



**Report of: Acting Director of Law and Governance and Monitoring Officer**

<b>Meeting of:</b>	<b>Date:</b>	<b>Ward(s):</b>
Council	5 December 2019	All

<b>Delete as appropriate:</b>	Exempt	Non-exempt
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## **SUBJECT: Constitution Update**

### **1. Synopsis**

- 1.1 This report proposes a number of changes to the Council's Constitution to ensure it reflects changes in legislation and council policy and remains fit for purpose.

### **2. Recommendations**

- 2.1 To approve the amendments to the Constitution set out in the Appendix.
- 2.2 To authorise the Director of Law and Governance to make any consequential amendments to the Constitution considered necessary.

### **3. Background**

- 3.1 Appendix 1 contains extracts from the Constitution in which proposed changes are marked, by crossing through in the case of deletions and by underlining in the case of additions. The main changes proposed are described below.

### **4. Main proposed changes**

#### Revised Procurement Thresholds

- 4.1 The Head of Strategic Procurement has been notified that the European Commission has released the new European procurement thresholds. The new thresholds take effect from 1 January 2020. The existing thresholds remain in place until end of 31 December 2019.

- 4.2 The new thresholds are based in Euros with rates in sterling fixed on date of release, normally for two calendar years. The amounts are outlined within the appendix. The current Brexit position does not impact this change.
- 4.3 As the responsible officer, the Head of Strategic Procurement is required to liaise with the Monitoring Officer, to ensure that this legislative change can be reflected within the Council's Constitution.
- 4.4 The Council must conduct its activity in accordance with relevant legislation. The changes in procurement thresholds impact national legislation in the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concession Contracts Regulations 2016. The overarching principles of these regulations are covered in Council's Procurement Rules (the Rules). The Rules ensure the council is meeting its obligations for Standing Orders under the Local Government Act 1972 Section 135. The formal notification release from the European Commission can be found at the following link: [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019XC1031\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019XC1031(01)&from=EN)

#### Delegated Authority to Dispose of Housing Dwellings

- 4.5 The Constitution provides that the disposal of void council owned homes where the best consideration reasonably obtainable exceeds £3 million is a decision reserved for the Executive. Amendments are proposed to the Financial Regulations and Appendix 3 to delegate authority to the Corporate Director of Housing to dispose of housing dwellings where the best consideration reasonably obtainable is £3 million or less. The disposal of land assets where the proposed receipt exceeds £1.5 million will remain a key decision. Other amendments to clarify the powers of officers to acquire and dispose of property are set out in the appendix.

#### Personnel Sub-Committee Membership and Terms of Reference

- 4.6 Amendments are proposed to the Terms of Reference of the Audit Committee and the Personnel Sub-Committee. It is also proposed to amend the Members' Allowances Scheme to provide a special responsibility allowance for the Chair of the Personnel Sub-Committee.

#### Composition of the Disciplinary Appeal Committee

- 4.7 Amendments are proposed to the composition of the Disciplinary Appeal Committee.

## **5. Implications**

### **5.1 Financial implications:**

There are no direct material financial implications associated with the amendments to the Constitution as set out in this report.

### **5.2 Legal Implications:**

The Council must keep its Constitution up to date (section 9P Local Government Act 2000).

### **4.3 Environmental Implications and contribution to achieving a net zero carbon Islington by 2030:**

There are no direct environmental implications resulting as a result of this report.

### **4.4 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.

A resident impact assessment has not been completed because it is not required in this instance.

## 5. Reason for recommendations

- 5.1 This report proposes a number of changes to the Constitution to ensure that the document remains up to date and fit for purpose.

### Appendices:

Appendix – Proposed Amendments to the Constitution

### Background papers:

None

Final report clearance:

### Signed by:



Peter Fehler,  
Acting Director of Law and Governance  
Monitoring Officer

2 December 2019

Date

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## APPENDIX

### Amendments to the Constitution

#### (i) Revised Procurement Thresholds

##### Part 6 Codes and Protocols: Procurement Rules

##### **Procurement Rule 2.2 – 2.4**

2.2 The Public Contract Regulations 2015 (the Regulations) apply to all contracts although which specific rules apply will depend on the value and subject matter of the contract. Specific advertising and tender process requirements apply to the procurement of some contracts with a value estimated to exceed thresholds of ~~£189,330~~ ~~£181,302~~ whole life value for supplies/services and ~~£4,733,252~~ ~~£4,551,413~~ whole life value for works. The Strategic Procurement Team shall advise whether a contract is supplies, services or works in accordance with the Regulations and the definitions below:

- 2.2.1 a supplies contract is an agreement which has at its object the purchase, lease, rental or hire-purchase, with or without the option to buy, a physical product or piece of software, including any incidental matter, siting or installation;
- 2.2.2 a service contract is an agreement which has at its object the action of performing an activity or operation for or on behalf of the Council without a physical product;
- 2.2.3 a works contract is an agreement which has as its object a mixture of service or labour and transfer of goods, leading to the realisation or improvement of a physical asset, for example a building contract.

The Strategic Procurement team shall provide the appropriate Common Procurement Vocabulary (CPV) code(s) for any required Contract Notice.

- 2.3 In the case of services contracts, the Strategic Procurement Team shall determine whether the service is covered by the "light touch" regime under the Regulations. Light touch contracts are for services which tend to be of lower interest to cross-border competition and include certain social, health and education services, defined by CPV codes. The list of services to which the Light Touch Regime applies is set out in Schedule 3 of the Public Contracts Regulations 2015 (Annex A). Light-touch regime services which exceed a whole life value of ~~£663,540~~ ~~£615,278~~ also will be subject to advertising within the Official Journal of the European Union (OJEU).
- 2.4 Concessions (or contracts for income) are subject to the advertising requirements of Procurement Rule 1.8 and additionally to advertising within OJEU when they exceed whole contract life value of ~~£4,733,252~~ ~~£4,551,413~~ in terms of income and/or monies received.

## (ii) Delegated Authority to Dispose of Housing Dwellings

### Part 6: Financial Regulations

#### DISPOSAL AND ACQUISITION OF LAND ASSETS AND LEASES

7.4 The powers of the Executive, ~~Corporate Director of Resources and Director of Finance and Property~~ to acquire and dispose of land and real property are set out in ~~Part 3 and Appendix 3 of the Constitution.~~ Part 3, Section 4 of the Constitution, Matters Reserved for Executive Decision.

#### ~~LEASES~~

7.5 The powers of ~~the Executive, Corporate Director of Resources and Director of Property and Procurement and the Corporate Director of Housing~~ officers to acquire and dispose of land and real property are set out ~~in Part 3 and Appendix 3 of the Constitution.~~ below.

Where a restriction applies the matter must be referred to the Executive, unless the decision is specifically reserved for another officer below.

<u>Post</u>	<u>Power</u>	<u>Restriction</u>
<u>Chief Finance Officer (or Deputy Chief Finance Officer, in the absence of the Chief Finance Officer)</u>	<u>To acquire land or real property other than by compulsory purchase order</u>	<ul style="list-style-type: none"> <li>i) <u>where the consideration for the acquisition (or reasonable estimate prior to entering into a contract) does not exceed £1m; and</u></li> <li>ii) <u>the interest acquired is for 20 years or less</u></li> </ul>
<u>Chief Finance Officer (or Deputy Chief Finance Officer, in the absence of the Chief Finance Officer)</u>	<u>To dispose of the Council's freehold interests, with the exception of void council owned homes, and grant leases at a premium</u>	<ul style="list-style-type: none"> <li>i) <u>where the anticipated capital receipt does not exceed £1.5 million; and</u></li> <li>ii) <u>he/she is satisfied having taken the best professional advice that the capital receipt represents the best consideration reasonably obtainable for the interest in question; and</u></li> <li>iii) <u>the proposed disposal has been subject to consultation with such Council officers and members or groups within the Council which may exist from</u></li> </ul>

		<u>time to time to ensure that the service and/or corporate interests in the property are such as to make disposal appropriate.</u>
<u>Chief Finance Officer (or Deputy Chief Finance Officer, in the absence of the Chief Finance Officer)</u>	<u>To grant leasehold interests for terms not exceeding 20 years at an annual rent:</u>	<ul style="list-style-type: none"> <li>i) <u>where the annual rent payable under such leases does not exceed £250,000 exclusive per annum; and</u></li> <li>ii) <u>the rent payable under such leases is the best consideration reasonably obtainable.</u></li> </ul>
<u>Chief Finance Officer (or Deputy Chief Finance Officer, in the absence of the Chief Finance Officer)</u>	<u>To dispose of interests in land for a period of six months or less even if the rent payable under such leases is not the best consideration reasonably obtainable</u>	
<u>Chief Finance Officer (or Deputy Chief Finance Officer, in the absence of the Chief Finance Officer)</u>	<u>The grant of leases of up to 125 years at or below best consideration to voluntary sector and community bodies in accordance with the Property Strategy.</u>	
<u>Chief Finance Officer (or Deputy Chief Finance Officer, in the absence of the Chief Finance Officer)</u>	<u>The acquisition of the leasehold interest in former council owned homes sold under the RTB to facilitate approved redevelopment schemes</u>	
<u>Chief Finance Officer (or Deputy Chief Finance Officer, in the absence of the Chief Finance Officer)</u>	<u>The declaration of land and buildings as surplus to requirements of services</u>	<u>Save for street properties held under Part II of the Housing Act 1985 used solely for housing purposes.</u>

<u>Corporate Director of Housing</u>	<u>The declaration of street properties held under Part II of the Housing Act 1985 used solely for housing purposes as surplus to requirements</u>  <u>(The Corporate Director of Housing must within 14 days of having made any such declaration, notify the leader of any political groups represented on the Council of their decision.)</u>	
<u>Corporate Director of Housing</u>	<u>Disposals of void council owned homes where the best consideration reasonably obtainable is £3 million or less</u>	
<u>Corporate Director of People</u>	<u>Grant of a lease of 125 years at a peppercorn rent to an academy trust following the making of an academy order in respect of a maintained school</u>	

### **Appendix 3: Additional Delegations to Officers**

~~2. This Table sets out the property related powers delegated to the Chief Finance Officer (or Deputy Chief Finance Officer, in the absence of the Chief Finance Officer). Where a restriction applies the matter must be referred to the Executive:~~

<b>Power</b>	<b>Restriction</b>
<del>1 To acquire land or real property other than by compulsory purchase order</del>	<del>i) where the consideration for the acquisition (or reasonable estimate prior to entering into a contract) does not exceed £1m; and ii) the interest acquired is for 20 years or less</del>
<del>2 To dispose of the Council's freehold interests, and grant leases at a premium</del>	<del>i) where the anticipated capital receipt does not exceed £1.5 million; and ii) he/she is satisfied having taken the best professional advice that the capital receipt represents the best</del>

	<p>consideration reasonably obtainable for the interest in question; and</p> <p>iii) — the proposed disposal has been subject to consultation with such Council officers and members or groups within the Council which may exist from time to time to ensure that the service and/or corporate interests in the property are such as to make disposal appropriate.</p>
3	<p>To grant leasehold interests for terms not exceeding 20 years at an annual rent:</p> <p>i) — where the annual rent payable under such leases does not exceed £250,000 exclusive per annum; and</p> <p>ii) — the rent payable under such leases is the best consideration reasonably obtainable.</p>
4	<p>To dispose of interests in land for a period of six months or less even if the rent payable under such leases is not the best consideration reasonably obtainable</p>
5	<p>The declaration of land and buildings as surplus to requirements of services</p> <p>Save for street properties held under Part II of the Housing Act 1985 used solely for housing purposes in respect of which this function is delegated to the Corporate Director of Housing who must within 14 days of having made any such declaration, notify the nominated representatives of any political groups represented on the Council of their decision.</p>



## (iii) Personnel Sub-Committee Membership and Terms of Reference

### Part 5: Terms of Reference

#### **AUDIT COMMITTEE**

##### **Terms of Reference: General Matters**

3. To appoint a Personnel Sub-Committee, including approval of its terms of reference and membership. Members of the committee will ~~be~~ ~~include the Chair of the Audit Committee~~ the Leader of the Council, the Executive Member with responsibility for Human Resources, and ~~two~~ three ordinary member positions, one of whom will be appointed as Chair by the Audit Committee. All other Executive Members will be appointed to act as substitutes for the Committee, with the relevant Executive Member joining the Committee depending on the appointment being made. There will also be 5 ordinary member substitutes, one of whom will be the Chair of Audit Committee.

#### **PERSONNEL SUB-COMMITTEE**

##### **Composition**

The Audit Committee will appoint members and substitutes to the Personnel Sub-Committee and appoint the Chair. ~~following appoints made at the Annual Council meeting~~. Members of the committee will ~~include the Chair of the Audit Committee~~ be the Leader of the Council, the Executive Member with responsibility for Human Resources, and ~~two~~ three ordinary member positions. One of the ordinary committee members will be the appointed Chair. All other Executive Members will be appointed to act as substitutes for the Committee, with the relevant Executive Member joining the Committee depending on the appointment being made. There will also be 5 ordinary member substitutes, one of whom will be the Chair of Audit Committee.

If a member of the committee cannot attend a meeting, they will arrange for a substitute to attend. Substitutes should be selected bearing in mind that the committee should be broadly representative of the Council.

##### **Terms of Reference**

12. To receive notification when any member of staff performing a role appointed by Personnel Sub Committee leaves their position or gives notice that they are leaving and to agree a timeline for recruitment, if applicable.

## **Part 7: Members' Allowances Scheme**

### **SPECIAL RESPONSIBILITY ALLOWANCES 2019-20**

The SRA figures will come into effect on 1 April 2019

<u>Band 4</u>	<u>Amount</u> £
Leader of the Council – Councillor Richard Watts	39,590
<u>Band 3</u>	
Executive Members	
Councillor Janet Burgess	30,912
Councillor Kaya Comer-Schwartz	30,912
Councillor Una O'Halloran	30,912
Councillor Andy Hull	30,912
Councillor Asima Shaikh	30,912
Councillor Diarmaid Ward	30,912
Councillor Claudia Webbe	30,912
<u>Band 2</u>	
Chair of Policy and Performance Scrutiny Committee Councillor Rowena Champion	12,475
Chief Whip: Councillor Satnam Gill	5,423
<u>Band 1(a)</u>	
Chairs of Scrutiny Committees	
Councillor Vivien Cutler	5,423
Councillor Osh Gantly	5,423
Councillor Mick O'Sullivan	5,423
Councillor Dave Poyser	5,423
<u>Band 1</u>	
Chair of Audit Committee: Councillor Nick Wayne	3,255
Chair of Licensing Committee: Councillor Phil Graham	3,255
Chair of Planning Committee: Councillor Martin Klute	3,255
Chair of Planning Sub Committee A: Councillor Angela Picknell	3,255
Chair of Planning Sub Committee B: Councillor Jenny Kay	3,255
<u>Chair of Personnel Sub Committee</u>	<u>3,255</u>
Mayor	
Councillor Rakhia Ismail	6,644
Deputy Mayor	
Councillor Troy Gallagher	136
Member of the Adoption and Fostering Panels	
Councillor Paul Convery	6,508

Councillors are only entitled to claim one Special Responsibility Allowance. Any allowances marked with an asterisk above are therefore unclaimed.

## (iv) **Composition of the Disciplinary Appeal Committee**

### **Part 5: Terms of Reference**

#### **DISCIPLINARY APPEAL COMMITTEE**

##### Composition

The Disciplinary Appeal Committee shall comprise of five members, as follows:

- Deputy Whip of the Majority Group (Chair)
- Executive Member for ~~Environment and Transport~~ [Children, Young People and Families](#)
- Three others members.