

Legal Services
Law & Governance
7 Newington Barrow Way
London
N7 7EP

Report of: Interim Director of Law and Monitoring Officer

Meeting of: Audit Committee

Date: 13 March 2023

Subject: Review of Constitution – 2023/4

1. Synopsis

- 1.1. The purpose of this report is to inform the Audit Committee of a Review of the Council's Constitution to ensure it is up to date and fit for purpose.

2. Recommendation

- 2.1. To approve the proposed Terms of Reference, scope, and timescale for the Constitution Review.

3. Background

- 3.1. The Audit Committee has responsibility for governance matters under Article 8 of the Constitution.
- 3.2. The Constitution sets out how the council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. The council has a legal duty to publish an up-

to-date Constitution and it should be reviewed annually with any necessary changes being considered at the Annual Council meeting.

- 3.3. The Constitution currently comprises 374 pages organised into 8 parts, many divided into several sections. The document is difficult to navigate and a member of the public who did not already know which part to look in would find it difficult to locate a specific section of the Constitution as there is a very limited search facility.
- 3.4. Officers have also raised the following issues which have further prompted the need for a review:
- a) A document which has grown over the years and is not internally consistent.
 - b) Legal compliance and extensive statutory references need to be reviewed
 - c) A more consistent approach to reviewing the Constitution on an annual basis.
 - d) An unwieldy document that could be simplified and made more accessible for online viewing.
 - e) Opportunities to reduce bureaucracy, that also helps members and officers to take decisions more robustly with more clarity over who takes which decisions.

An approach to reviewing the Constitution

3.5. It is proposed that the Constitution be reviewed in two phases as follows:

- Phase 1 (January to May 2023) – Statutory compliance health check (see below) including updating Member Code of Conduct and Arrangements for dealing with Member Complaints. (The Code of Conduct and Member Complaints Arrangements are matters reserved to the Standards Committee)
- Phase 2 (March to September 2023) – Updating Schemes of Delegation, Contract Procedure Rules, and Financial Regulations.

Phase 1 - Statutory Compliance Checklist

3.6. A Constitution Direction was issued by the Secretary of State in December 2000 that requires around 80 matters to be included within council constitutions, covering members' allowances schemes, details of procedures for meetings, details of joint arrangements with other local authorities and a description of the rights of inhabitants of the area.

3.7. The first phase of the Constitution Review will comprise a desk top audit of the current Constitution against these requirements. Included in the desk top audit

will be a review of terms of reference of committees which are not compliant with legislation. This is currently being undertaken by Legal and Democratic Services officers. The current working draft is appended at **Appendix A**.

3.8. Phase two of the Review will involve researching best practice in relation to financial control and contract management arrangements in the public sector.

Constitution Review Working Group

3.9. It is proposed that a small member/officer working group be established, to oversee this work comprising the Chair of the Audit Committee, the Executive member for Resources, the Monitoring Officer, Deputy Monitoring Officer, Chief Lawyer (Governance), Head of Democratic Services & Governance, and Committee Services Manager.

3.10. The Constitution Review Working Group would steer the work of the Constitution Review with a view to bringing proposals to Full Council on 11 May 2023.

Terms of Reference

3.11. The Terms of Reference for the Constitution Review Working Group would be:

- a) To ensure the Constitution is compliant with relevant legislation
- b) To review the Terms of Reference for Committees
- c) To update Schemes of Delegation, Contract Procedure Rules, and Financial Regulations.
- d) To seek member input on the Constitution Review at the Member Development Sessions on Governance.
- e) To recommend to Full Council a revised version of the Constitution

4. Implications

4.1. Financial Implications

4.1.1. There are no financial implications.

4.2. Legal Implications

4.2.1. A local authority is under a duty to prepare and keep up to date its constitution under section 9P Local Government Act 2000 as amended. The Constitution must contain:

- a) The Council's standing orders/ procedure rules;
- b) The Members' Code of Conduct
- c) Such information as the Secretary of State may direct;
- d) Such other information (if any) as the authority considers appropriate.

4.2.2. A Constitution Direction was issued by the Secretary of State in December 2000 that required around 80 matters to be included within constitutions, covering members' allowances schemes, details of procedures for meetings, details of joint arrangements with other local authorities and a description of the rights of inhabitants of the area, amongst other things. Whilst issued under Part II Local Government Act 2000, the Direction survives the re-enactment into Part 1A (section 9B et seq.) of the 2000 Act by the Localism Act 2011 (under section 17 Interpretation Act 1978).

4.2.3 Constitutions must be available for inspection at all reasonable hours by members of the public and supplied to anyone who asks for a copy on payment of a reasonable fee.

4.3. Environmental Implications and contribution to achieving a net zero carbon Islington by 2030

4.3.1. There are no environmental implications.

4.4. Equalities Impact Assessment

4.4.1. 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.

4.4.2. There is no impact on equality matters at this stage but the terms of reference for the Constitution Review will require this.

5. Conclusion and reasons for recommendations

5.1. The Committee is asked to consider and approve the proposed approach to reviewing the Constitution.

Appendices:

- Constitution Review Statutory Compliance Checklist (**Appendix A**)

Background papers:

- None.

Final report clearance:

Authorised by: **Marie Rosenthal, Interim Director of Law & Governance and Monitoring Officer**

Date: 23 February 2023

Report Author: **Sonal Mistry, Interim Chief Lawyer (Governance)**

Tel: 020 7527 3833

Email: sonal.mistry@islington.gov.uk