

MEETING TITLE AND DATE:

Council
26 February 2020

REPORT OF:

Director of Law & Governance

Agenda – Part: 1	Item: 13
Subject: Review of Constitution	
Wards: N/a	
Key Decision No: N/a	
Cabinet Member consulted: Leader	

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1. EXECUTIVE SUMMARY

1.1 At its meeting on 8 May 2019, the Council agreed to implement phase 1 of the constitution review and agreed to a further phase 2 to complete the task.

1.2 Phase 2 included the following areas:

- a. Part 3 – Scheme of Delegation
- b. Part 5 - Code of Conduct
- c. Part 4- Key Decision Threshold
- d. Part 6 - Members Allowances
- e. Planning Committee Procedure Rules
- f. Finance Procedure Rules
- g. Property Procedure Rules
- h. Procurement Procedure Rules
- i. Approve a revised Council Committee Structure
- j. Approve streamlined Outside Bodies list
- k. Boards and other Council meetings

1.3 This report provides draft proposals for the updated areas of the constitution listed below:

- Updated Property Procedure Rules;
- Updated Financial Regulations;
- Updated Planning Committee Procedure Rules;
- Updated Contract Procedure Rules;
- Updated Scheme of Delegation;
- Key Decision threshold amended to £500,000;
- Updated Procurement Procedure Rules;
- Members Code of Conduct
- Member Allowances; and
- General formatting and updating of job titles etc

1.4 A tracked changes version of the constitution is provided as a separate supplement as **Appendix 1**.

1.5 Items i to k in the Phase 2 list will follow, at a later date and will be provided to members for comment.

2. RECOMMENDATIONS

- 2.1 Council is asked to agree the proposed amendments as set out in Appendix 1.**
- 2.2 Members are asked to note that if agreed the revised Constitution will apply following the Annual Meeting in May 2020.**

3. BACKGROUND

- 3.1 Phase 1 of the review of the constitution was approved by full Council in May 2019. Members also agreed at the meeting that Phase 2 was to include an update to all the remaining areas as listed in paragraph 1.2.
- 3.2 Prior to this meeting of the full Council the draft version of the revised constitution has been sent to Executive Directors, Directors and Councillors for consultation. The revised constitution was agreed by MDSG on 4 February 2020.
- 3.3 In May 2020, following the usual process of consultation with members, a revised Council Committee Structure, streamlined Outside Bodies list and Boards and other Council meetings will come to Council for consideration.

4. KEY CHANGES

The key areas of the Constitution which have been amended are:

Part 2

The Policy Framework now lists the plans and strategies currently agreed by the Council. Those that no longer exist have been removed or those that have been replaced have been updated.

Part 3

The portfolios of the Cabinet are clearly listed.

All references to Area Partnership Boards have been removed as these no longer exist and have not been replaced.

The Officer Scheme of Delegation has been updated to provide clarity on delegated functions, including general functions which have been delegated to Executive Directors in their service areas.

Part 4

Financial Regulations

- List of role responsibilities which reflect the Council's current structure
- Updates to reflect regulatory changes, for instance the new regulations in relation to capital financing from Ministry of Housing Communities and Local Government and the incoming financial management code of practice.

- Additional requirements upon Finance to produce longer term financial forecasting to support Cabinet and Executive Management Team in decision-making.
- Additional detail over Tax and Treasury responsibilities, such as the requirement that Corporate Finance is the only body capable of agreeing loan terms, to prevent unauthorised borrowing. The Tax section is updated to reflect that Tax has a bigger impact on the finances of the Council.
- Consistent with the Constitution and responsibilities are more precisely defined.

Contract Procedure Rules

- Glossary updated
- Threshold for single quote – moved from £10k to £25k
- Threshold for use of the London Tenders Portal (LTP) moved to be in line with the single quote so only procurements over £25k will go to the LTP
- Waivers now will need to be signed by Executive Director of Resources or Director of Law and Governance
- Teckal – added section on exceptions
- IR35 – strengthened guidance

Proposal to amend the Key Decision threshold

The current definition for key decisions derives, in England, from the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. This definition has not changed substantively since it was first established shortly after the passage of the 2000 Act.

This set of regulations establishes that a key decision is:

“an executive decision, which is likely a) to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant [...] or b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions [...]”. Individual councils have adopted varying definitions for what a key decision is, but they all reflect these two broad requirements.”

The £250,000 for Enfield hasn't been changed since it was implemented in 2000. Using the Bank of England inflation calculator £250,000 in 2000 (when Enfield's Key Decision threshold was set) is worth £413,367.07 in 2018 (inflation averaged at 2.8%). It is now proposed Enfield set the Key Decision threshold as £500,000.

As a comparison, the other London Boroughs Financial Thresholds are listed below:

- Hillingdon (10% of budget or 500k or variations on capital schemes of 250k per year)
- Barking and Dagenham (200k or above)

- Harrow (1m for capital expenditure or 500k for revenue expenditure or constitute more than 50% of the relevant budget)
- Redbridge (250k or 10% of gross budget – decision to apply an approved budget 250k (plus all fees and charges))
- Croydon (1million or significant)
- Richmond (500k)
- Hounslow (250k)
- Ealing (500k)
- Havering (500k or more than 10% of Head of Service Budget subject to minimum value of 250k)
- Haringey – (includes - contracts/expenditure of 500k or virements above 250k or capital budget virements)
- Islington (1m for capital expenditure – 500k for revenue expenditure or 50% of budget, 1.5m for disposal of land, 500k for acquisition of land).
- Southwark (500k)
- Merton (significant or 500k)
- Kensington & Chelsea (100k – except contracts which are those over 181,302)
- Hammersmith & Fulham (100k sale of services to non-residents over 1m)
- Waltham Forest (revenue & contracts 1m –virements 500k – Capital 1m)
- Newham (500k)
- Lewisham (500k except treasury management)
- Lambeth (500k)
- Greenwich (500k or between 100k and 500k and more than 10% of the budget)

Part 5

Code of Conduct

- Clarification about the use of social media and public statements.
- References to the definitions in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 to assist with interpretation of what is an interest.
- Set out the possible offences for failing to disclose or register interests.
- Clearer definitions
- Amendments to the complaints procedure to deal with some of the practical issues which can arise e.g to allow the complainant and the member complained about to have a right to attend a hearing of the Conduct Committee and make representations; a requirement to submit any written representations 7 days prior to a hearing of the Conduct Committee.

Planning Committee Code of Practice

- Rearrangement in more logical order and redrafting to make code more clear and precise
- Deletion/consolidation of repetition/similar points

- Deletion of out of date legislation and guidance
- Amendment of interests section to reflect the current position in the Members' Code

Human Resources Policy

- Current Employee Code of Conduct, Email, Internet and Social Networking Usage Policy and Procedures included
- Guide to Officers participating in Outside Organisations Policy replaced with the Secondary Employment and Business Interests policy

Part 6

Updated to include Parental Leave, Maternity and Adoption and Dependent Carers' Allowance for members.

Maternity Leave

6 month maternity leave period, including provisions for babies born prematurely and still births.

Parental Leave

Two weeks parental leave

Criteria:

- Be the parent, legal guardian or principal carer and have or expect to have responsibility for the child's upbringing; or
- Be the spouse (husband or wife), civil partner or partner of the person above and have or expect to have the main responsibility for the child's upbringing, along with the person who gave birth.

Adoption Leave

A Member who adopts a child through an approved adoption agency shall be entitled to take up to six months adoption leave from the date of placement, with the option to extend up to 52 weeks by agreement if required.

Dependent Carers' Allowance

- Payable to Councillors who, in order to undertake their duties as a Councillor, incur costs in arranging care for dependent relatives living with them, or Councillors who themselves need the help of a carer in order for them to fulfil their duties as a Councillor.
- Maximum rate for this allowance is £10.75 per hour

5. CONSULTATION FEEDBACK

The consultation was sent to all Councillors, Executive Directors and Directors for their feedback.

The common responses from the consultation are collated below:

- Property Procedure Rules are not making sufficient use of the flexibility allowed by the General Disposal Order to do deals at less than best consideration where there is a wider Economic or Social value
- The Key decision threshold proposal is too high and it should remain a significant impact on one ward.
- Ward Forum meetings being meetings for residents of the ward to participate in and that others may attend as observers
- Clarity on the roles and requirements of Associate Cabinet Members
- 10 questions per group at Council meetings is a proposal which has been rejected previously
- Opposition Business (OPB):
 - A presentation should be allowed as OPB as long as it is by someone external, not officers.
 - 3 minutes not long enough for speeches and the current 5 minute limit should remain.
- Increase of 8 Council meetings per year.
- Financial threshold should not be raised from £10,000 to £25,000.
- Whether outside bodies should be listed or the wording in the revised document should remain.

At the meeting of MDSG on 4 February the following points were agreed, and the requested amendments made to the revised Constitution:

Chapter 2.10

Key decisions

- Proposal to increase the key decision threshold to £500,000 was agreed

Chapter 4.1

- 9.3 - Members will be able to direct questions to ACMs at full Council
- 9.4 - The wording relating to outside bodies will remain as it is in the revised constitution but at paragraph 9.5 the words “and available to members” will be added
- 9.6 - 15 questions per group can be submitted to full council. The proposal was to reduce the number of questions to 10 from 20.
- 14.6 (vi) and (viii) – the removal of the option for a presentation during opposition business and for this section to include a reference to officer/member protocol
- All comments on scrutiny will be looked at following the output of the CfPS scrutiny review

- 14.6 – agreed the to keep the time limit for speeches during opposition business as 5 minutes. The proposal was to reduce this to 3 minutes.

Chapter 2.2

- 2.1(iii) – the Monitoring Officer has the authority to amend the constitution to ensure it is up to date with legislation and when necessary the MO will make any amendments relating to the European Union

6. ALTERNATIVE OPTIONS CONSIDERED

Do nothing. This is 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.

8. KEY RISKS

The changes being recommended are to ensure that the constitution is fit for purpose.

9. IMPACT ON COUNCIL PRIORITIES – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD

Good Homes in Well-Connected Neighbourhoods, Sustain Strong and Healthy Communities Build our Local Economy to Create a Thriving Place

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

10. EQUALITIES IMPACT IMPLICATIONS

It has not been necessary to carry out an Equalities Impact Assessment in relation to the proposals.

11. PERFORMANCE AND DATA IMPLICATIONS

The proposed changes to the Council's constitution have been to assist the Council in managing its business in as efficient and effective a way as possible.

12. PUBLIC HEALTH IMPLICATIONS

There are no specific public health implications.

Background papers

None.