitution but that they found it 'fairly easy' to find the information they were looking for and that the document was 'fairly clear' as to the roles and functions of the Elected Mayor, Councillors and Officers, how they could engage and participate in meetings and that it made clear the decision-making process.
- 3.10. Given the responses to the survey, prior to the focus group participants were sent some pre-reading material to provide them with some basic insight into those aspects of the Constitution that were most relevant to public engagement and participation. Given the lack of prior knowledge about the Constitution, the focus group became more of an informative session about these topics rather than providing feedback on specific wording in the new Constitution.

- 3.11. The engagement exercise has shown that there is considerable work to be done to publicise the existence of the Constitution following the adoption of the new edition. Similarly, the engagement has demonstrated the need for more publicity around public involvement in Council meetings. The COWG will give detailed consideration as to how best to go about this, including drawing on some of the ideas from the focus group and using local democracy week later in the year. Participants in the focus group were supportive of the Constitution containing hyperlinks / bookmarks to aid navigation and publishing it in sections to aid navigation.
- 3.12. Whilst the engagement exercise did not provide any direct suggestions for wording alterations, this exercise has helped in providing a baseline of knowledge against which we will be able to judge the success of the steps taken to wide public knowledge about the Constitution. Similarly, the engagement exercise has provided some interesting suggestions around the proposed summary guide.

4. Comments of the Group Director of Finance and Corporate Resources

- 4.1. There are no financial implications arising from the recommendations contained within this report.

5. Comments of the Director of Legal, Democratic and Electoral 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.
- 5.2. 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.
- 5.3. There are no legal implications arising directly from this report.

Appendices

Appendix 1 - Public Engagement Exercise - Summary Report
Appendix 2 - Council Constitution

Background documents

None

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