

**EAST LONDON WASTE AUTHORITY**

**27 SEPTEMBER 2010**

**MONITORING OFFICER'S REPORT**

<b>AMENDMENTS TO THE ELWA CONSTITUTION</b>	<b>FOR APPROVAL</b>
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**1 Purpose**

- 1.1 To propose amendments to the Authority's Constitution to reflect changes agreed by the Authority.

**2 Background**

- 2.1 In February 2009, the Authority commissioned consultants to conduct a review of the Authority's governance structure with a view to bringing the Authority in line with its current developmental stage as an established waste disposal business. It was felt the Authority needed to review its structures to ensure they were fit for purpose going into the future. Following the review, proposals were made for changes to ELWA's structure and constitution.
- 2.2 At its meeting held on 29th September 2009, the Authority gave support to the general recommendations in the consultants' report and agreed to make certain amendments to its Constitution to reflect the organisational and governance changes recommended by the consultants.
- 2.3 Part H of the Constitution makes the Monitoring Officer responsible for monitoring and reviewing the operation of the Constitution and in pursuance of the Authority's decision, the Monitoring Officer drafted amendments to the Constitution, which amendments were approved by the Authority at its meeting in February 2010 (Minute 46).
- 2.4 The Monitoring Officer, in consultation with the Financial Director and the Executive Director, has further reviewed the Constitution and has made further proposals for amendment to bring the rest of the Constitution, including the Financial and Contract Rules, in line with the governance change amendments approved in February 2010, and to ensure that the Constitution is updated and made fit for its current purpose.
- 2.5 The proposed amendments were brought before the Authority at its meeting in June 2010, and the detailed description of them set out in the accompanying report. The Authority decided it would further consider the proposals at a Workshop held in July 2010. At the Workshop Members fully considered and approved the proposals and made recommendations that they be presented to the Authority at its next meeting for final approval.

- 2.6 The Monitoring Officer has made the requisite amendments and is submitting the amended Constitution (appended to this report as Appendix A) to the Authority for final approval.
- 2.7 Members' attention is particularly drawn to clause 5.2 (Committees) of Article 1 of Part B. The text of this clause did not appear in full amongst the draft amendments presented to Members at the Authority Workshop.
- 2.8 At the Workshop, Members suggested the Constitution be amended so that for a quorum of any committee set up by the Authority to be effective, there should be at least four Members consisting of at least one Member from each Constituent Council.
- 2.9 In making the amendments the Monitoring Officer noticed that if this amendment were made it would result in a conflict between the clauses. Clause 5.2 provides for the Authority to set up any committee and its terms of reference, powers and functions. Clause 13.3 provides for a quorum of the Authority to consist of at least four Members consisting of Members from at least three Constituent Councils. Given that the Authority consists of only eight Members, the suggested amendment for committees would appear to be more demanding than that for meetings of the full Authority. Further, Members may take the view that a requirement for at least four Members representing each of the Constituent Councils to make a committee quorate could restrict the ability of the Authority to set up a small working group of say two or three Members, whose terms of reference could require the committee to report back to the full Authority for final approval.
- 2.10 Members are therefore asked to consider the implications of the above and provide any further guidance to the Monitoring Officer as to how the composition of committees should be reflected in the constitution.

### **3 Legal Implications**

- 3.1 This report was prepared by the Monitoring Officer & Legal Adviser to the Authority and the legal implications are set out in body of the report.

### **4 Recommendations**

- 4.1 Members are recommended to:
- (a) Approve the proposed amendments to the Authority's Constitution as set out in Appendix A, subject to any further amendments as may be agreed by the Authority.
  - (b) Delegate power to the Monitoring Officer, in consultation with the Managing Director, to make any further amendments as the Authority may agree, together with any other minor administrative or typographical corrections

- (c) Adopt the new revised version of the Constitution effective from 1st October 2010.

Eldred Taylor-Camara  
**MONITORING OFFICER**

<b>Appendices</b>		
A	Draft	Proposed Amended Constitution
<b>Background Papers</b>		
01/02/10	Report and Minute 46/2009	ELWA Constitution - Proposed amendments following the Governance Review
07/06/10	Report and Minute 9/2010	The Constitution – Consequent Amendments