



ISLINGTON

Chief Executive's Department
Town Hall, Upper Street, London N1 2UD

Report of: Assistant Chief Executive (Governance and HR)

Meeting of	Date	Ward(s)
Council	25 June 2015	All

Delete as appropriate	Exempt	Non-exempt
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Subject: Annual Review of the Constitution

1. Synopsis

- 1.1 This report proposes changes to the Council's Constitution, in particular to the Procurement Rules and Officer Employment Rules.

2. Recommendations

- 2.1 To note that the Leader of the Council has approved the changes to delegation of Executive functions.
2.2 To approve the amendments to the Constitution set out in the attached Appendix.
2.3 To authorise the Assistant Chief Executive (Governance and HR) to make any consequential amendments to the Constitution she considers necessary

3. Background

- 3.1 A general review of the Council's Constitution is undertaken approximately annually in order to update it to reflect changes in legislation and in Council policy and to ensure that it remains fit for purposes. In addition, changes are proposed in this report arising from recommendation by the Policy and Performance Scrutiny Committee and an end to end review of the council's procurement processes.

- 3.2. Appendix 1 contains a copy of the Constitution on which proposed changes are marked, by crossing through in the case of deletions and by underlining in the case of additions. Proposed changes which are not self explanatory are explained in footnotes and the main changes proposed are described below. Minor changes such as updating job titles are not shown.

4. Main proposed changes

- 4.1 **Part 3 – Responsibility for Functions:** An amendment is proposed to officer delegated powers to reflect changes to the Procurement Rules as described below.

4.2 **Part 4 – Procedure Rules: Officer Employment Rules**

The recently passed The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 require that the council make changes to its officer employment rules to change the procedures which apply if it is proposed that the Chief Executive, Chief Finance Officer (the Corporate Director of Finance and Resources) or the Monitoring Officer (the Assistant Chief Executive, Governance and HR) be dismissed as a result of disciplinary proceedings.

- 4.3 Currently, no disciplinary action in respect of the Head of Paid Service (Chief Executive), the Monitoring Officer or the Chief Finance Officer (except suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action) can be taken other than in accordance with a recommendation in a report made by a designated independent person under regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001. The Chief Executive cannot be dismissed without a decision by full council.
- 4.4 Under the new arrangements there will no longer be a statutory requirement to appoint a designated independent person. Instead, the final decision to dismiss the Chief Executive, the Monitoring Officer or the Chief Finance Officer (and not just the Head of Paid Service as now) must be taken by full Council. The decision cannot be taken before the council has invited at least two Independent Persons to be members of a Panel, and Council must take into account any recommendation of that Panel before taking a final decision to dismiss. Independent Persons are those appointed under the Localism Act 2011 in relation to member conduct issues. There are rules about the Panel which are replicated in the proposed amendments to the constitution in Appendix 1. These leave to the council much of the detail as to membership of the panel and its procedures.
- 4.5 It is proposed that further discussion be undertaken to determine the most appropriate arrangements for the Panel and any future disciplinary action against these officers and that these be adopted by the council or the Audit Committee in due course. It is not proposed that a standing panel be set up by this report although it is anticipated that one will be set up as soon as possible following consideration by the audit committee.

4.6 **Part 6 – Financial Regulations**

A change is proposed to make Community Infrastructure Levy funding subject to the same decision-making process in the Financial Regulations as section 106 funding.

4.7 **Part 6 – Procurement Rules:** extensive changes are proposed to the Procurement Rules. These are to reflect recommendations from the Policy and Performance Scrutiny and the recent external end to end review of the council's procurement processes as well as changes required following the recent Public Contract Regulations 2015.

4.8 The Policy and Performance Scrutiny Committee recommendations included:

- To ensure the Strategy, Equality and Performance Unit improves the guidance within procurement procedures relating to equalities.
- To raise the threshold in the procurement rules that triggers the requirement for competitive tenders from £100,000 to £172,514 to open Council contracts up to increase the volume and financial value of business accessible to smaller local suppliers.

The Executive agreed with these recommendations and asked the Procurement Board to explore the recommended changes to thresholds.

4.8 An end to end review of the council's procurement processes undertaken by external advisers also recommended that the threshold levels for tenders should be increased from the current value of £100,000 to reflect the EU goods/services threshold (currently £172,514) and that the threshold for officer delegated procurements should be increased to £2,000,000 for revenue expenditure and £5,000,000 for capital expenditure as total contract value to align with other London Boroughs.

4.10 The council's Procurement Board has also considered and approved these recommendations for change.

4.11 The main changes in the Rules now proposed in Appendix 1 are:

- Expanding the considerations which form part of responsible procurement
- Introducing a restriction on deviations from the Council's standard prequalification questionnaire
- Increasing the one quotation band to £25,000
- Increasing the three quotation band to the EU goods/services threshold
- Including express requirements for concession agreements (broadly contracts which allow the contractor to exploit the work or services covered by the contract to generate income for itself and the council) for the first time.
- Increasing the threshold below which officers can take decisions in regard to contract/procurement matters to £2million for revenue and £5million for capital.

4.12 **Part 9 – Other council related bodies:** It is proposed that a new section be added to the Constitution to draw together for ease of reference information about the constitutions/terms of reference of various significant bodies which are established by the council but which are not committees of the council. As the constitutions/terms of reference of these bodies are already established or contained in legislation they are not reproduced in the Appendix. The bodies that will be covered are:

- Safeguarding Adults Partnership Board
- Islington Children and Families Partnership
- Adoption and Permanency Panel
- Fostering Panel
- Local Safeguarding Children Board
- Islington Corporate Parenting Board
- Independent Schools Admissions Appeal Panel
- Independent Schools Exclusions Appeal Panel
- Schools Forum
- Admissions Forum
- MAGPIs
- Pension Board

4.13 Appendices

The Council has a new power to issue Community Protection Notices under the Anti-social Behaviour, Crime and Policing Act 2014. Community Protection Notices are intended to deal with particular, ongoing problems or nuisances which negatively affect the community's quality of life by targeting the person responsible. The notice will direct the individual, business or organisation responsible to stop causing the problem and it could also require the person responsible to take reasonable steps to ensure that it does not occur again.

The exercise of this power needs to be delegated to the appropriate officers in the relevant services. At its March meeting Council delegated authority to exercise the Council's power to issue Community Protection Notices under the Anti-Social Behaviour, Crime and Policing Act 2014, if authorised by the Service Director Public Protection, to a number of named postholders. It is now proposed that this list be extended as set out in the Appendix to Tenancy Management Advisers in HASS where authorised by the Service Director – Housing Operations].

5 Conclusion and recommendations

5.1 A number of changes are proposed to the Constitution in this report for approval by the Council.

6. Implications

Financial Implications

There are no financial implications arising directly from this report.

Legal Implication

These are contained in the body of the report and in the footnotes in the Appendix.

Resident Impact Assessment

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

There are no resident implications arising directly from this report.

Environmental Implications

There are no environmental implications arising directly from this report.

Background papers: None.

Appendix: Extracts from the Constitution

Final Report Clearance

Signed by



16 June 2015

Date

Assistant Chief Executive (Governance and HR)

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