

## ANNUAL ASSEMBLY

15 May 2019

<b>Title:</b> Review of Council Governance Arrangements and Constitution Updates	
<b>Report of the Cabinet Member for Finance, Performance and Core Services</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> None	<b>Key Decision:</b> No
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<b>Accountable Strategic Leadership Director:</b> Fiona Taylor, Director of Law and Governance (and Monitoring Officer)	
<b>Summary</b>  By Minute 56 (28 February 2018) and Minute 8 (23 May 2018), the Assembly approved a range of new committee structure and governance arrangements that took effect from the start of the 2018/19 municipal year.  The new arrangements have been kept under review during the first year and are working very well. The review process has, however, highlighted some aspects that need refinement which include:  <ol style="list-style-type: none"><li>1) Revisions to the terms of reference of the Audit and Standards Committee, the Overview and Scrutiny Committee and the Health Scrutiny Committee to clarify the respective committees' responsibilities;</li><li>2) Increasing the programme of Assembly and Health Scrutiny Committee meetings to six per year; and</li><li>3) Reinstating the provision within the public speaking rules to allow the Chair to exercise discretion.</li></ol> A schedule of all proposed changes to the Council Constitution (which includes other changes that do not require the approval of the Assembly in line with the Constitution review / revision arrangements) is attached at Appendix 5.	
<b>Recommendation(s)</b>  The Assembly is recommended to:  <ol style="list-style-type: none"><li>(i) Agree the revised Articles of the Audit and Standards Committee, as set out at Appendix 1 to the report;</li><li>(ii) Agree the revised Articles of the Overview and Scrutiny Committee, as set out at Appendix 2 to the report;</li></ol>	

<ul style="list-style-type: none"> <li>(iii) Agree the revised Articles of the Health Scrutiny Committee, including an increase to the meeting frequency to six meetings each municipal year, as set out at Appendix 3 to the report;</li> <li>(iv) Agree the increase to the meeting frequency of the Assembly to six meetings each municipal year;</li> <li>(v) Agree the revised 'Meeting Rules - General' Article, as set out at Appendix 4 to the report;</li> <li>(vi) Note the full schedule of amendments to the Constitution as set out at Appendix 5 to the report; and</li> <li>(vii) Note that the new Council Constitution shall be published on the Council's website once all the agreed changes have been made.</li> </ul>
<p><b>Reason(s)</b></p> <p>To meet the requirements of the Local Government Act 2000 relating to maintaining and reviewing a Council Constitution.</p>

## 1. Introduction and Background

- 1.1 In July 2014, the Local Government Association (LGA) was invited to carry out a Corporate Peer Challenge of the Council, to assess the organisation's ability and capacity to deliver on its plans, proposals and ambitions. Following on from that, the Council commissioned an independent Growth Commission to review the Council's ambition to be London's growth opportunity, and to recommend how to maximise the contribution of the Borough and our people to the London economy.
- 1.2 A number of recommendations arose from those pieces of work which related to the Council's governance arrangements. These included:
- Reducing the cost of democracy in the context of the Council's Ambition 2020 transformation programme;
  - The need for clearer Member and officer roles;
  - Enabling Members to spend more time in their communities through a reduction in Council meetings; and
  - Aligning the Council's work programme with the Ambition 2020 transformation programme and Growth Commission recommendations.
- 1.3 To take that work forward a Cabinet Task Group, chaired by Councillor Haroon, was established in late 2015 to consider how Members' roles would change by 2020 through the creation of new Council service blocks and Council-owned companies, and in response to a reinvigorated growth agenda. The main priorities considered by the Task Group were:
- the findings of the LGA Peer Review in 2014;
  - the need to align the new Council's new structures with Members' roles, including more involvement in developing Council policy; and
  - a more strategic focus on growth and development (i.e. planning matters).

- 1.4 The Task Group considered information including Member Role Profiles, benchmarked committee sizes across London and examined terms of reference for all committees, including attendance rates and outcomes (such as the number of reports produced). It also reflected on the evolving changes to the Council senior management structures and the internal governance arrangements, including the assurance and performance boards. It was subsequently decided that any new arrangements would be implemented for the 2018/19 municipal year.
- 1.5 A new Transformation Task Group, also chaired by Councillor Haroon, was established by the Leader in the summer of 2017 to review the committee structure and wider governance proposals put forward by the earlier Task Group.
- 1.6 The recommendations from that Transformation Task Group formed the basis of a report to the Assembly on 28 February 2018 where a range of changes to the Council's committee and governance arrangements were approved, the main aspects being:
- the creation of a single Overview and Scrutiny Committee, supported by Task and Finish Groups, to replace the existing structure of five themed Select Committees;
  - the creation of an Audit and Standards Committee, which combined the current responsibilities of the Standards Committee and the audit functions held by the Public Accounts and Audit Select Committee;
  - the renaming of the Development Control Board to the Planning Committee and a reduction in the membership from 19 to 10 Members, aimed at enabling more in-depth critical analysis of major development proposals;
  - the establishment of Policy Task Groups and the role of Member Champions under the remit of the Cabinet; and
  - reducing the term of Member appointments to the Pensions Committee from four years to two years.
- 1.7 A follow-up report to the Assembly meeting of 23 May 2018 put forward further revisions to the Council's committee and governance arrangements which included:
- The re-establishment of a separate Health Scrutiny Committee; and
  - New arrangements for public participation in the Council's main decision-making meetings.

## **2. Proposals and Issues**

- 2.1 Following their introduction from the start of the 2018/19 municipal year, the new arrangements have been closely monitored to ensure that they are fit-for-purpose. The arrangements appear to be working very well and the only issues that have arisen are of an administrative nature.
- 2.2 **Revisions to the terms of reference of the Audit and Standards Committee**
- 2.2.1 Under the new arrangements agreed by the Assembly in February 2018, the scrutiny-related functions of the former Public Accounts and Audit Select Committee (PAASC) transferred to the new Overview and Scrutiny Committee (OSC), while

PAASC's audit-related responsibilities transferred to a new Audit and Standards Committee (ASC).

2.2.2 Although work was undertaken at the time to reallocate responsibilities to reflect the new governance arrangements, the subsequent review work and a separate assessment by the ASC of its workload and future work programme highlighted that ASC's terms of reference still alluded to some aspects of scrutiny that had transferred. It also became apparent that some other elements that had remained in ASC's terms of reference were no longer relevant or would benefit from rewording.

2.2.3 At its meeting on 3 April 2019, the ASC considered and endorsed the proposed changes to its terms of reference and the updated Article is set out at Appendix 1, with the amendments shown in 'revision mode'.

### **2.3 Revision of the Articles for the Overview and Scrutiny Committee and the Health Scrutiny Committee**

2.3.1 The material changes proposed to the Articles of the OSC and HSC are:

- (i) amendments in relation to scrutinising performance and financial matters stemming from the proposed changes to the ASC's terms of reference, as referred to above;
- (ii) the transfer of the responsibility for scrutinising adult social care from HSC to OSC (to correct a drafting error);
- (iii) the inclusion of wording (previously included in the Articles of the Safer & Stronger Community Select Committee) to reflect OSC's responsibilities for culture, libraries, heritage and arts, community safety, social inclusion, equalities, cohesion and faith and engaging with the community and voluntary services operating in the borough.

2.3.2 The Articles for both OSC and HSC have also been updated to improve their structure and wording has been added / amended in certain areas to better explain the working practices and procedures.

2.3.3 The opportunity has also been taken to consolidate the scrutiny procedure rules solely within the OSC's Articles, with appropriate cross-referencing in the HSC Articles – previously, almost identical scrutiny procedure rules appeared in the Articles for both OSC and HSC. The updated Articles for OSC and HSC are attached at Appendices 2 and 3 respectively, with the amendments shown in 'revision mode'.

2.3.4 In May 2018, the Assembly agreed to re-establish the HSC on the understanding that the position would be reviewed for the 2019/20 municipal year due to the potential, at that time, for developing stronger arrangements with neighbouring boroughs to integrate health and social care services and scrutiny arrangements into the Joint Overview and Health Scrutiny Committee (JHOSC) arrangements.

2.3.5 The joint health scrutiny arrangements with neighbouring Boroughs are generally the same now as they were in 2018 and, with that in mind, it is intended to retain the Health Scrutiny Committee in its present form for the foreseeable future. It has become apparent, however, that the current quarterly meeting cycle of the HSC is

not sufficient to enable the Committee to properly fulfil its terms of reference and implement its proposed work programme. Therefore, it is proposed that the meeting frequency of HSC be increased to six meetings each year.

## **2.4 Meeting Frequency of the Assembly**

2.4.1 Prior to 2018, the Assembly was scheduled to meet six times a year. As part of the governance changes, that meeting frequency was reduced to five times a year.

2.4.2 It became apparent during the 2018/19 municipal year that a six-meeting programme was more appropriate to ensure the smooth and timely running of Council business (an extraordinary meeting was added to the programme in July 2018 to deal with business that could not reasonably wait until the next scheduled meeting in September 2018).

2.4.3 With that in mind, it is proposed to return the Assembly to a meeting frequency of six meetings each year.

## **2.5 Arrangements for public participation in the Council's main decision-making meetings**

2.5.1 At the Assembly in May 2018, new provisions aimed at improving public participation in Council meetings were introduced. These new provisions omitted a previous clause that gave the Chair of the meeting the discretion to allow members of the public to speak, outside of the formal 'Submitting a Question' arrangements.

2.5.2 In order to reinstate provision for the Chair to use his/her discretion, it is proposed that a new clause 12.13 be incorporated into the 'Meeting Rules – General' section of the Constitution (Part 2, Chapter 3) to the effect that "*The Chair may, at his/her discretion, allow a member of the public who has not submitted a valid question to speak at a meeting (subject to any overriding provisions in relation to quasi-judicial meetings) but that shall not extend to asking a question*". The updated Article is attached at Appendix 4.

## **2.6 Other Amendments to the Council Constitution**

2.6.1 Attached at Appendix 5 is a schedule of all proposed changes to the Council Constitution. This schedule includes the proposals referred to above as well as details of other changes that do not require the approval of the Assembly and which have been approved by the Monitoring Officer, in line with the review / revision arrangements set out in Part 7 of the Constitution.

## **3. Options Appraisal**

3.1 The proposals in this report build on the wide range of options that were considered by the 2015 and 2017 Task Groups and arrangements approved by the Assembly on 28 February 2018 and 23 May 2018.

## **4. Consultation**

4.1 The Audit and Standards Committee proposals were considered and endorsed by the Committee at its meeting on 3 April 2019. The Chairs of the OSC and HSC

have been consulted on the revisions to those committees' Articles and the relevant portfolio holder has been consulted on the wider arrangements.

## **5. Financial Implications**

Implications completed by: Katherine Heffernan, Group Manager, Service Finance

- 5.1 There are no direct financial implications associated with the proposals in this report. Any costs associated with the increase in the meeting frequency of the Assembly and Health Scrutiny Committee will be met from within existing resources.

## **6. Legal Implications**

Implications completed by: Dr. Paul Feild, Senior Governance Solicitor

- 6.1 All of the Council's statutory functions will continue to be fulfilled under the proposed new arrangements.
- 6.2 The Local Government Act 2000 requires Councils to produce, maintain and review the Constitution document as part of their good governance arrangements. The Constitution must contain the Council's Code of Conduct, as required by the Localism Act, together with standing orders, any other information as the Secretary of State may direct and such other information as the Council considers necessary.
- 6.3 It is a legal requirement that the Council ensures that copies of its constitution are available at its principal office for inspection by members of the public at all reasonable hours. Finally, the Council must supply a copy of its Constitution to any person who requests a copy and who pays to the authority such reasonable fee as the Council may determine.

### **Public Background Papers Used in the Preparation of the Report:**

- "Review of Council Governance Arrangements" report to Assembly, 28 February 2018 (<https://modgov.lbbd.gov.uk/Internet/ieListDocuments.aspx?CId=179&MId=9405&Ver=4>)
- "Review of Council Governance Arrangements Update Report" to Assembly, 23 May 2018 (<https://modgov.lbbd.gov.uk/Internet/ieListDocuments.aspx?CId=179&MId=9404&Ver=4>)
- "Review of the Committee Terms of Reference" report to Audit & Standards Committee, 3 April 2019

### **List of appendices:**

- Appendix 1 – Audit & Standards Committee Articles (May '19)
- Appendix 2 - Overview & Scrutiny Committee Articles (May '19)
- Appendix 3 - Health Scrutiny Committee Articles (May '19)
- Appendix 4 - Meeting Rules – General Articles (May '19)
- Appendix 5 – Schedule of all Constitutional Amendments (May '19)