

Legal Services, Law & Governance
222 Upper Street, London, N1 1XR

Report of: Director of Law and Governance

Meeting of: Audit & Risk Committee

Date: 18 March 2024

Ward(s): All

The appendices to this report are exempt from publication.

Subject: Constitution Review

1. Synopsis

- 1.1. In mid-2022, the council commissioned a comprehensive review of the Council's governance arrangements. One of the recommendations arising from the review was that the Council 'must review its Constitution as a whole to ensure it is fully compliant, roles and functions are clearer, to remove duplication and present it in a format that is readily accessible'.
- 1.2. On 13 July 2023, following a legal compliance health check to ensure that the Constitution is legally compliant and fit for purpose, the Council approved required changes to the Constitution to ensure that it was compliant with current legislation. The changes included clarifying the purpose and terms of reference of a number of committees, an update to the Code of Conduct for Members and amendments to ensure that the Constitution is legally compliant.
- 1.3. Further work, identified in the report to Audit Committee on 13 March 2023 as 'phase two', including reviewing Schemes of Delegation, the Contract Procedure Rules, and the Financial Regulations is underway.
- 1.4. We are seeking agreement to combine this work with a full review of the Constitution, to also address the duplication and accessibility issues identified in the 2022

governance review.

2. Recommendations

- 2.1. To approve a full review of the Constitution's structure and content.
- 2.2. To approve the appointment of an expert external advisor to support the wider work to improve the Constitution.
- 2.3. To note that the work to update and improve the Contract Procedure Rules, and the Financial Regulations is ongoing.
- 2.4. To note that the Scrutiny Review is ongoing.

3. Background

- 3.1. The 2022 review of the Council's governance arrangements recommended that the Council 'must review its Constitution as a whole to ensure it is fully compliant, roles and functions are clearer, to remove duplication and present it in format that is readily accessible'. The objectives outlined were to:
 - 3.1.1. Ensure the council's governance arrangements are agile, flexible and responsive, and support achievement of its ambitions.
 - 3.1.2. Ensure that those arrangements are compliant, and reflect best practice and guidance.
 - 3.1.3. Enable the council to understand its readiness and appetite for change, and improvement in its governance arrangements.
- 3.2. The purpose of this review is to provide clarity on roles and responsibilities and provide for effective decision making at the right level for the benefit of the organisation.
- 3.3. The importance of good governance cannot be underestimated, and this review will benefit the organisation's commitment to effective governance to provide clear robust timelines, meaningful engagement and collaboration with officers and Members to future proof the organisation's decision-making requirements.
- 3.4. The first phase of this work was completed, with a number of changes to the Constitution agreed at Full Council on 13 July 2023. The main changes were as follows:
- 3.5. **Phase One (complete):**
 - 3.5.1. Simplification of the Audit Committee structure and update to the terms of

reference.

3.5.2. Employment and Appointments Committee and Pensions Committee became sovereign committees of the Council and their roles were clarified.

3.5.3. The arrangements for Pensions Board were updated.

3.5.4. The role of Standards Committee was strengthened and clarified.

3.5.5. A number of changes were made throughout the Constitution to ensure it is compliant with current regulations.

3.6. Phase Two of the review is ongoing and includes:

Phase Two:

Schemes of Authorisation, Financial Regulations and the Procurement Rules

Work is ongoing on the Schemes of Authorisation, the Financial Regulations, and the Procurement Rules, with an update to follow at a later date.

Scrutiny Review:

Work is ongoing. The project plan was agreed by the Policy and Performance Scrutiny Committee on 21 September 2023. CMB and Leadership were consulted on possible new committee structures in December and a member project board is meeting regularly to steer and oversee the work.

3.7. It is proposed that Phase Two is expanded to include the wider review of the Constitution as recommended by the 2022 governance review. It is proposed that a wider review of the Constitution is undertaken to simplify the document, reduce duplication and make it more accessible to colleagues, councillors and members of the public.

3.8. **Wider review objectives:**

3.8.1. A shorter, logically structured, more accessible document.

3.8.2. Reduce duplication and multiple references and incorporating the content of appendices into the main document, so all relevant information is in one place.

3.8.3. Remove references to information by paragraph number, so it is no longer necessary to review and compare paragraphs and to stop paragraph reference numbers becoming incorrect when sections are amended.

3.8.4. Ensuring the language is clear and unambiguous to reduce instances when two

different interpretations could be equally correct.

3.8.5. Remove archaic, repealed and irrelevant legislation and hold this in a separate reference document.

Proposed methodology and timetable

- 3.9. A number of external advisors have been approached for their proposals and fee quotes. These include two law firms through the LBLA and EM Lawshare frameworks which afford favourable rates to local authorities with certain reputable law firms. Other specialist organisations approached are SOLACE, the Centre for Governance and Scrutiny and the Association of Democratic Services Officers (ADSO).
- 3.10. The successful advisor will be selected based on best value in terms of costs, their expertise in advising (London) local authorities on Constitutions, and any input from supporting advisors.
- 3.11. Officers have reviewed the proposals received from external advisors, summarised in the assessment table in exempt **Appendix A**. The proposals from all external advisors are attached in exempt **Appendices B -E**. Based on this assessment, it is recommended that Anthony Collins be appointed as the successful advisor.
- 3.12. The timeline envisaged for this project is approximately six months, which will entail the following:
- 3.13. A member project board will be established comprising of a small group of volunteer members including committee Chairs and an opposition member, so that members can be engaged in the process.
- 3.14. Stakeholders will be engaged in their relevant areas and each theme will be brought to CMT for review.
- 3.15. By the end of March 2024, officers in Legal Services and Democratic Services will take the preparatory steps of highlighting themes and issues with the Constitution for the external advisor's immediate attention, as well as looking at best practice in other local authorities.
- 3.16. A further update will be provided to the Audit and Risk Committee as soon as practicable.

- 3.17. The external advisor will attend Working Group/ project board meetings with officers and members.
- 3.18. The updated and improved Constitution will be presented to Full Council as soon as practicable.
- 3.19. After the Constitution is successfully updated, a training programme for officers and all members will be undertaken across the council.

4. Implications

4.1. Financial Implications

- 4.1.1 There are a range of proposals in the exempt appendices from external advisors to support the proposed work to improve the Constitution. The proposals are summarised in exempt Appendix A. The proposed costs vary considerably depending on the specific proposals from each firm of advisors, therefore value for money needs to be a key consideration. Where quotes involve day rates careful contract management will be required to minimise cost and maximise value. We will seek to manage costs within existing budgets in the first instance, however if there is insufficient scope to meet the full cost in this way any balance will be met from reserves.

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. An Equalities Impact Assessment is not required in relation to this report.

5. Conclusion and reasons for recommendations

5.1. To note and approve the work being undertaken to review the Constitution and to approve the appointment of an external advisor to support the review.

Appendices (exempt):

- Appendix A – Advisor Assessment Table
- Appendix B – Anthony Collins proposal
- Appendix C – Geldards proposal
- Appendix D – Solace proposal
- Appendix E – Weightmans proposal

Background papers: None

Final report clearance:

Authorised by:

Alison Stuart, Director of Law & Governance and Monitoring Officer

Date: 8 March 2024

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

Tel:

Email: sonal.mistry@islington.gov.uk

Financial Implications Author: Tim Partington

Tel:

Email: tim.partington@islington.gov.uk

Legal Implications Author: Sonal.mistry@islington.gov.uk

Tel:

Email: sonal.mistry@islington.gov.uk