

ASSEMBLY

17 September 2014

Title: Constitution Review	
Report of the Chief Executive	
Open Report	For Decision
Wards Affected: None	Key Decision: No
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Accountable Divisional Director: Fiona Taylor, Head of Legal and Democratic Services	
Accountable Director: Graham Farrant, Chief Executive	
Summary <p>The Council is required by Section 37 of the Local Government Act 2000 to keep its Constitution up to date and under annual review.</p> <p>A comprehensive review has been carried out over the past 12 months to ensure that the document is up to date and reflects new legislative requirements, and in order to deal with any ambiguity or poor wording. A plain English approach has also been adopted.</p> <p>This report presents the proposed new Constitution in its entirety - the document is listed as Appendix 1 and has been sent to all Members under separate cover. The structure remains largely the same as the current Constitution and includes the vast majority of the original component parts, although there are several new elements and some former elements have been removed, the details of which are covered in more detail in the body of the report.</p> <p>The full Constitution is presented for formal adoption but the Head of Legal and Democratic Services will keep the document under continual review. Any issues or questions which Members may have can be dealt with under that continual review process and, where necessary, appropriate amendments put forward to subsequent meetings of the Assembly.</p>	
Recommendation(s) <p>The Assembly is recommended to adopt the new Council Constitution at Appendix 1 to the report.</p>	
Reason(s) <p>To meet the requirements of the Local Government Act 2000.</p>	

1. Introduction and Background

- 1.1 Section 37 of the Local Government Act 2000 requires that the Council has in place a document, known as its Constitution, which contains the Council's standing orders, codes of conduct, and such other information as the Council considers appropriate or required by law.
- 1.2 The Council Constitution was adopted by the Assembly in 2000 and although it has been maintained and updated throughout that time it has never undergone a full, cover-to-cover review. With that in mind, a comprehensive review was initiated last year.
- 1.3 There were two key principals underpinning the review. The first was to 'challenge' the Council's rules and protocols to ensure that they reflected modern ways of working and new legislative requirements. The second was to improve the general language to make the document easier to read and understand, while at the same time maintaining the integrity of such an important document.
- 1.4 During the course of the last year, the Assembly has been presented with some of the elements of the new Constitution as they have been completed. These include the Contract and Financial Rules which were approved by Minutes 41 and 42 of the meeting on 4 December 2013 and the Employees' Code of Conduct and Protocol for Councillor/Employee Relations which were approved by Minute 57 of the meeting on 19 February 2014.

2. Proposal and Issues

- 2.1 As the entire Constitution has been updated it is not possible / practical to show all of the changes that have been made. Paragraph 2.2 below deals with the significant changes but the key points to highlight from a more general perspective are:
 - a) There is a greater focus on Council procedure rules, statutory functions and responsibilities;
 - b) The revised structure brings together each committee's procedures and responsibilities into one document under the individual Articles in Part 2 (previously these were separate in Parts B and C);
 - c) Some non-essential (from a constitutional perspective) but nonetheless practical information, such as "Use of Council resources, facilities and equipment", "Protocol re Communications for Council members" and "Conference, visit and hospitality rules" in the previous Constitution have been removed and will now be maintained, following review, and available on the Council's website for Councillors and officers to refer to;
 - d) Simpler language and less repetition;
 - e) 60+ fewer pages.

- 2.2 The significant changes are as follows (these are listed under the relevant Part of the new Constitution):

Part 2

- (i) **Merger of former Leader's Questions and General Questions processes into single "Questions with Notice" section (Chapter 4, paragraph 9).**
The separate Leader's Questions and General Questions processes were considered to be an unnecessary duplication and could cause confusion due to different deadlines for each process. Therefore, a single process is proposed which allows an individual Councillor to submit up to two questions by a deadline of midday the Friday before the meeting, which is a compromise between the former five working day deadline for Leader's and two working day deadline for General Questions.
- (ii) **Clarification of the process for Call-In, the requirements for a valid call-in and Chief Executive's determination (Chapter 8, paragraph 6).**
There are no proposed changes to the deadlines or thresholds for call-in. The changes are aimed at providing greater clarity to Members on the factors that they need to take into account, including providing evidence, when considering a call-in. The changes also include specific circumstances where a call-in would be considered invalid (for example, when pre-decision scrutiny has been undertaken), specify that the Chief Executive is responsible for making the final decision on the validity or otherwise of a call-in request and include a new exemption from call-in in relation to the awarding of contracts that have followed a lawful procurement process.
- Linked to this point, the Budget and Policy Framework now includes a detailed process for dealing with call-in decisions which are potentially considered to be contrary to the Budget or Policy Framework (**Chapter 18, paragraph 6**).
- (iii) **Creation of new Licensing Sub-Committee to consider all applications (Chapter 10).**
Statutory Guidance issued in June 2013 under Section 182 of the Licensing Act 2003 recommends that decisions on applications where there are representations should be delegated to a sub-committee and not dealt with by the full committee. With that in mind, revised terms of reference of the Licensing and Regulatory Board (LRB) have been drawn up which propose the appointment of a sub-committee, with a membership of three, to determine applications that have, up to now, been considered by the full LRB. There are no proposed changes to the level of decisions which are made by Members and those made by officers under delegated authority. The full LRB would meet quarterly to consider strategic / policy matters and other current issues and the new Licensing Sub-Committee would meet as and when required to consider applications.
- (iv) **New section on "Outside Bodies" which includes a "Guide to the Law for Councillors and Officers on Outside Bodies" (Chapter 15)**

Part 3

(v) **Officer Scheme of Delegation (Chapter 1, paragraph 14).**

A new clause has been included to reflect requirements of the Openness of Local Government Bodies Regulations 2014 in relation to the recording and publication of delegated decisions taken by officers.

Part 5

(vi) **New protocol to reflect the requirements of the Openness of Local Government Bodies Regulations 2014 in relation to filming, social media etc. at Council meetings (Chapter 6).**

(vii) **New protocol on Politically Restricted Posts (Chapter 7).**

(viii) **New protocol on Indemnities for Members and Officers (Chapter 8).**

- 2.3 The Land Acquisition and Disposal Rules (Part 4, Chapter 4) have been updated but only in terms of cross-referencing, terminology and other minor changes. These Rules are subject to a significant review by the Chief Finance Officer, in consultation with the Cabinet Member for Finance, and the new Rules will be presented to the Assembly in due course.

3. Options Appraisal

- 3.1 This is not relevant to this report.

4. Consultation

- 4.1 This Constitution review has been led by officers in Legal and Democratic Services who have consulted with relevant colleagues throughout.

- 4.2 In respect of the areas of significant change, consultation has taken place with the appropriate Cabinet Members, Chairs and Deputy Chairs and the views of the Leader's office have also been sought on the full document.

- 4.3 The Constitution will be subject to continual review. Any issues or questions which Members may have can be dealt with under that continual review process via the Head of Legal and Democratic Services and, where necessary, appropriate amendments put forward to subsequent meetings of the Assembly.

5. Financial Implications

Implications completed by: Jonathan Bunt, Chief Finance Officer

- 5.1 There are no direct financial implications arising from this report.

6. Legal Implications

Implications completed by: Fiona Taylor, Head of Legal and Democratic Services

- 6.1 The Local Government Act 2000 requires Councils to produce, maintain and review the Constitution document as part of their good governance arrangements.

Public Background Papers Used in the Preparation of the Report: None

List of appendices:

- Appendix 1 - New Constitution (circulated under separate cover and available on the Council's website at <http://moderngov.barking-dagenham.gov.uk/ieListDocuments.aspx?CId=179&Mid=7537&Ver=4>)