

Title of Report	Adoption of Council Constitution
For Consideration By	Council
Meeting Date	24 July 2023
Classification	Open
Ward(s) Affected	All
Director	Dawn Carter-McDonald, Director of Legal, Democratic and Electoral Services and Monitoring Officer

1. **Summary**

- 1.1. The Council is required by the Local Government Act 2000 to prepare and maintain a 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.
- 1.2. This report recommends the approval of a new Constitution following a review and refresh led by the Constitution Committee and a Constitution Officer Working Group (COWG) to take effect from Monday, 4 September 2023.
- 1.3. The Council's Constitution has not been the subject of a comprehensive review and refresh for some time. Such reviews are considered good practice because over time changes made to the Constitution on an ad hoc basis can lead to a situation where it becomes inconsistent, difficult to navigate and inaccessible. Such reviews also ensure that the Constitution as a whole remains fit for purpose.
- 1.4. Although the Council's Monitoring Officer is the responsible officer for the Constitution, they do not 'own' the document. Everyone within the Council has individual and collective responsibility to understand the Constitution, which is the most important document within the Council's governance framework, and their roles in upholding it by acting in accordance with it and the principles it contains.
- 1.5. References to Parts / Sections in this report are to Parts / Sections within the new Constitution.

2. **Recommendations**

- 2.1. **That the Constitution appended to this report at Appendix 1 be approved to take effect from Monday, 4 September 2023.**
- 2.2. **That the Director of Legal, Democratic and Electoral Services be given delegated authority to make any changes of a typographical or grammatical nature prior to its effective date and to insert appropriate hyperlinks and bookmarks to aid navigation through the document.**

3. **Background**

- 3.1. Since 2000, the Council has been required to prepare and make available a Constitution which sets out key requirements relating to service delivery, decision-making principles and protocols, i.e. this is a document that assists the public in describing the functions of the council and how it proposes to carry out those functions.
- 3.2. To support Councils at that time, the Secretary of State issued a direction which mandated the use of a template approach to constitutions on the basis that this would offer a degree of consistency at a time when new forms of local authority governance were introduced. That requirement has been repealed insofar as authorities in England are concerned. However, the direction nonetheless provides a useful starting point as to the contents of the Constitution document. In preparing or keeping the Constitution up to date, the Council must also have regard to any guidance issued by the Secretary of State under section 9Q of the Local Government Act 2000. Guidance previously issued by the Secretary of State entitled “Modular constitutions for English local authorities” has now been archived, although it has not been formally repealed. In undertaking the review of the Constitution, regard has been had to that direction and guidance.
- 3.3. The Council’s Constitution in its current form was adopted in 2011 and the latest iteration, April 2023, is the 33rd edition of that document.
- 3.4. In January 2022, Full Council established a Constitution Committee whose principle terms of reference are as follows:
 - (a) ... review areas in the Constitution to ensure that they are fit for purpose and propose appropriate changes;
 - (b) receive requests to review certain areas of the Constitution;
 - (c) consider changes proposed by Members, Officers and Committees;
 - (d) recommend proposed changes to Council for approval.

Membership of the Committee is cross-party and draws upon Councillors from the executive and non-executive and includes representation from the Audit Committee and the Scrutiny Panel.

3.5. As explained within the January 2022 report to Full Council, the Constitution review has **not** sought to change the balance of decision-making within the Council nor how decisions are made generally, rather it has aimed 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 with regards to the operation of the Council with particular reference as to how they can become involved with the formal aspects of Council decision-making.

3.6. The Constitution Review is also linked to one of the Elected Mayor's priorities, namely '*[w]e will make the Council's democratic functions more accessible and review the Council's constitution*'.

3.7. In April 2022, the Constitution Committee endorsed the following vision statement to guide their work and the work of the Constitution Officer Working Group (COWG):

To produce a clear and succinct Constitution for the London Borough of Hackney which is user-focused and accessible for all; which provides helpful instruction on the manner in which the Council conducts its business; and which ensures excellence in governance across the Council.

3.8. This report will provide information on the overall approach taken to the Constitution by both the COWG and the Constitution Committee in terms of drafting principles, will explain how the new Constitution will be organised and will then consider each Part in turn.

3.9. The vast majority of amendments are around language and grammar to give effect to the principles of plain English; this has resulted in significant drafting changes to the text of the Constitution. Where drafting changes have not had the effect of altering the overall meaning of the existing Constitution, this report does not deal with those changes in detail. Given the major re-organisation of the Constitution, and the inclusion of new Parts / Sections, a comparative red-line version has not been drawn up because it is considered that it would be virtually impossible to follow. Finally, amendments which have been made to give effect to other changes, such as the titles of Officers' posts, are again not highlighted in this report. This report therefore focuses on the substantive changes that have been made.

4. **Overall approach**

- 4.1. The COWG has also approached its work on the review with the ideal that the Constitution ought to be a locally driven document which reflects the character and culture of the Council and which facilitates Council business, rather than something which creates bureaucratic procedures for the sake of it. Of course, there is a delicate balance between this and the need to ensure that the Council can demonstrate good governance lies at the heart of everything it does.
- 4.2. The COWG and Constitution Committee have attempted to ensure that drafting of the document applies the principles of plain English, particularly:
- (a) Keeping sentences short;
 - (b) Using active verbs;
 - (c) Using words that are appropriate for the reader;
 - (d) Using lists where appropriate;
 - (e) Not being afraid to give instructions where appropriate; and
 - (f) Avoiding taking verbs or adjectives and making them into nouns (nominalisation).

An attempt has been made to avoid the use of legal jargon and local government speak wherever possible. Where that has not proven possible, the COWG has sought to explain those terms either in the main glossary or through 'micro glossaries' at the beginning of a section, for example, the Contract Standing Orders. The COWG has also sought to remove duplication where appropriate.

- 4.3. The COWG and Constitution Committee have considered with care how to refer to the Elected Mayor and Councillors throughout the document. A distinction is needed in certain places in the Constitution, where the collective whole of people who have been elected is referred to - for example in respect of voting at Council meetings or raising points of order within the Council Procedure Rules. Consideration was given as to whether the collective whole should be referred to as 'Elected Members' or 'Elected Mayor and Councillors' distinction is needed because in some instances the Constitution refers to all those who have been elected - for example in the existing 'Member / Officer Relations Protocol' - rather than just the Elected Mayor or Councillors. The clear preference expressed by the Constitution Committee was for the former rather than the latter, accepting that it is a longer phrase and might, in some instances, prove cumbersome in its usage.

- 4.4. The Constitution now adopts one consistent format throughout, with the Hackney logo in the header and with footers being used to remind the reader where in the Constitution they are.

5. **Organisation of new Constitution**

- 5.1. The Constitution has been fundamentally re-organised and now comprises nine Parts, rather than the previous six. Each of the Parts now has a specific focus and is subdivided into sections which are 'lettered' rather than 'numbered'. The document has also been moved from MS Word to Google Docs.
- 5.2. The Glossary has been moved from the back to the front of the Constitution.
- 5.3. The rationale for the approach to the ordering of the Constitution is to assist the reader in accessing that Part / Section that they are interested in more easily and also to enable amendments to be made without necessarily re-issuing the entire Constitution. It will also assist with the publication of the Constitution on the Council's website.
- 5.4. Hyperlinks / bookmarks will be used throughout the Constitution to enable readers to easily move from one Part / Section to another and also to link specific terms to the explanation contained within the Glossary. These have **not** been added at this stage and will be added following the adoption of the Constitution by Full Council. The rationale for this is because it will take a considerable amount of officer time to insert and then cross-check links and should Full Council wish to make any amendments to the document there is a risk that those amendments would impact upon the hyperlinks / bookmarks. Similarly links to the Council's website will be included at that stage.

6. **Part 1 - Your Council**

Section A - An overview of the London Borough of Hackney

- 6.1. This section is an updated version of the previous Summary and is designed to provide the reader with information about the Council. Additional wording has been incorporated around the responsibilities of the Elected Mayor and Councillors to include reference to protecting and enhancing the natural environment and acting to mitigate and ensure resilience to climate change in recognition of the Council's declared climate emergency.

6.2. Section B - Principles of Decision Making

- 6.3. This is a new section for the Constitution designed to provide the reader with an explanation about how the Council makes decisions, including who can

make decisions, the need to comply with the law, considering options and impacts, equalities, consultations, and evidence based decisions. It also references the need for decision makers to consider the impact of decisions on sustainability and climate change, including any environmental benefits and disbenefits, taking into account the Council's declared climate emergency. Finally, the section deals with openness and transparency in decision making, and how decisions are published via reports and decision notices.

6.4. Section C - Citizens' Rights and Responsibilities

6.5. This is a new section in the Constitution, although the contents predominantly comes from existing Part 2, Article 2 and the information currently contained under the heading 'Citizen's Rights' in the Summary. The purpose in including the content at this stage of the Constitution is to bring it into greater prominence.

7. Part Two - Articles of the Constitution

7.1. The Articles of the Constitution remain as existing within the current Constitution, although they have been re-drafted from the perspective of plain English.

- (a) Article 3 has been expanded to include the requirements for standing for election for Elected Mayor or Councillor.
- (b) Within Article 3, the COWG and Constitution Committee has paid close attention to how the opposition groups should be referred to and what would happen in the event of the two or more opposition groups having an equal number of seats. A review of the way in which the Council's Constitution dealt with the issue when there was last more than one opposition group was undertaken, as was a benchmarking exercise amongst a selection of other local authorities with more than one opposition group. The results of the benchmarking indicated that none of the Councils included specific reference as to how matters would be approached in such circumstances. Having been presented with a number of options, the Constitution Committee resolved that the Council's Constitution should remain similarly silent on the issue, leaving matters to be determined if the situation arose.
- (c) Within Article 4, the list of policy framework documents has been reviewed to ensure that it remains up to date either with legal requirements or to reflect name changes.
- (d) Within Article 5, an express reference has been included in the roles and functions of the Elected Mayor to have regard to the impact that any policies they might promote might have on

sustainability and climate change, including any environmental benefits and disbenefits, taking into account the Council's declared climate emergency. This has been included for consistency with Section on Principles of Decision Making and

- (e) Within Article 7, amendments have been made to reflect changes proposed by the Scrutiny Panel, including reference to the Children in Care Council as being a potential source of representatives for the Children and Young People Scrutiny Commission alongside the Hackney Youth Parliament.
- (f) Within Article 9, the overarching responsibilities of the Appointments Committee have been amended in line with changes proposed by the Monitoring Officer to ensure that there is appropriate oversight of discretionary payments, paid in accordance with the Pay Policy Statement, to Chief Officers.
- (g) Within Article 15, the circumstances when the Monitoring Officer may make amendments to the Constitution without the approval of Full Council has been the subject of clarification and to include changes which improve public accessibility of the document and changes which would be necessary as a result of any restructuring of the Council's staffing arrangements agreed by the Head of the Paid Service, including re-naming posts / service areas.
- (h) Within Article 16, the wording around the interpretation of the Constitution has been amended to ensure that whilst the Speaker's (or Chair of a Committee's) ruling on such matters is final, a Councillor can seek an explanation.

8. **Part Three - Responsibility for Council and Executive Functions**

8.1. This Part of the Constitution has been the subject of considerable reorganisation. The following information has been moved from this Part to the Appendices:

- (a) The list of executive and non-executive functions;
- (b) The Terms of Reference for the Council's various committees.

This will enable any changes to the lists / terms of reference to be updated as required without necessitating a re-issue of the entire Constitution due to pagination changes at this point.

9. **Part Four - Procedure Rules**

9.1. **Section A - Council Procedure Rules**

9.2. The substantive amendments to the Council Procedure Rules are as follows:

- (a) Rules 9 and 10 - The requirements around questions by the public and councillors have been harmonised around length of the questions (50 words as exists for public questions) and reasons for not accepting questions. With regards to the latter, an additional reason for refusing to accept a question has been included where the question relates to legal proceedings in which the Council is involved to bring this more into alignment with the Council's petition scheme; this is because the Council will be constrained about what can be said whilst such proceedings are in contemplation or active. The other change is to recast the current wording around similar questions being posed at differing meetings of the Council. Whilst we do not wish to preclude questions from being asked at council meetings as they are an essential part of the democratic process, we have recently experienced an increase in essentially the same question being asked in different types of meeting, for example at both Cabinet and then Council and the same answer being given in both forums. This impacts upon the number of questions that can then be answered 'in person' at meetings. The text has therefore been amended such that the issue of whether a question is substantially the same as an earlier question, motion, petition or deputation is to be determined by reference to any meeting of the council rather than just the specific meeting.
- (b) Rule 11 - Similar amendments to the above have been made in respect of deputations.
- (c) Rule 13 - Currently the Constitution refers to opposition sponsored business being conducted at meetings which have been 'identified' for the inclusion of such business. However, in practice there is no such formal identification of meetings. This rule has therefore been amended such that opposition sponsored business can be put forward for any meeting of Council, other than the Annual Meeting and budget meeting. The Rule has also been harmonised with the text for questions, petitions and deputations as to the reasons for rejecting such business. Finally, the Constitution currently provides that debates on opposition sponsored business will continue until the Speaker concludes that 'sufficient time' has been given which does not provide clarity for anyone; therefore an explicit time period has been introduced, in the same way as there is a time limit for questions, petitions and deputations.

- (d) Rules 14 - 17 (Motions) - Apart from the amendment to permit consideration of motions for action for longer than 30 minutes, the opportunity has been taken to amend the wording around motions as there can be some confusions between the types of motion - motions which are purely procedural and motions which call for the Council to take action or adopt a particular stance on a topic (motions for discussion) - and the differences when those motions are proposed, discussed and voted on. Officers are also drafting a guidance note for internal purposes only to explain the administrative processes that should be followed for Councillors wishing to propose motions for discussion.
- (e) Rule 18 - This now includes a specific reference to Lead Members/Committee Chairs introducing annual reports, to accord with current practice, even though the reports which usually accompany Annual Reports are prepared by the relevant Group Director.
- (f) Rule 23 - Many authorities have explicit requirements for members to be in attendance for a certain length of time in order for their attendance to 'count'. Therefore this Rule has been modified to introduce a similar requirement of either 30 minutes or, if the meeting is of a shorter duration, the entirety of that duration.
- (g) Rule 27 - Reference has been added to the ability to suspend the rules regarding the amount of time set aside for Motions to enable these to be considered for longer than 30 minutes, subject to the guillotine for ending Council meetings.
- (h) A previous rule around smoking at meetings has been deleted given that this is dealt with under legislation which prohibits smoking in the workplace and public buildings. The remainder of the Rules thereafter have been renumbered.
- (i) Rule 29 - This Rule, which deals with the use of electronic communications devices, has been rephrased to make it more relevant to how devices are used during meetings.

9.3. Section B - Cabinet Procedure Rules

- 9.4. Cabinet's procedure rules have been aligned with Council procedure rules, e.g. questions, petitions, deputations with appropriate amendments to take account of differences, such as the length of time for questions at the meeting.
- 9.5. Where procedure rules are identical to those relating to Council, such as conduct at meetings, then rather than stating these again in full, a cross-referencing approach has been used with amendments as necessary.

- 9.6. Rule 5 has been updated to include all of the standing items that form part of a Cabinet meeting agenda.
- 9.7. A new rule, Rule 14, has been added to make it explicitly clear which of the Cabinet Procedure Rules apply to executive committees and sub-committees, such as Cabinet Procurement and Insourcing Committee, with appropriate amendments where necessary.
- 9.8. Section C - Budget and Policy Framework Rules
- 9.9. These Rules govern how those documents which form the Council's Budget and Policy Framework, as described in Article 4.7 of the Constitution, are to be developed and adopted. The Rules also govern how decisions outside of the framework can be made and call-in arrangements by Scrutiny Commissions.
- 9.10. Amendments have been made to the Rules to ensure that the Council's decision-making is compliant with legislation. These amendments relate to the procedures to be followed in the event that Council does not wish to approve either the budget or policy document proposed by the Elected Mayor and Cabinet.

Section D - Overview and Scrutiny Procedure Rules

- 9.11. Changes have been made, at the request of the Scrutiny Panel, to procedures around members of the Executive and Senior Officers being called to 'give account'. The notice period has been extended from at least 5 working days to at least 10 working days and the requirement for the Chair to inform the Monitoring Officer who then notifies the relevant person has been simplified such that the Chair of the Panel can notify the person directly.
- 9.12. One proposal that was put forward by the Scrutiny Panel was to use the word "Committee" rather than "Commission". This proposal was put forward given the manifesto commitment to set up 'commissions' on behalf of the Executive and the possibility that residents may then associate these with the Council's overview and scrutiny function. This was not something that the Constitution Committee were in agreement with and therefore the current name of "Commission" continues to be used.
- 9.13. There was also some discussion at the Scrutiny Panel about amendments to the remit of various Commissions, with responsibilities being moved as between them. However, this is something that is outside of the ambit of the Constitution Review as outlined earlier in this report and is better considered as part of a separate review led by Scrutiny with any agreed changes then being adopted into the Constitution.

Section E - Call-in Procedure Rules

- 9.14. In the current Constitution, the Call-in Procedure Rules are embedded within the wider Overview and Scrutiny Procedure Rules. In order to ensure that they are given appropriate prominence within the Constitution, these have been moved into their own Section.
- 9.15. In terms of substantive amendments:
- (a) The overarching principles of decision-making have been included in paragraph 1.2(a) for ease of reference; and
 - (b) The ordering of the rules has been amended to provide a better flow for the reader in terms of the procedures to be followed and headings and sub-headings have been inserted.

10. **Part Five - Finance and Contract Rules**

Section A - Financial Procedure Rules

- 10.1. The Financial Procedure Rules provide the framework for the financial administration of the Council with a view to ensuring that the Council's financial affairs are conducted in a sound and proper manner, constitute value for money and minimise the risk of legal challenge to the Council.
- 10.2. The Rules have been the subject of review to ensure that they remain appropriate and consistent with the Council's practice. Some minor amendments have been made by finance colleagues, but these do not affect the overall scope or approach to the existing rules.
- 10.3. In addition, there has been some adjustment as to the order in which information is presented, but again this does not affect the overall scope or approach to the existing rules.
- 10.4. A 'mini glossary' has been included at the start of this Section to provide the reader with an explanation of some of the more specific terms used.

Section B - Contract Standing Orders

- 10.5. Contract Standing Orders are made by the Council pursuant to section 135 of the Local Government Act 1972. Section 135 provides that the Council may make standing orders with respect to the making of contracts and shall make standing orders with respect to contracts for the supply of goods or materials or the execution of works. The section requires that such standing orders shall include provision for securing competition for contracts and for regulating the way in which tenders are invited, although they may exempt from these provisions contracts below a price specified by the Council and may exempt contracts where the Council is satisfied that the exemption is justified by special circumstances.

- 10.6. As with the Financial Procedure Rules, the Contract Standing Orders have been the subject of review to ensure that they remain appropriate and consistent with the Council's current practice. In addition, references to EU legislation have been removed.
- 10.7. Council should note that the Contract Standing Orders will need to be reviewed again once the Procurement Bill, which is at the final stage (consideration of Commons amendments) in the House of Lords, is enacted and brought into force with accompanying statutory guidance to ensure that they remain compliant with the law.
- 10.8. A 'mini glossary' has been included at the start of this Section to provide the reader with an explanation of some of the more specific terms used.

11. **Part Six - Public Participation**

- 11.1. This new Part of the Constitution is aimed at providing members of the public with easy to access information about how they can participate in the Council's decision-making processes.
- 11.2. Until now, members of the public have had to refer to different parts of the Constitution in order to find the information that is most relevant to their participation in the Council's decision-making processes. The creation of this new Part enables us to bring together all of the information into one place and provide additional information around attending meetings and public speaking.
- 11.3. Whilst this does have the effect of lengthening the Constitution, due to repetition of some information contained elsewhere, for example in the Council Procedure Rules, it is considered that this is disbenefit more than offset by the benefits which arise from the public being able to easily access this information.

Section A - Attendance at Meetings

- 11.4. The purpose of this Section is to advise the public that they are actively encouraged to attend meetings of the Council, that they can speak at certain meetings and where they can find information about meetings, agendas and reports. It also provides information about asking questions and links back to the relevant sections of the Constitution which contains the appropriate rules. Finally, the Section also advises the public about where they can watch livestreams of our meetings and how long they will remain on the YouTube channel.

Section B - Protocol for Public Speaking

- 11.5. This Section advises the public of their speaking rights at the Planning Sub-Committee and Licensing Sub-Committees and how they can exercise those rights.

Section C - Access to Information Procedure Rules

- 11.6. The existing Access to Information Rules have been divided into two parts, the first concerns the public's rights to access information under the Local Government Act 1972, and the second concerns the rights that the Elected Mayor and Councillors have to access information.
- 11.7. The Section summarises the legal rights that the public have to attend meetings; access agendas, reports and background papers; and provides information as to when and in what circumstances they may be excluded from meetings or from accessing reports. It also contains information as to how key decisions are made and how they are publicised in advance via the Forward Plan and in what circumstances key decisions can be made in exceptional or urgent situations. It should be noted that this is a change to the existing name for the Executive Meetings and Key Decisions Notice (EMKDN). The use of the term 'Forward Plan' is almost universal amongst local authorities and this change will ensure that the Council is consistent with other councils. Finally, the Rules deal with how the Council records executive and non-executive decisions.

Section D - Petitions

- 11.8. The Constitution currently contains the Council's Petition Scheme and this, renamed, Section contains that scheme. In terms of substantive amendments to the scheme:
- (a) An additional reason for not accepting a petition is where the subject of the petition has been the subject of concluded legal proceedings. The rationale for this inclusion is because if the Council has been successful in those proceedings then a petition would not change that outcome. Conversely if the Council has been unsuccessful in those proceedings then it would have to review that decision in any event.
 - (b) We will be encouraging people to use the Council's website for the creation of petitions via Mod.Gov rather than third party websites. However, this does not mean that petitions created via third party websites would not be accepted. The use of the Mod.Gov system for petitions will ensure that Officers are aware of petitions as they are happening, which is not the case for third party websites, and will also ensure that appropriate action under the scheme can be taken if and when petitions reach the relevant signature thresholds. It is recommended that petitions remain open for accepting signatures for 3 months after their creation before being 'closed'. All of these steps should assist in ensuring that petitions are not 'stale' at the point of consideration.
 - (c) Currently the Council's scheme requires all petitions with over 750 signatures to be referred to Full Council for consideration, even when those petitions concern matters which fall to Cabinet as the

decision-maker. This can lead to delays in the petition being considered by the most appropriate forum, as it means that the petition first has to go to the next available meeting of Full Council before then being referred by Full Council to Cabinet. This change will ensure that such delays do not occur as it will enable relevant petitions to be considered by Cabinet without the intervening step.

Section E - Deputations

- 11.9. This new Section aims to provide the public with an easy to read explanation of how to submit a deputation to complement the relevant Council Procedure Rule.

Section F - Protocol for Recording / Livestreaming of Council meetings

- 11.10. This new Section sets out the Council's arrangements for livestreaming meetings and when editing of livestreamed meetings may take place after the event (for example if an attendee is taken ill on screen). The Section also contains information for the public as to their rights under the Openness of Local Government Bodies Regulations 2014 around their rights to film, record, photograph and use social media during meetings of the Council and the steps which the Council expects people to adhere to in exercising those rights to ensure the effective conduct and management of the meeting. These expectations are not new and currently appear on Council agendas.

12. Part Seven - Elected Mayor and Councillors

Section A - Councillor Code of Conduct

- 12.1. The Councillor Code of Conduct was reviewed by the Standards Committee during 2021 and a new edition was adopted by Full Council in January 2022. This took effect following the May 2022 elections. It has not therefore been the subject of further review, save that the Monitoring Officer has revised the frequency of mandatory training under the Code as they are permitted to do by the Code. This change was reported to the Standards Committee in March 2023.

Section B - Standing Orders relating to the Holding of Office

- 12.2. This is a new section for the Constitution aimed at providing information on the various legislative provisions with regards to when elections are held, taking office, resignations, filling of casual vacancies, and vacation of office through non-attendance at meetings.

Section C - Members' Allowances Scheme

- 12.3. Full Council approves the Members' Allowance Scheme annually via a separate report. The Scheme has not therefore been subject to any amendment as part of the Constitution Review. The Scheme published as part of the Constitution will, as has always been the case, be replaced with

the latest edition once an amending Scheme has been approved by Full Council.

Elected Mayor's and Councillors' Rights to Access Information (Part 7, Section E)

- 12.4. As referred to earlier in this report, the existing Access to Information section has been divided into two, one dealing with the rights of the public and one dealing with the rights of the Elected Mayor and Councillors.
- 12.5. The Section covers the common law rights that the Elected Mayor and all Councillors have to access information where this is necessary to enable them to perform their duties and the limitations that the law also applies. It details that the Elected Mayor and Councillors have the same rights as any other member of the public to make requests under Freedom of Information legislation and a reminder that the Elected Mayor and Councillors are data controllers under the General Data Protection Regulations and responsible for the personal data that they may collect, store and use. The Rules also cover certain types of information which cannot be accessed, such as information relating to care proceedings.

13. Part Eight - Officers

Section A - Proper Officers Roles and Functions

- 13.1. A proper officer is an officer appointed by the Council to carry out certain administrative functions as required by statute; for example receiving or giving notices, certifying or authenticating documents, keeping registers, and issuing summonses for meetings. This section of the Constitution lists such functions and identifies the officer who is responsible.
- 13.2. The amendments made to this Part, other than with regards to formatting are:
- (a) To update the titles of various Officers to reflect current title names; and
 - (b) To provide that the Chief Executive will be the Proper Officer in respect of any statutory provisions which either have not yet been the subject of 'allocation' or which may come into force in the future. This is considered necessary to protect the Council's interests.

Section B Officer Employment Rules

- 13.3. The Council's Officer Employment Procedure Rules give effect to the legislative provisions of the Local Government and Housing Act 1989 and other statutory regulations around the employment, discipline and dismissal of Council employees. These include the statutory safeguards afforded to

the Head of Paid Service (Chief Executive), s151 Officer and Monitoring Officer.

13.4. Amendments have been made where necessary to ensure that the Rules remain compliant with legislative requirements.

13.5. Section C - Monitoring Officer Protocol

13.6. As part of the review process, a large amount of benchmarking was undertaken by the COWG to compare the Council's Constitution against those of other local authorities. A significant majority of other local authorities include a Monitoring Officer Protocol within their Constitution which sets out the working arrangements and working relationships necessary for the Monitoring Officer to effectively discharge their statutory obligations. It is therefore proposed that such a Protocol be introduced into the Council's Constitution. The Protocol does not provide the Monitoring Officer with any powers over and above those which they are given through legislation.

14. **Part Nine - Codes and Protocols**

Section A - Planning Code of Practice

14.1. The Planning Code of Practice is currently being reviewed separately from the Constitution Review. This work is being led by Officers from Planning, Legal and Governance and will be reported to the Planning Sub-Committee and the Corporate Committee in due course. Once a new edition of the Code has been finalised then it will be substituted for the existing Code which appears here.

Section B - Licensing Code of Practice

14.2. The Licensing Code of Practice is currently being reviewed separately from the Constitution Review. This work is being led by Officers from Licensing, Legal and Governance and will be reported to the Licensing Committee in due course. Once a new edition of the Code has been finalised then it will be substituted for the existing Code which appears here.

Section C - Protocol on Elected Mayor / Councillor and Officer Relations

14.3. The Council's Protocol on Elected Mayor / Councillor and Officer Relations is designed to promote the highest standards in public life and harmonious working relationships between politicians and officers, whilst recognising the varied and complex relationships that exist.

14.4. The existing protocol has been the subject of a review and refresh to provide greater clarity and understanding not only for those of us who work in this environment but also for those outside of the Council who would wish to

understand more about the relationship between the Elected Mayor & Councillors and Officers. The substantive revisions to the Protocol include:

- (a) The summary table at the beginning of the document;
- (b) A new section entitled “The Relationship: General Points”;
- (c) Re-drafting of the sections around roles and expectations, including the use of bulleted lists;
- (d) An update to the publicity and press releases section to refer to the Code of Recommended Practice on Local Authority Publicity;
- (e) An update to the correspondence section to reflect that letters are not the sole means of communication and many formal communications now occur via email; and
- (f) The collation of the mechanisms for dealing with any issues into one section.

Section D - Protocol on the Governance of Council Interests in Companies

- 14.5. It is essential from a good governance perspective that the Council needs to ensure the right balance between the needs of any local authority trading companies with regards to their ability to have the right tools to enable them to be successful, whilst also acknowledging the need for democratic accountability, a commitment to the Council's goals, and compliance with the Council's organisational systems.
- 14.6. This has been brought into sharper focus with local authority company failures being cited in various recent best value reports and public interest reports (e.g. Liverpool, Nottingham, Croydon).
- 14.7. Therefore, in addition to the internal documentation which exists around the establishment of such alternative service delivery vehicles, this protocol provides details of the high-level governance arrangements which will apply to Council owned companies. The Protocol has been derived from a model protocol issued by Lawyers in Local Government, with appropriate amendments to reflect the Council's current practice.

Section E - Protocol on Remote Attendance at Council Meetings.

- 14.8. Although the law does not currently permit the Council to conduct its meetings other than in person, it is recognised that Councillors have come to value the option of being able to ‘attend’ a meeting remotely from time to time because of various other personal and professional commitments.
- 14.9. A protocol on remote attendance is therefore proposed for adoption so that the expectations and limitations as to how such attendance is to be facilitated are clear not only for the Elected Mayor and Councillors but also

members of the public and other persons who may be interested in the conduct of Council meetings.

15. **Appendices**

Appendix 1 - Council (non-executive) Functions

15.1. This Appendix lists in tabular form the current functions of the Council which cannot be the responsibility of the Elected Mayor and Cabinet as a consequence of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended.

15.2. Appendix 2 - Local Choice Functions

15.3. This Appendix lists in tabular the current local choice functions as defined in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, and other local Acts and who Full Council has determined should be responsible for exercising those functions.

15.4. Appendix 3 - Terms of Reference of Council Committees etc

15.5. The opportunity has been taken to amend the content and formatting of the Terms of Reference of the Council's various Committees etc to ensure that as much information as possible is presented in one place - for example, around the quorum of Committees. Currently, a reader has to access multiple sources of information to discover information about our Committees and this is not user friendly.

15.6. For the avoidance of doubt, no changes have been made to the responsibilities of the various Committees although it is understood that some of the Scrutiny Commissions may look to move some of their responsibilities as between Commissions in due course. That, however, is a separate exercise to the review of the Constitution which has been undertaken.

15.7. A change is proposed in respect of the Licensing Committee to allow for the appointment of substitutes who will be able to be called upon to sit on Licensing Sub-Committees, subject to the appropriate mandatory training being undertaken by them. There has been an increase in the number of sub-committees needing to be called at short notice, due to the legal requirements around the timing of decisions, as a consequence of Temporary Event Notice applications or requests for reviews of licensing by responsible authorities and it has, on occasion, proved difficult to secure sufficient numbers of Councillors for a quorum to be achieved. The appointment of substitutes would go some way to alleviate these difficulties and also enable a wider pool of Councillors to be called upon for those sub-committee meetings which meet during the day.

16. **Public Engagement**

- 16.1. As part of the process of undertaking the Constitution Review, members of the public were invited to complete a survey via Hackney Matters and the respondents invited to participate in a focus group.
- 16.2. 17 members of the public responded to the survey. 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.
- 16.3. 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 serving to provide feedback on specific wording in the revised Constitution.
- 16.4. Participants considered that the new section on Citizen's rights and responsibilities was a helpful distillation and were surprised to see it being included in the Constitution as they had thought the document would just be about Councillors and Officers. Many of those participating in the focus group, whilst being aware that they could attend meetings, were unaware of the procedures in terms of being able to participate and one expressed the view that they would feel intimidated to come into a Council meeting. Several participants expressed the view that whilst they were aware of their ward Councillors, they had not had much contact with them and found that MPs were easier to approach and were more visible.
- 16.5. 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 and to demystify the process. 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. Participants also indicated that they would welcome the publication of a short guide to sit alongside the Constitution.
- 16.6. This engagement exercise has helped in providing a baseline of knowledge against which we will be able to judge the success of the steps taken to widen public knowledge about the Constitution and how to get involved in democratic processes more generally. Similarly, the engagement exercise

has provided some interesting suggestions around the proposed summary guide and how to make it more of an interactive document.

17. **Future Work**

- 17.1. Once Council has adopted the Constitution, the primary focus prior to it coming into effect will be on the insertion of hyperlinks / bookmarks to enable its publication and 'launch' at the beginning of September. Drop-in sessions will be arranged to introduce everyone to the new Constitution and a communications strategy will be developed in consultation with Constitution Committee members. The work of the COWG and Constitution Committee to date is being highlighted at the summer meeting of the Council's Senior Managers' Network. The new Constitution, the Council's decision-making processes and how people can get involved will also be a focus for the Legal and Governance Service as part of its contributions to Local Democracy Week in October.
- 17.2. Alongside this, the COWG intends to turn its attention to devising a summary guide which will sit as a companion document to the Constitution.
- 17.3. The COWG will also begin work on refreshing the Officer Scheme of Delegations to ensure that they remain fit for purpose and to reduce the need, where possible, to issue updates to the Schemes as a consequence of amending legislation. This would not seek to amend the Schemes so as to expand or contract upon the delegations currently given to Officers, rather consideration would be given as to how the Schemes are presented; and whether they should be negative or positive in construction i.e. whether they should start from the premise of Officers only being able to exercise those powers which are specifically listed (negative) or whether they should start from the premise of Officers being able to exercise legislative powers under relevant Acts unless they have expressly excluded from doing so (positive).
- 17.4. It is also proposed that a review of the operation of the Constitution be carried out one year after its adoption. Surveys will be carried out with the Elected Mayor and Councillors, Officers and the public to discover whether our publicity efforts around the new Constitution have increased awareness of it, how people find using it as a means of reference and whether there are any other improvements that could be made. It will also serve as a useful point to reflect on the operation of the Constitution with regards to supporting participation in decision-making. The review will consider whether any changes have had a different effect to that intended. Alongside this, the COWG will maintain a log of any suggestions/comments made for future development/alterations etc

18. **Comments of the Group Director of Finance and Corporate Resources**

- 18.1. There are no financial implications arising from the recommendation contained within this report. Any costs associated with the review of the Constitution have been and will continue to be met from within existing budgets.

19. **Comments of the Director of Legal, Democratic and Electoral Services**

- 19.1. 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.
- 19.2. 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.
- 19.3. It is the responsibility of Full Council to adopt any new Constitution.

Appendices

Appendix 1 - Council Constitution (July 2023)

Background documents

None

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