

## MUNICIPAL YEAR 2019/2020 REPORT NO. 2

### MEETING TITLE AND DATE:

MDSG – 23<sup>rd</sup> April  
Council – 8th May 2019

### REPORT OF:

Director of Law & Governance

Agenda – Part: 1

Item: 12

**Subject: Review of the Constitution**

**Wards: All**

**Cabinet & Other Members consulted:  
Leader & Deputy Leader, MDSG**

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## 1. EXECUTIVE SUMMARY

- 1.1 The Constitution is separated into 6 main Parts. Over time, the Council has approved amendments and updates to the individual parts as required, however, it is now timely and necessary to undertake a complete review in order to ensure that all parts link accordingly and that there are no contradictions in the procedure rules.
- 1.2 The review will be phased in 2 parts to provide a manageable implementation, with support and briefings provided for members.
- 1.3 This report outlines the key areas of focus under the review and changes to the procedure rules. MDSG is recommending the following amendments to the Rules of Procedure for Council, Scrutiny Call-in, Cabinet, Operating Rules for Committees, Terms of Reference Template.

## 2. RECOMMENDATIONS

- 2.1 Council is asked to approve the proposed amendments referred from MDSG as set out in this report.
- 2.2 To note that the revised Council Rules of procedure will apply from the July Council meeting, and all other constitutional amendments within Phase 1 will take immediate effect.

### **3. BACKGROUND**

- 3.1 The last major review of the constitution was undertaken in 2016 and approved at Council in June 2016. These amendments focussed solely on the Council Procedure Rules in order to make Council meetings more efficient.
- 3.2 The current proposals make further amendments to the Council procedure rules but incorporate wider changes to the constitution where members have discussed the need to ensure that meetings and processes operate more effectively.
- 3.3 Council is asked to approve the phase 1 proposals in the report and note the areas of review to be undertaken in phase 2. .

#### **PHASE 1**

Member & Democratic Service Group 23rd April  
Annual Council 8<sup>th</sup> May 2019

1. Approve changes to the constitution Part 4 Rules of Procedure:
  - Council Procedure Rules
  - Scrutiny Call-in criteria
  - Cabinet deputations
  - Operating Rules of Committees
  - Introduce a standard Terms of Reference Template (example attached as appendix 1)

#### **PHASE 2**

Member & Democratic Services Group October  
Full Council 20th November 2019

1. Approve changes to the constitution:
  - Part 3 – Scheme of Delegation
  - Part 5 - Code of Conduct
  - Part 4- Key Decision Threshold
  - Part 6 - Members Allowances
  - Planning Committee Procedure Rules
  - Finance Procedure Rules
  - Property Procedure Rules
  - Procurement Procedure Rules
2. Approve a revised Council Committee Structure
3. Approve streamlined Outside Bodies list
4. Boards and other Council meetings

## **4.0 KEY POINTS IN THE REVISED PROPOSALS IN PHASE 1:**

### **4.1 COUNCIL PROCEDURE RULES**

#### **4.1.1 Council Agenda Timing**

The Changes to this section are intended to simplify the process for a timed agenda.

The full revised text is set out as follows: -

The timings set out below, and order of business will be adhered to during the Council meeting. (However if, during the meeting, the Mayor agrees that amendment of the timings or the order of business is justified, a motion to vary them may be put to the meeting, subject to rule 2.2, and in accordance with Rules 9.2, 13(m) and 14.10(c). Such a motion shall specify how the remainder of the business is to be dealt with and may include an extension of the meeting under Rule 9.2.

When there is Opposition Business:

15 minutes allocated to (a – e) (Mayors announcements, minutes declarations),  
45 minutes Opposition Business  
60 minutes Reports  
50 minutes motions  
20 minutes Council Questions  
5 minutes Memberships and remaining items

At the Annual and Budget meetings of the Council there will be no Opposition Business or Motions

#### **4.1.2 Order of Business**

The Changes to this section propose that reports must be dealt with immediately after Opposition Business and cannot be moved on the agenda.

The full revised text is set out as follows: -

The order of business at ordinary meetings of the Council will be as follows:

- (a) elect a person to preside if the Mayor and Deputy Mayor are not present;
- (b) Mayor's announcements;
- (c) to approve as a correct record and sign the minutes of the last meeting of the Council;
- (d) receive any declarations of interest from councillors;

- (e) to deal with any business required by statute to be done before any other business;
- (f) to receive and consider any Petitions referred to Council in accordance with Rule 33;
- (g) Opposition Business under Rule 15;
- (h) to deal with any other business expressly required by statute (not required under (c) above) or specified in the summons including reports from the Executive, Proper Officers, Overview and Scrutiny Committee, Audit and Risk Management Committee, Councillor Conduct Committee or other Joint Bodies and Partners;
- (i) to answer questions asked under Rule 10;
- (j) to consider motions; and
- (k) other business, if any, specified in the summons.

Items (a) to (h) above shall not be displaced, but items (i) to (k) above may be varied in accordance with Rule 4 below. A maximum of 15 minutes shall be set aside for items (a) to (d).

#### **4.1.3 Questions**

The Changes to this section include additional criteria on the validity of questions to ensure that every question relates to the Council's powers or is a matter that affects the Borough.

The full revised text is set out as follows: -

All questions at the Council meeting must relate to the Council's powers or matters that affect the Borough. Questions will be put and answered without debate. The question must specify the relevant councillor who is being asked to respond. In the case of any doubt the Monitoring Officer, in consultation with the Mayor, will decide the appropriate councillor to respond.

- The Monitoring Officer has the power to reject questions for the following reasons:
  - The question does not relate to a matter about which the local authority has powers or duties or which significantly affects the borough.
  - It is substantially the same as a question which has been put at a meeting of the Council in the past 6 months
  - It requires disclosure of confidential or exempt information
  - It relates to a specific planning or licensing application
  - It is a matter subject to litigation or could place the Council at risk of litigation.

#### **4.1.4 Motions**

The Changes to this section include additional criteria on the validity of motions to ensure that every motion relates to the Councils powers or duties or is an issue that affects the Borough.

The full revised text is set out as follows: -

The Monitoring Officer has the power to reject motions for the following reasons:

- The motion does not relate to a matter about which the local authority has powers or duties or which significantly affects the borough.
- It is substantially the same as a motion which has been debated at a meeting of the Council in the past 6 months
- It requires disclosure of confidential or exempt information
- It relates to a specific planning or licensing application
- It is a matter subject to litigation or could place the Council at risk of litigation.

#### **4.1.5 Amendments to Motions, Reports Or Other Business**

The Changes to this section are intended to simplify the amendment process.

The full revised text is set out as follows: -

- (a) An amendment must be relevant to the motion, report or other business being considered and will either be:
- (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words.
- as long as the effect of (ii) to (iv) is not to negate the motion or recommendation being considered.
- (b) The text of any amendment shall, normally, be delivered in writing to the Monitoring Officer no later than 12 noon the day before the relevant meeting. The content of the amendment shall be shared with the other political groups.
- (c) Only one amendment may be moved and discussed at any one time. The substantive motion or recommendations must be moved and seconded before any amendment can be formally proposed. Amendments will be moved and seconded following the substantive motion, report or other business having been moved and seconded.

- (d) There will then follow a debate on the amendment only. The debate will finish with the right of reply for the mover of the amendment (2 minutes).
- (e) The amendment will then be voted upon.
- (f) Where there is more than one amendment they will be dealt with as set out above and in the order they were received by the Monitoring Officer.
- (g) Where an amendment is carried, the motion, report or other item of business as so amended takes the place of the original motion, or recommendation(s) in the report or other item of business.
- (h) At the conclusion of the consideration of any amendments there will then be a debate on the substantive motion, report or other item of business. The debate will finish with the right of reply for the mover of the original motion, report or other item of business (2 minutes).
- (i) The motion, report or other item of business will then be voted upon.

## **4.2 SCRUTINY PROCEDURE RULES**

### **4.2.1 Scrutiny Call-in**

1. The Changes to this section include a tidy up of the test for call-in to reflect statutory guidance and a requirement for the Monitoring Officer to consult the O&S Chair before rejecting.

The full revised text is set out as follows: -

A valid request for call-in is one which is submitted to the Monitoring Officer in writing within 5 working days of the date of publication of the decision by at least 7 members of the Council.

The Monitoring Officer will deem valid a request that fulfils all of the following 5 criteria:

- it is submitted by 7 Members of the Council.
- it is received by the Monitoring Officer by 5pm on the fifth day following publication.
- it specifies the decision to which it objects.
- it specifies whether the decision is claimed to be outside the policy or budget framework.
- it gives reasons for the call-in and outlines an alternative course of action.

In relation to the reasons for call-in, the Monitoring Officer has a discretion, having consulted with the Chair of Scrutiny, to refuse any reasons which are in the view of the Monitoring officer, requests for information, expressions of opinion or are not directly relevant to the decision being called in.

### **4.3 CABINET PROCEDURE RULES**

The Changes to this section simplify the process for councillors to make a request to the Chair to speak at Cabinet, and similarly for members of the public to present deputations.

The full revised text is set out as follows: -

- 4.3.1** Any member of the Council may attend open meetings of the Cabinet and speak at the discretion of the Chair. Such requests should be notified to the Leader of the Council or the Monitoring Officer in advance of the Cabinet meeting for the Leader's consideration/approval.

#### **4.3.2 Deputations and Petitions**

The public may present the Cabinet with deputations (with or without petitions) which must be sponsored by a named councillor. Council have agreed a protocol for the public to present deputations and petitions to Cabinet. All requests for deputations are subject to the approval of the Leader of the Council.

Where possible, the Cabinet will respond to the deputations and petitions at the meeting. However, if this is not possible, it may refer the subject matter to the relevant Executive Director, Director, Cabinet member, or Overview and Scrutiny Committee for further consideration. The Cabinet may also decide to debate the matter at a future meeting after further information is available.

Petitions without deputations will be dealt with in accordance with the Council's Petitions Scheme.

### **4.4 OPERATING RULES FOR COMMITTEES**

#### **4.4.1 Substitutes**

The Changes to this section are intended to allow flexibility for representation at meetings and allow for substitutes to attend when required.

The full revised text is set out as follows: -

The Monitoring Officer is authorised to make changes in the standing appointments to committee and sub-committees on the instruction of the political groups, through the use of substitute Members as and when required for particular meetings. The use of substitutes does not apply to meetings of the Cabinet, where substitutes are prohibited under the Local Government Act 2000.

Nominations for substitute Members will need to be received by the Monitoring Officer or the Governance and Scrutiny Team prior to the meeting concerned. The period to be covered by the substitution must be clearly set out.

Members must have received the requisite training for any committee they sit on as substitute and be satisfied that they are sufficiently knowledgeable on the matter they are determining.

(Chapter 4.2 – Scrutiny Rules of Procedure – also refers with regard to substitute members for the Overview and Scrutiny Committee).

**4.5** Appendix 2 shows the proposed tracked changes to the constitution.

## **5. ALTERNATIVE OPTIONS CONSIDERED**

Do nothing. This was not a viable option given the need identified to review the constitution as a whole and improve the effectiveness of all Council meetings both in terms of how business was conducted and how proceedings could be more efficient.

## **7. REASONS FOR RECOMMENDATIONS**

To update and amend the constitution to ensure there are no contradictions within the advice and protocols, and to reflect on the aim of making committee meetings more effective and engaging, in terms of how business is conducted.

## **8. COMMENTS FROM OTHER DEPARTMENTS**

### **a. Financial Implications**

None – the changes required to the Constitution and practical implementation of them, along with any further guidance for members will be delivered within existing resources.

### **b. Legal Implications**

This is a report of the Director of Law and Governance and all legal and governance matters are contained in the body of the report.

## **9. KEY RISKS**

The changes being recommended have been designed to ensure that future meetings and decision making are managed in as effective a way as possible whilst also making proceedings more simplified.

## **10. IMPACT ON COUNCIL PRIORITIES – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD**

**a. Good homes in well-connected neighbourhoods; b. Sustain strong and healthy communities; c. Build our local economy to create a thriving place**

Good Governance is essential to open, transparent and accountable decision making. Regular reviews of the Council's constitution ensure it is fit for purpose to deliver the Council's priorities within an agreed decision-making framework.

## **11. EQUALITIES IMPACT IMPLICATIONS**

It has not been necessary to carry out an Equalities Impact Assessment in relation to this proposal.

## **12. PERFORMANCE AND DATA IMPLICATIONS**

The changes introduced to the Council's governance and decision making procedures have been designed to assist the Council in managing its business in as efficient and effective a way as possible.

## **13. PUBLIC HEALTH IMPLICATIONS**

There are no specific public health implications arising from the proposals within this report.

## APPENDIX 1

### Example revised Terms of Reference Template

<b>3. AUDIT AND RISK MANAGEMENT COMMITTEE</b>
<b>Appointed by:</b> Council
<b>Proportionality:</b> Applies
<b>Membership:</b>  7 members of the Council and up to 2 Independent non voting members (members who are not a councillor). Membership to be drawn from the non-executive element of the Council and by law remain politically balanced
<b>The membership must be drawn from:</b> Non Executive
<b>Chair and Vice-Chair appointed by:</b> Council
<b>Public / Private meeting:</b> Public
<b>Substitutes:</b> No
<b>Quorum:</b>  3 members.
<b>Frequency:</b>  The Committee will generally meet at least 5 times per year, with dates included in the Council calendar. Further meetings can be arranged on an ad hoc basis as appropriate.  The Committee will report annually directly to full Council
<b>Terms of Reference:</b>  The Council has established an Audit and Risk Management Committee whose primary purpose is to ensure best practice in corporate governance and to enable the Council to discharge its fiduciary responsibilities in preventing fraud and corruption, and arranging proper stewardship of public funds.

To consider:

### **Internal Audit**

- (i) The annual Internal Audit Report, including the Head of Internal Audit and Risk Management's Annual Opinion over the Council's assurance framework and internal control environment.
- (ii) The annual risk-based plan of internal audit work, from which the annual opinion on the level of governance, risk management and internal control can be derived. The plan will include the budget requirement and resource plan in terms of audit days needed to deliver the programme of work.
- (iii) The internal audit charter, defining the service's purpose, authority and responsibilities. The charter will cover arrangements for appropriate resourcing, define the role of internal audit in fraud-related work and set out arrangements for avoiding conflicts of interest.
- (iv) Regular updates from the Head of Internal Audit and Risk Management on audit and investigation activities. These will include progress on delivering the annual programme of work, emerging themes, risks and issues and management's responsiveness in implementing recommendations and responding to Internal Audit. In line with requirements of the Public Sector Internal Audit Standards, performance of the Internal Audit Service and the results of quality assurance and improvement activities will also be reported.
- (v) Specific internal audit reports agreed between the Chair and the Director of Finance, Resources & Customer Services or the Chief Executive.
- (vi) The Council's policies on 'Raising Concerns at Work' and the 'Anti fraud and corruption strategy'.
- (vii) The implementation of relevant legislation relating to fraud and corruption.

### **External Audit**

- (i) The External Auditor's Annual Letter and relevant reports.
- (ii) Specific reports as agreed with the External Auditor.
- (iii) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- (iv) The External Auditor's Report to those charged with governance from the audit of the accounts.

### **Risk Management**

- (i) The strategy for effective development and operation of risk management and corporate governance in the Council to ensure compliance with best practice.
- (ii) Departmental and corporate risk registers.

### **Procurement and Contracts**

- (i) An overview of the Council's Constitution in respect of contract procedure rules, financial regulations and relevant codes of conduct and protocols.

- (ii) Reports on waiving of contract procedure rules.

**Other issues**

- (i) The Council's annual Statement of Accounts.
- (ii) Any matters referred to it from the Monitoring Officer's meetings.
- (iii) Any issue referred to it by the Chief Executive or a Director, or any Council body for determination.
- (iv) An Annual Report, for submission to Council, summarising the work done by the Committee over the past year and outlining work to be done in the year to come.
- (v) The Council's Annual Governance Statement and to formally agree it.
- (vi) Quarterly updates on the use of Regulation of Investigatory Powers Act 2000 (RIPA).
- (vii) Commissioned work from internal and external audit, the Director of Finance, Resources and Customer Services or other Council officers.