



Report of: Director of Law and Governance and Monitoring Officer

Meeting of:	Date:	Ward(s):
Council	23 September 2021	All

Delete as appropriate:	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 appendices, to take effect from 1st October 2021.

3. Background

- 3.1 The appendices contain 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

- 4.1 Revisions to Procurement Rules

A number of amendments are proposed to Part 6, Procurement Rules. These are to ensure that the procurement activity remains compliant with the latest legislation and the council's community wealth building priorities.

4.2 Sub-delegation of Executive functions

It is proposed to amend Part 4, Procedure Rule 55.4, to clarify the rules on the delegation of Executive functions.

4.3 Reporting of Discretionary Payments

Amendments are proposed to Part 5, Terms of Reference, to update arrangements for the reporting of discretionary payments.

4.4 Revision to the Officer Delegations

It is proposed that Part 3, Paragraph 8.8 is amended to remove the exception which allows Corporate Directors to award contracts of any value if the spend is approved as part of the annual Capital Programme at Budget Council and let to a framework established by the Council.

4.5 Other minor amendments

The numbering of Part 3, 4.4(k) will be corrected.

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).

5.3 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.

5.4 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.

An initial assessment has been undertaken and it has been concluded that a full assessment is not required as there are no direct impacts on residents.

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 A – Proposed Amendments to the Constitution
- Appendix B – Proposed Amendments to the Procurement Rules

Background papers:

None

Final report clearance:

Signed by:



Peter Fehler,
Director of Law and Governance
Monitoring Officer

15 September 2021

Date

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APPENDIX A

Proposed Amendments to the Constitution

(i) Revisions to Procurement Rules (Part 6)

Please refer to Appendix B.

(ii) Sub-Delegation of Executive Functions (Part 4, Procedure Rule 55.4)

55.4 Sub-delegation of Executive functions

~~(a) Where the Executive, a committee of the Executive or an individual member of the Executive is responsible for an Executive function, they may delegate further to joint bodies (in so far as this is permitted by law) or to an officer. The Executive may also delegate to a Committee of the Executive.~~

~~(b) Unless the Leader directs otherwise, a committee of the Executive or a single member of the Executive to whom functions have been delegated may delegate further to an officer.~~

55.4 Delegation of Executive functions

(a) Executive functions may be delegated to: a sub-committee of the Executive, an individual member of the Executive, Joint Bodies (in so far as this is permitted by law) or to the Chief Executive or a Corporate Director.

(iii) Reporting of Discretionary Payments

Part 5, Terms of Reference: Audit Committee

Audit Committee (Advisory) Functions

To consider the following matters and to make recommendations concerning them to the relevant Council bodies or to officers:

1. The Head of Internal Audit's annual report and opinion and the level of assurance internal audit activity can give over the Council's corporate governance arrangements;
2. The external auditor's annual letter, relevant reports and the report to those charged with governance on issues arising from the audit of the accounts;
3. Reports dealing with the management, performance and value for money of the providers of internal and external audit services;
4. A report from internal audit on agreed recommendations not implemented within a reasonable timescale;
5. The appointment of the Council's external auditor;
6. Work to be commissioned from internal and external audit;
7. Specific internal and external audit reports as requested;

8. The contract procedure rules and financial regulations in the Council's constitution and the Council's compliance with its own and other published standards and controls;
9. Any issue referred to it by the Council, Executive, Policy and Performance Scrutiny Committee or the Chief Executive;
10. The Council's arrangements for corporate governance and risk management and recommend necessary actions to ensure compliance with best practice;
11. The production and content of the authority's Annual Governance Statement;
12. The annual report from the Monitoring Officer concerning standards of member conduct, which shall include a summary of complaints received under the Code of Conduct Complaints Procedure and their outcome.
13. To note any termination of employment where the total payment including pension strain, discretionary redundancy payments and statutory redundancy payments exceeds £100,000 in total.
- ~~13.~~ 14. Any report on any matter relevant to the advisory functions of the Committee which the Committee may request from the Corporate Director of Resources or other proper officer.

Part 5, Terms of Reference: Personnel Sub-Committee

1. Responsibility for and monitoring of, the Council's health and safety policies as employer, including reports on health and safety within Council departments.
2. To approve the early retirement of the Chief Executive and to agree the award of any discretionary payments in connection with such retirement or redundancy.
3. To approve any discretionary payment to an officer on termination of employment which exceeds £100,000 in total. Discretionary payments exclude statutory entitlements and pension strain, however may include payments in respect of redundancy entitlement, any payment under the Local Government (Early Termination of Employment) Discretionary Compensation Regulations and notice pay in respect of termination in the interests of the efficient exercise of the Authority's functions, ~~which exceeds £100,000 in total.~~

(iv) Revision to the Officer Delegations

Part 3, Responsibility for Functions

8. Officer Delegations

8.8 The Chief Executive, Corporate Directors and the Chief Finance Officer shall also have authority to award contracts where the value of the contract is up to £2 million revenue expenditure or £5 million capital expenditure, ~~and in the case of capital spend approved as part of the capital programme to award or vary contracts under a framework agreement (itself established by the council on its own or in partnership with any other organisation) where the estimated value of the contract or variation is more than £5m.~~

(v) Other Minor Amendments

Part 3, Paragraph 4.4 (Matters Reserved for Executive Decision – Finance and Property)

- (k) Decisions on acquisitions and disposals of interests in land except:
- (i) 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,
 - (ii) disposals of void council owned homes where the best consideration reasonably obtainable is £3 million or less;
 - (iii) disposals of other property where the best consideration reasonably obtainable is £1.5 million or less;
 - ~~(ii)~~ (iv) grant of leases for 20 years or less where the annual rent is the best consideration reasonably obtainable and does not exceed £250,000;
 - ~~(iii)~~ (v) acquisitions of interests of 20 years or less where the consideration is £1m or less;
 - ~~(iv)~~ (vi) disposals of interests at less than the best consideration reasonably obtainable for six months or less;
 - ~~(v)~~ (vii) disposals where the Executive has already agreed in principle that the land and/or building is surplus to requirements and may be disposed of.
 - ~~(vi)~~ (viii) the acquisition of the leasehold interest in former council owned homes sold under the RTB to facilitate approved redevelopment schemes
 - ~~(vii)~~ (ix) 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