

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

<b>Meeting of:</b>	<b>Date:</b>	<b>Ward(s):</b>
Council	9 December 2021	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 appendices;
- 2.2 To note that the amendments will take effect from 10<sup>th</sup> December 2021, with the exception of the revisions to the procurement rules (paragraph 4.2), that will come into effect from 1<sup>st</sup> January 2022.

**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 Proposed changes to the Code of Conduct

A number of minor amendments are proposed to Part 6, the Member Code of Conduct. These are to reflect the latest updates to the Local Government Association Model Code of

Conduct. This is to ensure that the council's Code of Conduct remains compliant with best practice. It is also proposed to make some minor typographical revisions to the Code.

#### 4.2 Revisions to Procurement Rules

It is proposed to amend Part 6, Procurement Rules 2.2 and 2.4, to reflect national changes to public sector procurement law made through The Public Procurement (Agreement on Government Procurement) (Thresholds) (Amendment) Regulations 2021. This increases the financial thresholds at which certain procurement rules are applicable.

It is also proposed to amend references to Resident Impact Assessments to Equality Impact Assessments, reflecting recent changes to council practice.

#### 4.3 Designation of Chief Officers and associated amendments

Amendments are proposed to Part 2, Article 12 (Officers) to designate the Corporate Director of Children's Services and Director of Adult Social Care as Chief Officers. A number of consequential amendments are also proposed.

#### 4.4 Other minor amendments

Other minor amendments are set out in the appendix.

### **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 Equality 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 Equality Impact 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

### Background papers:

None

Final report clearance:

### Signed by:

Peter Fehler,  
Director of Law and Governance  
Monitoring Officer

Date

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## APPENDIX A

### Proposed Amendments to the Constitution

#### (i) Proposed Changes to the Code of Conduct (Part 6)

7. Use of local authority resources and facilities

7.1. I do not misuse council resources.

7.2. I will, when using the resources of the local **authority** or authorising their use by others:

- a. act in accordance with the local authority's requirements; and
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.

Resources are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided. Examples of resources that may be made available to you include:

- office support
- stationery
- equipment such as phones and computers
- transport
- access and use of local authority buildings and rooms.

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#### **Table 1: Disclosable Pecuniary Interests:**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain. <del>[Any unpaid directorship.]</del>
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

<b>Contracts</b>	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
<b>Corporate tenancies</b>	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
<b>Securities</b>	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## Table 2: Other Registerable Interests

You have a personal interest in any business of your authority where it relates to or is likely to affect:

a) any unpaid directorships

b) a) any body of which you are a member or are in a position of in general control or management and to which you are nominated or appointed by your authority

c) b) any body of which you are a member or in a position of general control or management

(i) exercising functions of a public nature

(ii) any body directed to charitable purposes or

(iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

Your register of interests allows the public, local authority employees and fellow councillors to know which of your interests might give rise to a conflict of interest. Details of your interests will be published on the website and a copy of the register will be available for inspection at the Town Hall during working hours. Publication is a legal requirement, but it also protects you by allowing you to demonstrate openness and a willingness to be held accountable and ensures that decision making is seen by the public to be open and honest.

If an interest is not already included in your published register of interests and it relates to a matter under consideration at a meeting, you must disclose it at that start of the relevant agenda item and to the Monitoring Officer within 28 days following the meeting, but it can be helpful for you to know before this time if others think that a potential conflict might arise and to allow time to seek a dispensation if you think it warranted.

If you cease to hold an interest, you should notify the Monitoring Officer who will remove the interest from your register.

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## **(ii) Revisions to Procurement Rules (Part 6)**

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~~ £213,477 whole life value for supplies/services and ~~£4,733,252~~ £5,336,937 whole life value for works. The Strategic Procurement and Supply Assurance 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 and Supply Assurance shall provide the appropriate Common Procurement Vocabulary (CPV) code(s) for any required advertisement.

- 2.3 In the case of services contracts, the Strategic Procurement and Supply Assurance 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~~ also will be subject to advertising within the Find a Tender Service (FTS).
- 2.4 Concessions (or contracts for income) are subject to the advertising requirements of Procurement Rule 1.8 and additionally to advertising within FTS when they exceed whole contract life value of ~~£4,733,252~~ £5,336,937 in terms of income and/or monies received.

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## **6. Resident Impact Assessment**

- ~~6.1 It is mandatory to complete a Resident Impact Assessment (RIA) for all contracts in value band iv) prior to the specification being completed. RIAs have replaced Equality Impact Assessments (EIAs) in Islington. Although there is no legal requirement to carry out EIAs, public bodies still have to demonstrate that they are taking the Public Sector Equality Duty (PSED) into account when making decisions. Local authorities also have obligations in relation to safeguarding and human rights. The main focus of RIAs is on drawing out the equality impacts of proposals with additional sections for highlighting safeguarding risks and potential human rights breaches.~~
- ~~6.2 Contract clauses inserted in respect of a Protected Characteristic must be approved by the Legal Services Contracts Team.~~
- ~~6.3 Contractors may be encouraged to undertake appropriate equalities training.~~
- ~~6.4 Contractors will be required to sign the Fairness and Equality Charter in all procurement in value band iv). Any exception must be approved by the Head of Service, Strategic Procurement and Supply Assurance (or their authorised representative).~~

## **6. Equality Impact Assessment (EqIA)**

- 6.1 It is mandatory to complete the EqIA Screening Tool for all contracts in value band iv) prior to the specification being completed. The EqIA Screen Tool will ascertain whether a full EqIA is also mandatory to ensure that: i) anyone with protected characteristics as recognised in law has their needs considered and are treated fairly; ii) equality commitments are translated into practice; and iii) supports the council to deliver the Challenging Inequality Programme.
- 6.2 Through the EqIA process commissioning client officers must demonstrate Public Sector Equality Duty (PSED) in decision making, having due proper regard to: i) eliminating unlawful discrimination, harassment, victimisation and prohibited conduct; ii) advancing equality of opportunity between people who share a protected characteristic and those who do not; and iii) fostering good relations between people who share a protected characteristic and those who do not.
- 6.3 Contract clauses inserted in respect of a Protected Characteristic must be approved by the Legal Services Contracts Team.
- 6.4 Contractors may be encouraged to undertake appropriate equalities training.
- 6.5 Contractors will be required to sign the Fairness and Equality Charter in all procurement in value band iv).
- 6.6 Any exception to Procurement Rule 6.1 to 6.5 must be approved by the Head of Service, Strategic Procurement and Supply Assurance (or their authorised representative)."

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**(iii) Designation of Chief Officers**

**12.01 Management structure**

**(a) General**

The Council may engage such officers as it considers necessary to carry out its functions.

**(b) Chief Officers**

The Council will engage persons for the following posts, who will be designated chief officers:

Chief Executive;  
Corporate Director of Homes and Neighbourhoods;  
~~Corporate Director of People;~~  
Corporate Director of Environment;  
Corporate Director of Resources;  
Corporate Director – Community Wealth Building;  
Corporate Director of Children’s Services;  
Partnership Director – Fairer Together;  
Director of Public Health;  
Director of Law and Governance;  
Director of Adult Social Care;

Where the Executive has agreed to vary these roles, the Proper Officer shall be authorised to make the necessary consequential amendments to this article.

If there is no Chief Executive in post, references to the Chief Executive in this Constitution are to be taken as references to the Head of Paid Service.

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**12.06 Other statutory officers**

- (a) The Council must appoint a Director of Children’s Services and a Director of Adult Social Services, a Director of Public Health and a Scrutiny Officer.
- (b) The Corporate Director of ~~People~~ Children’s Services shall be appointed for the purposes of Section 18 of the Children Act 2004. The authority is required to provide adequate staff to assist the Corporate Director in the exercise of those functions.
- (c) The Director of Adult Social Care shall be appointed for the purposes of Section 6 of the Local Authority Social Services Act 1970. The authority is required to provide adequate staff to assist the Director in the exercise of those functions.

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## Part 3, Paragraph 8 - OFFICER DELEGATIONS

- 8.1 All matters not reserved to a decision-making body or individual above or by Financial Regulations, are deemed to be delegated to the Chief Executive, relevant Corporate Director, the Director of Public Health, the Director of Adult Social Care, or the Partnership Director Fairer Together and notwithstanding the reservations of matters, such bodies shall be entitled to delegate decisions to Directors or the Chief Executive on a case by case basis unless prohibited by legislation from doing so. All references within the Constitution to Corporate Directors, also refer to the Director of Public Health, Director of Adult Social Care, and the Partnership Director Fairer Together.
- 8.2 The relevant Corporate Director may be determined as follows:
- (a) all matters within the Environment Department (including all functions under the Licensing Act 2003 and the Gambling Act 2005 not within the terms of reference of sub-committees of the Licensing Committee or reserved to the Council at Part 3 Section 6 of the Constitution, other than the fixing of fees under the Gambling Act 2005.) to the Corporate Director of Environment;
  - (b) ~~all matters within the People Department, to the Corporate Director of People;~~  
all matters within the Children's Services department, to the Corporate Director of Children's Services
  - (c) all matters within the Homes and Neighbourhoods Department, to the Corporate Director of Homes and Neighbourhoods;
  - (d) all matters within the Department of Resources to the Corporate Director of Resources, (with the exception functions specifically designated to the Chief Finance Officer, if the Corporate Director is not also appointed as Chief Finance Officer);
  - (e) all matters within the Public Health Department, to the Director of Public Health;
  - (f) all matters within the Community Wealth Building Department to the Corporate Director – Community Wealth Building;
  - (g) all matters within the Fairer Together Department to the Partnership Director – Fairer Together;
  - (h) all matters within the Adult Social Care Department to the Director of Adult Social Care;

save that each Corporate Director may have responsibility for other corporate matters from time to time.

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## Part 3, Paragraph 4 - MATTERS RESERVED FOR EXECUTIVE DECISION

- 4.2(j) To receive reports of any death, serious injury, abuse, allegations of abuse or any other matters of serious concern in respect of a child who is a client of the ~~People~~ Children's Services Department in circumstances which give cause for concern in relation to the wider service. To consider reports on incidents where there has been an apparent failure to protect a client from serious harm, including Part 8 Reviews.

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## **Part 5, Terms of Reference**

### **HEALTH AND WELLBEING BOARD**

#### **Composition**

- Leader of the Council
- Executive Member for Health and Social Care
- Executive Member for Children, Young People and Families
- One elected Governing Body member for Islington, North Central London Clinical Commissioning Group
- One Executive Director, North Central London Clinical Commissioning Group, or their nominated representative
- Director of Adult Social Care
- Corporate Director of ~~People~~ Children's Services
- Director of Public Health
- Health Watch representative (one member)
- Local NHS Commissioning Board representative (non-voting)
- The Camden and Islington NHS Trust (non-voting)
- The Whittington NHS Trust (non-voting)
- Voluntary Sector representative (non-voting)
- Islington GP Federation representative (non-voting)

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## **Part 6, Financial Regulations**

### DISPOSAL AND ACQUISITION OF LAND ASSETS AND LEASES

7.5 The powers of officers to acquire and dispose of land and real property are set out below.

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

<b>Post</b>	<b>Power</b>	<b>Restriction</b>
...	...	....
Corporate Director of <del>People</del> <u>Children's Services</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	

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**Part 8, Management Structure, will be updated with a new organisation chart when this is made available.**

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## **Appendix 2, Executive and Non-Executive Functions**

<p><b>B. Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule)</b></p>		<p>Except where specified all of the functions listed under this section B will be exercised by the Corporate Director of Environment or an officer within the Corporate Director's department to whom the function has been delegated under Part 3 UNLESS the function has been reserved to the Licensing Committee or its sub-committees or of the Licensing Regulatory Committee or is required to be undertaken by the Corporate Director of <b>People Children's Services</b> or are required to be determined by the Council itself</p>
<p><b>35.</b> Power to license the employment of children.</p>	<p>Part II of the Children and Young Persons Act 1933, bylaws made under that Part, and Part II of the Children and Young Persons Act 1963.</p>	<p>Corporate Director of <b>People Children's Services</b></p>

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**(ii) Allocation of local choice functions to as executive or non-executive functions and delegation of functions to bodies and individuals**

<b>(1) Function</b>	<b>(2) Executive or Council</b>	<b>(3) Delegated to</b>
<p><b>3.</b> The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools.</p>	<p>Executive</p>	<p>Corporate Director of <b>People Children's Services</b></p>
<p><b>4.</b> The making of arrangements pursuant to section 94(1), (1A) and (4) of the 1998 Act (admissions appeals).</p>	<p>Executive</p>	<p>Corporate Director of <b>People Children's Services</b></p>
<p><b>5.</b> The making of arrangements pursuant to section 95(2) of the 1998 Act (children to whom section 87 applies: appeals by governing bodies).</p>	<p>Executive</p>	<p>Corporate Director of <b>People Children's Services</b></p>

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

### **SCHOOL ATTENDANCE FUNCTIONS**

~~The post holders specified below may exercise the Council's school attendance functions and powers (other than those specifically reserved to another person or body in the Constitution) falling within the area of responsibility of the Education Welfare Service if authorised by the Corporate Director of People in relation to specified legislation to do so.~~

- ~~• Education Welfare Officers~~
- ~~• Education Welfare Service Team Managers~~
- ~~• Senior Education Welfare Service Team Manager~~
- ~~• Head of Targeted Services~~

~~A list of all such authorisations will be maintained by the Director and notified to the Proper Officer.~~

The Corporate Director of Children's Services will designate officers to carry out functions and powers relating to school attendance and education welfare matters. A list of all such authorisations will be maintained by the Corporate Director and notified to the Proper Officer.

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## **(iv) Other minor amendments**

### **55.4 Delegation of Executive functions**

(a) Executive functions may be delegated to: a committee or 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.