



Haverling

L O N D O N B O R O U G H

GOVERNANCE COMMITTEE AGENDA

7.30pm	Wednesday 25 November 2009	Haverling Town Hall Main Road, Romford
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Members 10: Quorum 4

COUNCILLORS:

Conservative Group (6)	Residents' Group (2)	Independent Local Residents' Group (1)	Labour Group (1)
Frederick Thompson (C) Gary Adams (VC) Robert Benham Steven Kelly Eric Munday Michael White	Clarence Barrett Gillian Ford	Jeffrey Tucker	Keith Darvill

**For information about the meeting please contact:
Taiwo Adeoye (01708) 433079
e-mail taiwo.adeoye@haverling.gov.uk**

NOTES ABOUT THE MEETING

1. HEALTH AND SAFETY

The Council is committed to protecting the health and safety of everyone who attends meetings of its Committees.

At the beginning of the meeting, there will be an announcement about what you should do if there is an emergency during its course. **For your own safety and that of others at the meeting, please comply with any instructions given to you about evacuation of the building, or any other safety related matters.**

2. MOBILE COMMUNICATIONS DEVICES

Although mobile phones, pagers and other such devices are an essential part of many people's lives, their use during a meeting can be disruptive and a nuisance. Everyone attending is asked therefore to ensure that any device is switched to silent operation or switched off completely.

3. CONDUCT AT THE MEETING

Although members of the public are welcome to attend meetings of the Committee, they have no right to speak at them. Seating for the public is, however, limited and the Council cannot guarantee that everyone who wants to be present in the meeting room can be accommodated. When it is known in advance that there is likely to be particular public interest in an item the Council will endeavour to provide an overspill room in which, by use of television links, members of the public will be able to see and hear most of the proceedings.

The Chairman of the meeting has discretion, however, to invite members of the public to ask questions or to respond to points raised by Members. Those who wish to do that may find it helpful to advise the Committee Officer before the meeting so that the Chairman is aware that someone wishes to ask a question.

PLEASE REMEMBER THAT THE CHAIRMAN MAY REQUIRE ANYONE WHO ACTS IN A DISRUPTIVE MANNER TO LEAVE THE MEETING AND THAT THE MEETING MAY BE ADJOURNED IF NECESSARY WHILE THAT IS ARRANGED.

If you need to leave the meeting before its end, please remember that others present have the right to listen to the proceedings without disruption. Please leave quietly and do not engage others in conversation until you have left the meeting room.

AGENDA ITEMS

1 CHAIRMAN'S ANNOUNCEMENTS

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

**2 APOLOGIES FOR ABSENCE AND ANNOUNCEMENT OF SUBSTITUTE MEMBERS
(if any) - receive.**

3 DECLARATION OF INTERESTS

Members are invited to declare any interests in any of the items on the agenda at this point of the meeting. Members may still declare an interest in an item at any time prior to the consideration of the matter.

4 MINUTES

To approve as a correct record the minutes of the meetings of the Committee held on 7 October 2009 (to follow), and to authorise the Chairman to sign them.

5 PAPERLESS COUNCILLOR – Report Attached

6 REVIEW OF COUNCIL'S CONSTITUTION – Report Attached

**7 REVIEW OF COUNCIL'S CONSTITUTION, ARTICLES OF THE CONSTITUTION -
Report Attached**

**8 REVIEW OF COUNCIL'S TO THE CONSTITUTION, RESPONSIBILITY FOR
FUNCTIONS (COUNCIL AND COMMITTEES) – Report Attached**

**9 MONITORING OFFICER NO 36 AMENDMENTS TO THE CONSTITUTION – Report
Attached**

**Cheryl Coppel
Chief Executive**

**MINUTES OF A MEETING OF THE
GOVERNANCE COMMITTEE
Havering Town Hall
7 October 2009 (7.30pm – 9.00pm)**

Present:

COUNCILLORS:

Conservative Group Frederick Thompson (in the Chair), Robert Benham, +Wendy Brie-Thompson, Steven Kelly, Eric Munday and +Barry Tebbutt

Residents' Group Gillian Ford

Rainham & Wennington Independent Residents' Group

Labour Group

Apologies were received for the absence from Councillors Gary Adams, Clarence Barrett, Keith Darvill and Michael White.

+Substitute Members: Councillors Wendy Brice-Thompson (for Gary Adams) and Barry Tebbutt (for Michael White)

All decisions were taken with no vote against.

The Chairman reminded Members of the action to be taken in an emergency.

13 MINUTES

The Minutes of the meeting of the Committee held on 8 July 2009 and 9 September 2009 were agreed as a correct record and were signed by the Chairman.

14 REVISIONS TO THE PROTOCOL ON PROBITY IN PLANNING AND MEMBERSHIP OF REGULATORY SERVICES COMMITTEE

The Committee received a report that proposed under Part 3 of the Local Government and Public Involvement in Health Act 2007 local authorities were required to make changes to the leadership of Councils. The Act introduced two models, both of which placed all executive powers in the hands of one individual, either an elected Mayor or a "strong" Leader who, in the normal course of events, would serve an uninterrupted term of four years. Under the new arrangements, the Leader or Mayor once elected would appoint and dismiss his or her Cabinet of between two and ten Councillors and would decide what (if any) executive powers they would exercise.

Governance Committee, 7 October 2009

The report considered the public consultation which had taken place and sought agreement to the proposals to be put to Council for formal resolution.

RESOLVED to RECOMMEND to the Council:

1. That the outcome of the public consultation on the proposals for Executive Arrangements be noted.
2. That, having considered the response to the consultation, it be agreed to proceed with new Executive Arrangements based on the status quo of a Leader and Cabinet model.
3. That Council be **RECOMMENDED** to adopt the Proposals for Executive Arrangements in the form set out in Appendix 2 to this report and based on the Leader and Cabinet Model, to be implemented on 9 May 2010.
4. That, in order to comply with the legislation the proposal be published describing the main features and the extent to which they secure continuous improvement and the proposals be advertised in one or more newspapers and made available at the Council's offices.
5. That a draft Constitution be prepared for decision by the Council in due course, to meet the requirements of the Local Government Act 2000, Local Government and Public Involvement in Health Act 2007 and the new Executive Arrangements chosen.
6. That the Proposals and the Constitution contain the power to Council that the term of office granted to the Leader can be taken away by majority vote in full Council.

15 WEBCASTING OF COUNCIL AND OTHER MEETINGS

Following on from its meeting in July 2009 the Committee considered a report that proposes Council employ webcasting as a means of making its proceedings available to a wider public and that the Council Procedure Rules be amended to make provision for it.

The report referred to the growth in the use of webcasting by a number of local authorities, outlined the uses to which the Council might put webcasting and addressed concerns that had been raised by Members.

It was noted that:

- Members present at meetings of the Council and its Committees convened under the Local Government Act 1972 enjoyed qualified privilege from action for defamation – comments made in the course of meetings would not be liable to action for libel or slander provided that

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they were not made with malicious intent; qualified privilege would apply to webcasts as it would to the meetings themselves.

- The Monitoring Officer would prepare guidance for the Mayor and Committee Chairmen on the conduct of meetings that are being webcast. The Council would retain copyright in all webcast material, whether webcast live or held as a recording, either on the website or as an archived electronic file.
- In relation to malicious extracts from webcast material, the contractor had advised that it was highly unlikely that extracts could be made, although not impossible.
- Members of the public attending meetings who did not wish to appear in the webcast would be warned in advance that it would be webcast and given the opportunity not to participate in it if they did not wish to appear in the webcast.
- The annual cost of equipment etc of around £18,000 would be met from existing budget provision and that it was not anticipated that any extra staff costs would be incurred in webcasting Council and Cabinet meetings. The webcasting equipment was compatible with the existing IT equipment in the Council Chamber and, other than an external internet connection, no change was needed.

RESOLVED:

To **RECOMMEND** to Council,

- 1 **That meetings of Full Council and Cabinet be made accessible via a live web cam to residents. Any further expansion of web cam facilities to be reported to and agreed upon at Governance Committee and Council.**
- 2 **That the Council delegate to the Governance Committee:**
 - (a) **determination of the uses to which it will be put and the terms of such use; and**
 - (b) **approval of any requisite changes to the Council's Constitution.**

16 APPOINTMENT OF SCHOOL GOVERNOR

The Committee was reminded that the appointment of school governor who are also Members and employees of the Council was considered by this Committee. The name a prospective governor identified by the Governor Appointment Panel had been submitted for formal approval.

RESOLVED:

Governance Committee, 7 October 2009

That the appointment of Mrs E Race to the Wykeham Primary School Governing Body. Mrs Race works within the Havering Inspection and Advisory Services team of the Social Care & Learning Directorate.

Chairman
25 November 2009



GOVERNANCE COMMITTEE

REPORT

25 November 2009

Subject Heading:

CORPORATE OVERVIEW & SCRUTINY
COMMITTEE – Paperless Councillor

CMT Lead:

Christine Dooley
Assistant Chief Executive
01708 432442

Report Author and contact details:

Philip Heady
Democratic Services Manager
01708 432433

Policy context:

Increased efficiency around the provision
of services to members.

Financial summary:

There will be possible savings should the
courier service to members be reduced

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input type="checkbox"/>
Value and enhance the life of every individual	<input type="checkbox"/>
High customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

SUMMARY

1. At the meeting on 5th November 2009 the Corporate Overview and Scrutiny Committee adopted the report and recommendations of the Paperless Councillor Topic Group. (see appendix)

2. *Under the Local Government and Public Involvement in Health Act 2007, s. 122, the Council is required to consider and respond to a report of an Overview and Scrutiny Committee within two months of its agreement by that Committee. In this case, the Council is required to do this by 18/02/10 at the latest. The Council is also required to give reasons for its decisions in relating to the report, particularly in instances where it decides not to adopt one or more of the recommendations contained within the report.*
3. This Committee is responsible for overseeing matters related to the facilities available to support members. The Topic Group's deliberations have been made known to staff and several relatively minor actions have been put in place following their steer around how information is provided to members. For the most part these have been put in place without the need for member authority as such. Now before members, however, are general proposals that would be appropriate for members to consider formally plus a proposal around a modification around the frequency of the Members' Courier Service.
4. The recommendations referred to this committee are shown in the appended report. They were supplemented by a recommendation on member IT training and the recommendations set out in this report include that additional recommendation. The Committee also asked for extra information and this is included with this covering report.

RECOMMENDATIONS

That the Governance Committee be recommended to:

1. Encourage members to collect their own mail from the individual 'pigeon holes' provided within the Town Hall.
2. Consider modifying the service to members by reducing courier deliveries to councillors' homes to one day per week, (Friday evening, to mop up),
3. Consider modifying the service to members so that non-members of committees who ask for copies of agendas receive, instead an email version or a mail with a link to the agenda on the website, but still provide hard copies to those members who serve on the Committee; and
4. To offer a dedicated training programme for members to facilitate their use of IT.

REPORT DETAIL

1. The summary to this report sets out the background, the recommendations needing the committee's attention being set out in full in this covering report.
2. In adopting the recommendations of the Topic Group the Overview and Scrutiny Committee asked that additional information be provided to this Committee when it considered the matter.
3. The additional information required was
 - (a) How much saving would be achieved by changing the courier service from three daytime deliveries each week to one evening delivery; and
 - (b) What effect would the proposed change have on the courier staffs' contractual arrangements.
4. The above information was not available at the time of the publication of this report.
5. Should the recommendations be agreed staff will take action to put them into effect. On recommendation 4, the Overview and Scrutiny Committee did note that there was already training opportunities available.
6. **Comments by Officers**
When Topic Group Reports are adapted by overview and scrutiny committees, the members receiving the recommendations are also provided with comments by officers.

The Democratic Services Manager reports -

It should be noted that for those members who neither visit the Town Hall on a regular basis nor use personal computers will have a significant reduction in the service to them. In cases where statutory deadlines needed to be met, special courier or postage arrangements would need to be made from time to time which would thus reduce the financial saving achieved in Corporate Support.

It is possible that the reduction could significantly discriminate against members who will not or cannot use IT, and against those who do not visit the Town Hall. Those members of the public who wish to contact a ward member in writing via the Town Hall might also find that their contact becomes slower because members will only receive hard copy materials once a week.

Those members who are not in a Group rarely visit the Town Hall except on Council meeting days, while those in small Groups do not have many

committee places and thus have no reason to come to the Town Hall frequently. The Council needs to meet the needs of all 54 councillors not just those who spend time in the Town Hall or are comfortable with using computer technology.

IMPLICATIONS AND RISKS

Financial implications and risks: In the absence of details of possible savings around the courier service, there are none additional to those set out in the Topic Group's Report.

Legal implications and risks: None

Human Resources implications and risks: There are currently none

Equalities implications and risks: None additional to those mentioned in the Topic Group report.

BACKGROUND PAPERS

There are none.

**REPORT OF THE
CORPORATE OVERVIEW AND SCRUTINY COMMITTEE:
'PAPERLESS' COUNCILLOR TOPIC GROUP**

RECOMMENDATIONS

To adopt the report and recommend the Governance Committee to:

1. Encourage members to collect their own mail from the individual 'pigeon holes' provided within the Town Hall.
2. consider modifying the service to members by reducing courier deliveries to councillors' homes to one day per week, (Friday evening, to mop up), and
3. Consider modifying the service to members so that non-members of committees who ask for copies of agendas receive, instead an email version or a mail with a link to the agenda on the website, but still provide hard copies to those members who serve on the Committee.

REPORT DETAIL

1. Background

At their meeting on 10 December 2008 the Committee established a Topic Group to review the opportunities available to explore the concept of the 'Paperless' Councillor. The Topic Group comprised all members of the Overview and Scrutiny Committee under the chairmanship of the Committee's Chairman and which was regularly attended by the Leader of the Council.

The Topic Group met on seven occasions concluding its deliberations on 6 October 2009. The Topic Group received a presentation from Bell IT who had developed a system called 'Docushare' in conjunction with Xerox. This was one possible solution to the creation of a 'paperless' environment.

Throughout the life of the Topic Group members discussed with the Democratic Services Manager several, relatively minor yet accumulatively beneficial changes in the way information and paper documents were handled

2. Progress

In the early stages of their deliberations the Topic Group received several presentations from the Leader of the Council who demonstrated how he was able to adopt the ideal of a paperless environment using a laptop and digital pen. Two laptops and digital pen sets were acquired to allow members of the Topic Group to trial the concept. This trial is still continuing but at this time the Topic Group do not feel able to recommend the roll out of such equipment to all members.

Following Annual Council Chairmanship of the Topic Group changed and the focus became paper reduction in support of the concept of creating an environment suitable for the idea of a 'paperless' councillor.

Steps have already been taken to encourage both members and officers to accept electronic copies of agendas rather than hard copies by a thorough examination of agenda distribution lists; circulating the Planning 'pink' sheets as an electronic document rather than a paper copy, circulating Initial and Revised Council agendas in electronic form only; publishing paper saving tips, eg via global emails, and via the Mayor' announcements at Council. The Topic Group and the Corporate Overview and Scrutiny Committee have piloted the idea of utilising the White Board technology at meetings to display agenda to reduce the reliance on traditional paper agenda.

The next step considered by the Topic Group was to come forward with suggestions for ways of reducing the amount of hard mail members receive and reducing the number of courier deliveries they receive.

At their last meeting the Topic Group received an oral report on the introduction of a secure wireless network in to the Town Hall, Mercury House and libraries. One of the advantages brought about by this introduction in Mercury House was that staff were able to work more flexibly, with more staff being able to work from home to save office space. The idea was that when the network was introduced to the Town Hall similar advantages would be available. The Topic Group felt that before the idea of working from home was extended a full report would need to be submitted to the appropriate committee.

3. Current arrangements for handling hard-copy material

- 3.1 Councillor's mail is handled by the Corporate Support team based in the Town Hall. All mail is currently sorted and enveloped for each member once a day and can be collected in person from each Councillor's 'pigeon hole' in

the Corporate Support office. The mail is re-checked before being put into a large envelope for the councillor to ensure that another councillor's mail has not got caught up with it. In addition, a courier hand delivers to each councillor's home address three times a week during the daytime (Monday, Wednesday and Friday).

- 3.2 The current arrangements account for the following resources:
- 18 hours per week of courier time and vehicle costs
 - 6 hours a week of administrative resource within the Corporate Support team
 - A minimum of £500 p.a. in stationary costs – whilst every effort is made to re-use envelopes, these are invariably in short supply.

These costs are wholly met by corporate support budgets

- 3.3 The cost of envelopes could be eliminated by purchasing personal security wallets for use by the courier for each councillor although the initial cost of these would itself be in excess of £900. In the long run this would reduce the cost of stationary as members would be encouraged to return the wallet each week.

- 3.4 Prompted by the work and consideration by the Topic Group, a 'pigeon hole' has been made available for each councillor within the Town Hall. These pigeon holes can be accessed from within the Corporate Support office by Corporate Support staff only. Councillors can access their pigeon hole from the corridor outside the office by key only. The keys have been distributed to councillors to enable them to collect their own mail from the Town Hall at any time the building is open (each key will only open their own letterbox) – the Corporate Support office need not be open for this purpose. The area has a camera installed and is within the access-controlled area of the corridor.

4. Proposed alternative arrangements

- 4.1 In an effort to reduce costs it is proposed to place more responsibility upon Members to collect their post in person.
- 4.2 It is proposed to reduce courier deliveries to councillors' home addresses to one day a week (Friday – to 'mop up') with the onus being on the councillor to collect mail from their own pigeon hole during the week.
- 4.3 Meeting agendas will be e-mailed to all councillors on the distribution list at least one week in advance and for the time being hard-copies will continue to be supplied to those councillors sitting on the committee concerned.
- 4.4 The proposed revisions will reduce the cost of the vehicles, couriers and Corporate Support staff preparing the mail for collection and costs for envelopes.

- 4.5 During the deliberations it was reported to the Topic Group that for those members who neither visit the Town Hall on a regular basis or use personal computers will have a significant reduction in the service to them. However, the Topic Group considered that those members would be thus incentivised to use the available technology. It was also noted that in cases where statutory deadlines needed to be met, special arrangements would need to be made from time to time which would thus reduce the financial saving achieved in Corporate Support

5. Comments from officers

- 5.1 The notion to reduce courier deliveries to once a week would significantly discriminate against members who won't or cannot use IT, and against those who don't visit the Town Hall. Those members who are not in a Group very rarely visit the Town Hall except on Council days, while those in small Groups do not have many committee places and thus have no reason to come to the Town Hall frequently. The Council needs to meet the needs of all 54 councillors not just those who spend time in the Town Hall or are comfortable with using computer technology.

Efforts to increase member use of the available technology have had only limited success, while peer pressure have not so far brought about much change.

6. Recommendations

1. To proceed with the trial using the mini laptops and digital pens, but not to purchase any additional items at this time;
2. To not proceed with the roll out of mini laptops and digital pens to all councillors;
3. To develop a policy for working at home if this is to be extended;
4. To encourage officers to send out as much information as possible to members electronically;
5. To purchase ziplock bags for the despatch of mail to members;
6. To recommend the Governance Committee to consider modifying the service to members through changes to the delivery of mail to members: and
7. To obtain the views of all members on all committees, except with regard to the Regulatory Services Committee, on using the Smart Board for meetings therefore reducing dependence on hard copies.

IMPLICATIONS AND RISKS

Financial implications and risks:

At this time it is impossible to be definitive about the possible savings if these proposals are adopted. In the short term the cost of acquiring the ziplock bags for councillors can be off set against the saving in stationary. In the long term printing costs may be reduced in the production of agenda, but councillors costs in printing off those papers they 'need' could well increase.

The 18 hours per week of courier time and vehicle costs could be reduced presumably to 6 hours, if the three deliveries are reduced to one; further work will be needed though to establish whether this is a real saving.

Legal implications and risks:

None specifically from this report

Human Resources implications and risks:

None specifically from this report

Equalities implications and risks:

None specifically from this report

BACKGROUND PAPERS

Notes of the meetings of the Paperless Councillor Topic Group



GOVERNANCE COMMITTEE

REPORT

25 NOVEMBER 2009

Subject Heading:

REVIEW OF THE COUNCIL'S
CONSTITUTION – Part 1: Summary

CMT Lead:

Christine Dooley, Assistant Chief
Executive/Monitoring Officer

Report Author and contact details:

Ian Buckmaster, Committee
Administration Manager
01708 432431

Policy context:

ian.buckmaster@havering.gov.uk

The Council's Constitution is being
reviewed prior to the introduction of new
executive arrangements in May 2010

Financial summary:

There are no direct costs associated with
this review

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	X
Value and enhance the life of every individual	X
High customer satisfaction and a stable council tax	X

SUMMARY

This is the first of a series of reports reviewing the Council's Constitution. A Working Group of Members and officers has been looking closely at the existing constitutional documents with a view to recommending changes intended both to simplify the Constitution where possible and to ensure that its provisions meet current (and anticipated) needs.

This report concerns Part 1 of the Constitution, which summarises its content.

RECOMMENDATIONS

That the Committee **RECOMMEND** to Council that the revised Part 1 be adopted.

REPORT DETAIL

- 1 At its meeting in September 2009, the Committee set up a Working Group of Members and Officers to review the Council's Constitution. This is the first of several reports, and deals with Part 1 of the Constitution, its summary.
- 2 The text of part 1 is appended.
- 3 There are no issues within the text that require the Committee's attention and it is therefore recommended that it be referred to the Council for adoption without further alteration.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no significant financial implications or risks arising from this exercise. The cost of reproducing the new Constitution will be met from existing budget provision.

Legal implications and risks:

The Council has a legal obligation to adopt a Constitution and to keep it under review. The new executive arrangements effective from May 2010 require extensive review to be undertaken.

Human Resources implications and risks:

There are none.

Equalities implications and risks:

The purpose of the Constitution is to assist the community to understand how the Council works and to make its processes and procedures accessible.

BACKGROUND PAPERS

There are none.

Constitution Part 1 – Summary

The Council's constitution

The London Borough of Havering has a constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that decisions are properly made and are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others have been decided by the Council itself.

The constitution is divided into 12 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

What's in the constitution?

Article 1 of the constitution commits the Council to deliver its priorities under the community strategy and the corporate development plan, and to provide clear community leadership in partnership with local people, partners, businesses and others with a stake in the well being of the London Borough of Havering. The rest deal with:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Council and the Mayor (Article 4)
- The Executive – Leader of the Council and Cabinet (Article 5)
- Overview and scrutiny (Article 6)
- Joint arrangements (Article 7)
- Staff (Article 8)
- Decision making (Article 9)
- Finance, contracts and legal matters (Article 10)
- Review and revision of the constitution (Article 11)
- Suspension, interpretation and publication of the constitution (Article 12).

How the Council operates

The Council is composed of 54 councillors elected every four years. Councillors are democratically accountable to residents of their electoral ward. The overriding

duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the code and standards.

All councillors meet together as the Council. Meetings of the Council are normally open to the public. Here councillors decide the Council's overall policies, and set the budget each year. The Council elects a Leader, who then appoints between two and ten other members who together form the Cabinet. The Leader and Cabinet are responsible for implementing the policies decided by the Council within the budget. The functions of the Cabinet as a body are set by the Council but the functions of individual Cabinet members are decided by the Leader. The Council also appoints overview and scrutiny committees to help in policy formulation and to hold the Cabinet to account for its performance.

How decisions are made

The Executive is accountable for most day-to-day decisions. The Executive is made up of the Leader and the Cabinet. When major decisions are to be discussed or made, these are published in the Leader's Forward Plan.. If these major decisions are to be taken at a meeting of the Executive, the meeting will be open for the public to attend except where personal or confidential matters are being discussed. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

While most decisions are taken by the Executive (i.e. by or on behalf of the Cabinet or an individual Cabinet member), important decisions are also taken by the full Council, or by its committees and sub-committees

Overview and scrutiny

There are eight overview and scrutiny committees which support the work of the Executive and the Council as a whole. They report and make recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery. Overview and scrutiny committees also monitor the decisions of the Executive. They can "call-in" a decision which has been made by the Executive but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Executive reconsider the decision. They may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

The overview and scrutiny committees also deal with Councillor Calls for Action and have power to scrutinise a number of partner agencies in relation to matters concerning the National Health Service, crime and disorder and the Local Area Agreement.

Area committees

There are nine area committees. These provide a platform for local people to express their views regarding important community issues, to review the operation of services locally, to allow representatives and recommendations to be made to the Executive and Council and to take certain important decisions, including some traffic management matters, on a local basis. They involve councillors for each particular area and are held in public.

The Council's staff

The Council has staff to give advice, implement decisions and manage the day-to-day delivery of its services. Some staff have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between staff and members of the Council.

Citizens' rights

Citizens have a number of rights in their dealings with the Council. Some of these are legal rights, while others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.

Citizens have the right to:

- vote at local elections if they are registered
- contact their local councillor about any matters of concern to them
- obtain a copy of the constitution
- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed
- petition to request a referendum on a mayoral form of Executive
- find out, from the Leader's forward plan, what major decisions are to be discussed by the Executive or decided by the Executive or staff, and when
- attend meetings of the Executive where key decisions are being discussed or decided
- see reports and background papers, and any record of decisions made by the Council and Executive
- complain to the Council about any aspect of the borough's services using the Council's formal complaints systems

Governance Committee, 25 November 2009

- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should do this only after using the Council's own complaints process
- complain to the Standards Committee if they have evidence which they think shows that a councillor has not followed the Council's code of conduct, and
- inspect the Council's accounts and make their views known to the external auditor.
- Inspect the Register of Members' Interests

Where members of the public use specific council services, for example as a parent of a school pupil or as a council tenant, they may have additional rights. These are not covered in this constitution.

The Council welcomes participation by its citizens in its work. A statement of the rights of citizens to inspect agendas and reports and attend meetings is available.



GOVERNANCE COMMITTEE

REPORT

25 NOVEMBER 2009

Subject Heading:

REVIEW OF THE COUNCIL'S
CONSTITUTION – Part 2: Articles of the
Constitution

CMT Lead:

Christine Dooley, Assistant Chief
Executive/Monitoring Officer

Report Author and contact details:

Ian Buckmaster, Committee
Administration Manager
01708 432431

Policy context:

ian.buckmaster@havering.gov.uk

The Council's Constitution is being
reviewed prior to the introduction of new
executive arrangements in May 2010

Financial summary:

There are no direct costs associated with
this review

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input checked="" type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

SUMMARY

This is the second report arising from the review of the Council's Constitution. It concerns Part 2 of the Constitution, which contains its Articles.

RECOMMENDATIONS

- 1 That the Committee consider the Monitoring Officer's power to amend the Constitution and determine what, if any, changes are to be made to the draft Articles.
- 2 That the draft, as (if) amended, be approved as the revised Part 2.
- 3 That the Committee **RECOMMEND** to Council that the revised Part 2 be adopted.

REPORT DETAIL

- 1 At its meeting in September 2009, the Committee set up a Working Group of Members and Officers to review the Council's Constitution. This is the second report arising from the work of that Working Group, and deals with Part 2 of the Constitution, its Articles.
- 2 The text of part 2 is appended. The characters in highlighted italics are cross-references to other parts of the Constitution, where the numbers etc may change in the course of the later stages of the review. When the whole text is finalised, these numbers will be corrected.
- 3 There is only one issue that requires detailed consideration by the Committee: the power of the Monitoring Officer to amend the text of the Constitution. This power, as set out in both the current Constitution and the revised version appended, reads:

(c) Delegated powers of the Monitoring Officer

The Monitoring Officer shall have power to:

- **amend the Constitution to correct errors or to comply with any legal requirement or to reflect organisational changes to the Council's structure**
- **insert recommendations made pursuant to a written report agreed by Council**
- **clarify the Constitution, insert obvious omissions or to comply with any accepted recommendations made by District Audit, the Audit Commission, Standards for England and/or any other government appointed inspection regime.**

Note Power to clarify the Constitution, insert obvious omissions or to comply with accepted recommendations of external bodies shall only be exercised after first giving five working days' notice to Group Leaders.

If the Monitoring Officer makes any such amendment to the constitution, he or she must notify the Governance Committee accordingly at the first reasonable opportunity.

- 4 Members of the Working Group expressed some misgivings about the extent of those powers, especially the first bullet pointed paragraph (in highlighted italics) and decided to invite the Committee to consider them in detail. The matter is referred accordingly.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no significant financial implications or risks arising from this exercise. The cost of reproducing the new Constitution will be met from existing budget provision.

Legal implications and risks:

The Council has a legal obligation to adopt a Constitution and to keep it under review. The new executive arrangements effective from May 2010 require extensive review to be undertaken.

Human Resources implications and risks:

There are none.

Equalities implications and risks:

The purpose of the Constitution is to assist the community to understand how the Council works and to make its processes and procedures accessible.

BACKGROUND PAPERS

There are none.

Part 2: the Articles of the Constitution

Article 1: The constitution

1.01 Purpose of the Constitution

The purpose of the constitution is to set the frameworks within which the Council operates and in particular to:

- 1 enable the Council to provide clear leadership to the community in partnership with citizens, partners, businesses and other organisations
- 2 support the active involvement of citizens in the process of local authority decision-making
- 3 help councillors represent their constituents more effectively
- 4 enable decisions to be taken efficiently and effectively
- 5 create a powerful and effective means of holding decision-makers to public account
- 6 ensure that no person will review or scrutinise a decision in which he or she was directly involved
- 7 ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions
- 8 provide a means of improving the delivery of services to the community.

1.02 Interpretation and review of the constitution

Where the constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the constitution as set out in Article 11.

1.03 Definitions

For the purposes of this constitution:

- (a) Where appropriate, any reference to a member includes a co-opted member (that is a member who is not a member of the Council but

who is entitled to vote on the committee or sub-committee on which he or she sits).

- (b) The following staff are Chief Officers:
1. Head of Paid Service (**i.e. the Chief Executive**)
 2. Monitoring Officer (**i.e. the Assistant Chief Executive, Legal & Democratic Services**)
 3. Director of Children's Services (appointed under s.18 Education Act 2004) (**i.e. the Group Director, Social Care & Learning**)
 4. Director of Adult Social Services (appointed under s.6(A1) Local Authority Social Services Act 1970) (**i.e. the Group Director, Social Care & Learning**)
 5. the s.151 Officer (**i.e. the Group Director, Finance & Commerce**)
 6. Any person who for most of their duties (other than clerical or admin) reports directly to the Head of Paid Service or directly to the Council or a committee or sub-committee of the Council. (**i.e. the Group Director, Culture & Community**)

Those in categories 1 – 5 are statutory chief officers, those in category 6 are non-statutory chief officers.

- (c) The following staff are Deputy Chief Officers (i.e. staff who for all or most of their duties report directly to or are directly accountable to a Chief Officer:
1. Assistant Directors
 2. Heads of Service
- (d) "Policy Framework" means the following plans and strategies (which are statutory, except where shown otherwise):
- Sustainable Community Strategy
 - Children & Young People's Plan
 - Documents that together make up the Development Framework
 - Licensing Authority Policy Statement
 - Local Transport Plan
 - Youth Justice Plan
 - Corporate Plan (non-statutory)

- (e) “Budget” includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council’s borrowing requirements, the control of its capital expenditure and the setting of virement limits. For the purpose of rules 4 – 8 of the Budget & Policy Framework Procedure Rules the budget shall not include reserves and balances.
- (f) “Housing land transfer” means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

Article 2: Members of the Council

2.01 Composition and eligibility

The Council comprises 54 members, otherwise called councillors. Three councillors are elected by the voters of each electoral ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.

Only registered voters of the London borough of Havering or those living or working there are eligible to hold the office of councillor.

The regular election of councillors is held on the first Thursday in May every fourth year from 2002. The terms of office of councillors start on the fourth day after being elected and finish on the fourth day after the date of the next regular election.

Vacancies in the office of Councillor are filled by a by-election; those elected at a by-election hold office until the fourth day after the date of the next regular election.

2.02 Roles and functions of all councillors

(a) Key roles

All councillors will:

- (i) collectively be the ultimate policy-makers;
- (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in

decision making; participate in the governance and management of the Council

- (iii) effectively represent the interests of their constituents, fairly, impartially and without unlawful discrimination;
- (iv) maintain the highest standards of conduct and ethics.

(b) Rights and duties

- (i) Councillors will have such rights of access to documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or member of staff entitled to know it.
- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this constitution.

(c) Champions

Council has established seven positions to act as and be a

- (i) Champion for Over Fifties
- (ii) Champion for Younger Persons
- (iii) Champion for Diversity
- (iv) Champion for the Historic Environment
- (v) Champion for Standards
- (vi) Champion for the Voluntary Sector Compact
- (vii) Champion for the 14-19 Diploma Scheme

Such appointments are made at Annual Council.

The Champions shall be required to report annually to Council, shall have the right to report to Council or to Cabinet at any time and may be questioned at Council by any member

2.03 Conduct

Councillors will at all times observe the Members’ Code of Conduct, the Protocol on Member/Staff Relations, the Protocol on Probity in Planning matters and the Protocol on Gifts and Hospitality set out in Part 5 of this constitution.

2.04 Allowances

Councillors are entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this constitution.

Article 3: Citizens and the Council

3.01 Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this constitution.

(a) Voting and petitions

Citizens on the electoral roll for the area have the right to vote and to sign a petition to request a referendum for an elected mayor.

(b) Information

Citizens have the right to:

- (i) attend meetings of the Council, Cabinet and its committees except any part where confidential or exempt information is likely to be disclosed
- (ii) find out from the Forward Plan what key decisions will be taken by the Executive, and when
- (iii) see reports and background papers, and any records of decisions made by the Council and the Executive
- (iv) inspect the Council's accounts and make their views known to the external auditor.

(c) Complaints

Citizens have the right to complain to:

- (i) the Council itself under its complaints scheme
- (ii) the Ombudsman
- (iii) the Standards Committee

3.02 Participation

Overview and scrutiny and other committees may invite Citizens to:

- (a) contribute to their investigations
- (b) speak at their meetings .

Article 4: The Council and the Mayor

4.01 Functions of the Council

Only the Council will exercise the following functions:

- (a) adopting and changing the constitution
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any housing land transfer
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to or not wholly in accordance with the budget
- (d) appointing the Leader
- (e) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them
- (f) adopting an allowances scheme under Article 2.04
- (g) changing the name of the area or conferring freedom of the borough
- (h) confirming the appointment and dismissal of the Head of Paid Service
- (i) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills
- (j) all local choice functions set out in Part 3 of this constitution which the Council decides should be undertaken by itself rather than the Executive

- (k) all other matters which, by law, must be reserved to Council.

4.02 Council meetings

There are four types of Council meeting:

- (a) annual meetings
- (b) ordinary meetings
- (c) extraordinary meetings
- (d) council tax and budget setting meetings

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this constitution.

4.03 Role and function of the Mayor

The Mayor is elected at the Annual Meeting of the Council from among its members. The Mayor is the civic and ceremonial head of the Council. The Mayor appoints the Deputy Mayor.

The Mayor and, in his or her absence, the Deputy Mayor will have the following roles and functions:

- To uphold and promote the purposes of the constitution and, when Chairing the Council meeting, to interpret the constitution when necessary.
- To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community. [In the case of an equality of votes, then, as the Chairman of the meeting, the Mayor has a second or casting vote.]
- As Chairman of the meeting, to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet to account.
- To promote public interest in the Council's activities.
- To be the Returning Officer for the parliamentary constituencies within the Borough.
- To attend civic and ceremonial functions

4.04 Committees of the Council

The Council will appoint the following committees and sub-committees, with the membership arrangements shown in the Table appended to this Part. The full functions of each are set out in Part 3 of this constitution.

The Council is required – with a few exceptions – to make appointments to Committees in accordance with the principles of political balance. The number of Members' seats on each Committee shown in the table (except the Area Committees) may be varied by resolution of the Council in order to achieve political balance.

4.05 Responsibility for functions

The Council will maintain the tables in Part 3 of this constitution, which set out the responsibilities for those functions of the Council that are not the responsibility of the Executive.

Article 5: The Executive – Leader of the Council and Cabinet

5.01 Role

The Leader is responsible for arranging for the exercise of all executive functions.

5.02 Leader of the Council

The Council will elect a Councillor to the position of Leader of the Council. The Leader will hold office for a term of four years from the Annual meeting until the day on which the next post-election Annual meeting is held or until:

- he or she resigns from the office, or
- he or she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he or she may resume office at the end of the period of suspension), or
- he or she is no longer a councillor, or

he or she is removed from office by resolution of the Council.

5.03 Cabinet

The Leader will appoint a Cabinet, which will consist of between two and ten councillors, one of whom will be Deputy Leader.

5.04 Deputy Leader

The Leader is required to appoint a Deputy Leader who shall hold office until the end of the term of office of the Leader or until

- he or she resigns from office
- he or she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he or she may resume office at the end of the period of suspension), or
- he or she is no longer a councillor, or
- he or she is removed from office by the Leader

Where a vacancy occurs in the office of Deputy Leader the Leader must appoint another person in his place.

The Deputy Leader must act in the Leader's place if at any time the Leader is unable to act or the office of Leader is vacant.

5.05 Other Cabinet members

Other Cabinet members shall hold office until:

- they resign from office, or
- they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension), or
- they are no longer councillors, or
- they are removed from office by the Leader of the Council.

If for any reason the Leader or Deputy Leader are unable to act or the office(s) is vacant then the Cabinet Members collectively must act in the Leader's place or must arrange for a member of the Cabinet to act in his place.

5.06 Proceedings of the Executive

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this constitution.

5.07 Allocation of portfolios and executive functions

The portfolios and functions of individual Cabinet members will be allocated by the Leader of the Council.

The Leader will give notice in writing to the proper officer, and maintain a list, setting out which individual members of the Cabinet, committees of the Cabinet, staff or joint arrangements are responsible for the exercise of particular executive functions.

Article 6: Overview & Scrutiny

6.01 Areas of responsibility

The Council will appoint the overview and scrutiny committees to discharge the functions conferred by section 21 of the Local Government Act 2000 (or regulations made under section 32 of the Local Government Act 2000), the National Health Service Act 2006, the Police & Criminal Justice Act 2006 and the Local Government & Public Involvement in Health Act 2007.

6.02 Overview & Scrutiny activities

(a) Policy development and review

Overview and scrutiny committees may:

- (i) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues and continuous review thereof
- (ii) conduct research and undertake consultation in the analysis of policy issues and possible options
- (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options
- (iv) inquire of the Leader, members of the Cabinet, the Chief Executive, Group Directors, Assistant Chief Executive, Assistant Directors and Heads of Service (who may involve other staff as appropriate) about their advice on issues and proposals affecting the area
- (v) make inquiries of external partner organisations, whether national, regional or local, in respect of their contributions to the Local Area Agreement or, in the case of National Health Service bodies, their contribution to the health of the people of the borough.

(b) Scrutiny

Overview and scrutiny committees may:

- (i) review and scrutinise the decisions made, and the performance, of the Leader, Cabinet and/or council staff both in relation to individual decisions and over time. Individual decisions made in respect of planning, enforcement and licensing matters will not be subject to scrutiny but may be referred to in the course of inquiry where it is relevant to do so.
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas
- (iii) inquire of the Leader, members of the Cabinet and/or the Chief Executive, Group Directors, Assistant Chief Executive, Assistant Directors and Heads of Service about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects
- (iv) make recommendations to the Cabinet and/or Council arising from the outcome of the scrutiny process
- (v) review and scrutinise the performance of external partner organisations, whether national, regional or local, in respect of their contributions to the Local Area Agreement or, in the case of National Health Service bodies, their contribution to the health of the people of the borough, and to make recommendations to the Council, Cabinet or relevant partner organisations as appropriate
- (vi) with their consent, question and gather evidence from any person relevant to any inquiry
- (vii) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet.

(c) Finance

Overview and scrutiny committees may exercise overall responsibility for any specific budgets made available to them.

(d) Annual report

Overview and scrutiny committees must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

(e) **Staff**

Overview and scrutiny committees may indicate the priorities within the work programme of the staff employed to support their work.

6.04 Proceedings of overview and scrutiny committees

Overview and scrutiny committees will conduct their proceedings in accordance with the Committee and Overview & Scrutiny Procedure Rules set out in Part 4 of this constitution.

6.05 Joint scrutiny of health service

The Health Overview & Scrutiny Committee is authorised pursuant to Regulation 7 of the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 to establish together with the health overview & scrutiny committees of one or more other local authorities a joint overview & scrutiny committee.

Any such joint overview & scrutiny committee shall have such terms of reference, and shall exist for so long, as the appointing overview & scrutiny Committees may agree.

Article 7: Joint arrangements

Joint arrangements for the exercise of functions

- (a) The Council may establish joint arrangements with one or more local authorities for the exercise of non-executive functions, or to advise the participating authorities. Such arrangements may involve the appointment of a joint committee with those other local authorities.
- (b) The Leader may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Leader may appoint only Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Leader may appoint non-executive members to a joint committee that has functions for part only of the borough, provided that the part in question is smaller than two-fifths of the borough by area or population. In such cases, the Leader may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.

Article 8: Staff

8.01 Management structure

(a) General

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

(b) Corporate Management Team

The Council will engage persons for the following posts which will form the corporate management team:

- Chief Executive
- Group Directors (as necessary)
- Assistant Chief Executive

Their duties and areas of responsibility will be as set out below and in Part 3 of this constitution

(c) Statutory Officers

The Council will designate the following statutory posts:

Post	Statutory Designation
Chief Executive	Head of Paid Service
Assistant Chief Executive Legal & Democratic Services	Monitoring Officer
Group Director Finance & Commerce	Responsible officer under section 151 of the Local Government Act 1972 (Chief Finance Officer)
An appropriately qualified Group Director	Director of Adult Social Services
An appropriately qualified Group Director	Director of Children's Services

8.02 Duty to provide sufficient resources to the Monitoring Officer and the Chief Finance Officer

The Council will provide the Monitoring Officer and the Chief Finance Officer with such staff, accommodation and other resources as are in those officers' opinion sufficient to allow their duties to be performed.

8.03 Other staff

- (a) The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of staff. This description is set out in Part 7 of this constitution.

- (b) The recruitment, selection and dismissal of staff will comply with the Staff Employment Procedure Rules set out in Part 4 of this constitution
- (c) Staff will comply with the Staff Code of Conduct and the Protocol on Member/Staff Relations set out in Part 5 of this constitution.

Article 9: Decision making

9.01 Responsibility for decision making

The Council and/or the Leader, as appropriate, will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this constitution.

Principles

9.02 All decisions will be made:

- (a) proportionately (meaning that the action must be proportionate to the desired outcome)
- (b) after due consultation and the taking of professional advice
- (c) with respect for human rights as set out in the Human Rights Act 1998
- (d) with the presumption in favour of openness
- (e) with clarity of aims and desired outcomes, and
- (f) after due consideration for the interests of residents and other stakeholders.

Decisions will be recorded in an appropriate manner. The record of executive decisions will provide an explanation of the options considered in making the decision and will give the reasons for the decision.

9.03 “Executive decisions” are those that are required to be taken by the Leader or in accordance with delegations agreed by the Leader to Cabinet, Area Committee, to individual members of the Cabinet or to specific officers.

9.04 Decisions that are not executive decisions shall be taken by the Council, by a Committee to which Council has delegated power to act on its behalf, or by specific officers to whom powers have been delegated. In reaching such decisions, officers to whom powers have been delegated may consult the

Chairman of the relevant Committee where to do so is expedient, and shall do so where an earlier decision so requires.

- 9.05 An individual or body to whom power to make a decision has been delegated may decline to make that decision and refer it for decision by the relevant Committee, Cabinet Member, the Leader or by Council as appropriate.

Decision making

- 9.06 Subject to paragraph 9.07 below

- (a) the Council meeting will follow the Council Procedure Rules set out in Part 4 of this constitution when considering any matter.
- (b) the Executive will follow the Executive Procedure Rules set out in Part 4 of this constitution when considering any matter.
- (c) the overview and scrutiny committees will follow the Committee and Overview & Scrutiny Procedure Rules set out in Part 4 of this constitution when considering any matter.
- (d) other Council committees and sub-committees will follow those parts of the Committee Procedure Rules set out in Part 4 of this constitution as apply to them.

9.07 Decision making by Council bodies acting as tribunals

Quasi-judicial decisions of the Council, Cabinet, Committee or an officer shall be taken in accordance with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

9.08 Party Whip

There shall be no Party Whip at meetings of:

- the Regulatory Services Committee when it is determining planning matters;
- Overview & Scrutiny Committee;
- the Standards Committee when it is conducting initial assessments and reviews, consideration of investigating officers' reports and hearings;
- the Licensing Committee when it is determining licences and conducting hearings; and
- any other committees where the committee meets to determine applications, hearings, appointments or acts in any quasi-judicial matter.

The Party Whip is understood to mean any instructions given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor shall speak or vote, or the application or threat to apply any sanctions by the group in respect of that Councillor should he or she speak or vote in any particular manner.

Article 10: Finance, contracts and legal matters

10.01 Financial management

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part 4 of this constitution.

10.02 Contracts

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of this constitution.

10.03 Legal proceedings

The Assistant Chief Executive Legal & Democratic Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where she considers that such action is necessary to protect the Council's interests.

10.04 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Assistant Chief Executive Legal & Democratic Services or other person authorised by her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Contracts with a value exceeding £50,000 must be made under the common seal of the Council, in accordance with rule 26 of the Council Procedure Rules set out in Part 4 of this constitution. Contracts under £50,000 may, in most circumstances, be signed by the Chief Executive or the appropriate Group Director, Assistant Chief Executive, Assistant Director or Head of Service, in accordance with the Contracts Procedure Rules set out in Part 4.

10.05 Common seal of the Council

The common seal of the Council may be affixed to any document on the authority of any two individuals, one drawn from each of the list A and list B set out below.

The seal shall be attested by those two individuals and an entry of every sealing of a document shall be made and consecutively numbered in a book to be provided for the purpose and shall be signed by a person who has attested the seal.

List A	List B
Mayor	Chief Executive
Deputy Mayor	A Group Director
	Assistant Chief Executive Legal & Democratic Services
	Head of Legal Services
	A Legal Manager

Urgent attestations

Where necessary in cases of urgency and where neither of the holders of the offices shown in list A is available, a document may be attested by any two of the members of staff specified in list B. In each such case, the circumstances shall be reported to the Council at its next meeting.

Article 11: Review and revision of the constitution

11.01 Duty to monitor and review the constitution

The Governance Committee will monitor and review the operation of the constitution to ensure that the aims and principles of the constitution are given full effect.

Protocol for monitoring and review of constitution

A key role for the Governance Committee is to be aware of the strengths and weaknesses of the constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Governance Committee may:

- observe meetings of different parts of the member structure
- undertake an audit trail of a sample of decisions
- record and analyse issues raised by members, staff, the public and other relevant stakeholders, and
- compare practices in this authority with those in other comparable authorities, or national examples of best practice.

11.02 Changes to the constitution

(a) **Approval**

Changes to the constitution will be approved by the full Council only after consideration of the proposal by the Governance Committee.

(b) **Change from a Leader form of executive to alternative arrangements or vice versa**

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

(c) **Delegated powers of the Monitoring Officer**

The Monitoring Officer shall have power to:

- amend the Constitution to correct errors or to comply with any legal requirement or to reflect organisational changes to the Council's structure
- insert recommendations made pursuant to a written report agreed by Council
- clarify the Constitution, insert obvious omissions or to comply with any accepted recommendations made by District Audit, the Audit Commission, Standards for England and/or any other government appointed inspection regime.

Note Power to clarify the Constitution, insert obvious omissions or to comply with accepted recommendations of external bodies shall only be exercised after first giving five working days' notice to Group Leaders.

If the Monitoring Officer makes any such amendment to the constitution, he or she must notify the Governance Committee accordingly at the first reasonable opportunity.

Article 12: Suspension, interpretation and publication of the constitution

12.01 Suspension of the constitution

(a) **Limit to suspension**

The articles of this constitution may not be suspended. The rules specified below may be suspended by the full Council to the extent permitted within those rules and the law.

(b) **Procedure to suspend**

A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the constitution set out in Article 1.

(c) Rules capable of suspension

The following rules may be suspended:

- (i) all of the Council Procedure Rules set out in Part 4 of this constitution except rules 6, 18, 19 and 20
- (ii) all of the Committee Meeting Procedure Rules set out in Part 4 of this constitution except rule 6.

12.02 Interpretation

The ruling of the Mayor as to the construction or application of this constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this constitution contained in Article 1.

12.03 Publication

- (a) The Assistant Chief Executive Legal & Democratic Services (or her representative) will make a printed copy of this constitution available for members of the Council.
- (b) The Assistant Chief Executive Legal & Democratic Services (her representative) will ensure that a copy is available for inspection at the Town Hall, and can be purchased by members of the local press and the public on payment of a reasonable fee.

Appendix

Committee	Number of Members and any special requirements
Adjudication and Review Committee <i>See annex 1</i>	9 of whom no more than one may be an Executive Member; there is also a pool of Independent Persons who may serve on specific Hearings Panels
Appointments Committee	6 at least one of whom must be an Executive Member
Audit Committee	8
Governance Committee	10 at least one of whom must be an Executive Member
Licensing Committee <i>See annex 2</i>	10

Governance Committee, 25 November 2009

Pensions Committee <i>See annex 3</i>	7	Councillors, one co-opted Member and two non-voting observers
Regulatory Services Committee	10	no more than two Councillors may be Executive Members
Standards Committee <i>See annex 4</i>	9 3	Councillors, only one of whom may be an Executive Member (and may not be the Leader of the Council) Independent Members
Adult Services Health Overview and Scrutiny Committee	6	
Children's Services Overview and Scrutiny Committee <i>See annex 5</i>	6	Councillors, two statutorily co-opted and three voluntarily co-opted Members with voting rights, and three non-voting staff representatives
Corporate Overview and Scrutiny Committee	6	
Crime & Disorder Committee <i>See annex 6</i>	6	the Committee has statutory authority to co-opt certain individuals as required
Culture and Regeneration Overview & Scrutiny Committee	6	
Environment Overview and Scrutiny Committee	6	
Health Overview and Scrutiny Committee	6	
Housing Overview and Scrutiny Committee	6	
Elm Park and Hylands Area Committee	6	(Every Member for the Wards in the Area) (exempt from political balance requirements)
Emerson Park and Harold Wood Area Committee	6	(Every Member for the Wards in the Area) (exempt from political balance requirements)
Gidea Park Area Committee	6	(Every Member for the Wards in the Area) (exempt from political balance requirements)
Harold Hill Area Committee	6	(Every Member for the Wards in the Area) (exempt from political balance requirements)
Hornchurch Area Committee	6	(Every Member for the Wards in the Area) (exempt from political balance requirements)
North Romford Area Committee	6	(Every Member for the Wards in the Area) (exempt from political balance requirements)
Romford Area Committee	6	(Every Member for the Wards in the Area) (exempt from political balance requirements)
South Hornchurch and Rainham Area Committee	6	(Every Member for the Wards in the Area) (exempt from political balance requirements)
Upminster Area Committee	6	(Every Member for the Wards in the Area) (exempt from political balance requirements)

Annexes

1: Adjudication and Review Committee

- 1.1 The major part of the work of this Committee is carried out through Hearings Panels. The composition of Hearings Panels varies according to the nature of the issue adjudicated – as indicated in the following table:

Type of hearing	Membership of Panel
Corporate complaints procedure (including housing tenants' complaints)	Three Members and a non-voting independent person
Children Act complaints	Three independent persons (one as

Governance Committee, 25 November 2009

	chairman) with voting rights (<i>to accord with legal requirements, elected Members may not serve on this type of Panel</i>)
Adult Care complaints	One independent person (as chairman) with voting rights and two Members
Housing tenancy appeals	Three Members

- 1.2 The independent persons used for such hearings are taken from a pool of such people appointed on behalf the Adjudication & Review Committee, managed by Democratic Services, who have received training appropriate to that role.
- 1.3 The substitute rule does not apply to Hearings Panels, which are not required to be politically balanced.

2: Licensing Committee

- 2.1 Most of the work of this Committee is carried out through Licensing Sub-Committees comprising a Chairman and two other Members, all drawn from the main Committee. In general, Sub-Committees will be chaired either by the Chairman of the main Committee, or one of the three Vice-Chairmen.
- 2.2 The substitute rule does not apply to Licensing Sub-Committees which are not required to be politically balanced.

3: Pensions Committee

- 3.1 The Pensions Committee is responsible for the management of the Council's Pension Fund investment portfolio.
- 3.2 The Admitted and Scheduled Bodies who are members of the pension fund jointly appoint a representative as a non-voting, co-opted Member of the Committee.
- 3.3 Although not strictly Members of the Committee, in accordance with the Constitution, two representatives of the staff are appointed by the unions to attend and contribute to meetings of the Committee. These appointees have no voting rights but are present during the discussion of any exempt business.
- 3.4 The membership of the Pension Committee is expected to remain static for the life of the Council in order that members are fully trained in matters relating to investment, unless exceptional circumstances require a change. Each Group is entitled to nominate named substitutes for their committee in order that they may receive appropriate training.

4: Standards Committee

- 4.1 There are three Independent Members on this Committee, one of whom is Chairman and another Vice-Chairman, as required by law.
- 4.2 In accordance with legal provisions for the work of Standards Committees, the Committee has established four Sub-Committees that consider individual complaints:
- The Assessment Sub-Committee: to carry out an initial assessment of a complaint and to determine the response to it;

- The Review Sub-Committee: to review decisions of the Assessment Sub-Committee if so requested by a complainant
- The Consideration Sub-Committee: to consider the outcome of investigations into complaints and determine whether a hearing is required
- The Hearings Sub-Committee: to conduct hearings into complaints and the outcome of investigation of them

4.3 The substitute rule does not apply to these Sub-Committees which are not required to be politically balanced.

5: Children's Services Overview & Scrutiny Committee

5.1 The law requires that the Council co-opt to this Overview & Scrutiny Committee one representative of each of the Anglican and Roman Catholic Churches, with voting rights, to attend when issues relating to Education are being discussed and have call-in rights in relation to executive decisions. In practice, they are also able to contribute to other discussions.

5.2 In addition, there are three voting co-opted members representing governors of schools in the three sectors of education, primary, secondary and special. Again, they may attend when issues relating to Education are being discussed and have call-in rights in relation to executive decisions. They are also able to contribute to other discussions.

5.3 Finally, there are three non-voting representatives of local teacher unions and professional associations, nominated by those organisations.

5.4 The Councillor Members of the Committee are also automatically Members of the Council's Corporate Parenting Panel.

6: Crime & Disorder Committee

The Crime and Disorder (Overview and Scrutiny) Regulations 2009 confer on the Committee the ability to co-opt certain members or employees of crime and disorder partner bodies. It is for the Committee to determine whether such co-optees are to have voting rights and the issues in respect of which they may attend meetings as co-optees.

GOVERNANCE COMMITTEE

REPORT

25 NOVEMBER 2009

Subject Heading:

REVIEW OF THE COUNCIL'S
CONSTITUTION – Part 3: Responsibility
for functions (Council functions)

CMT Lead:

Christine Dooley, Assistant Chief
Executive/Monitoring Officer

Report Author and contact details:

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The Council's Constitution is being
reviewed prior to the introduction of new
executive arrangements in May 2010

Financial summary:

There are no direct costs associated with
this review

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	□
Excellence in education and learning	□
Opportunities for all through economic, social and cultural activity	X
Value and enhance the life of every individual	X
High customer satisfaction and a stable council tax	X

SUMMARY

This is the third report arising from the review of the Council's Constitution. It concerns the initial component of Part 3 of the Constitution (which sets out in detail who/what is responsible for which functions of the Council as a local authority). This component deals with the way in which Council, the Leader and Cabinet, and Council Committees inter-relate.

Future reports on other components of Part 3 will deal with functions exercisable by the Leader and Cabinet, and by staff.

RECOMMENDATIONS

- 1 That the Committee consider the various issues referred to in the report and determine what, if any, changes are to be made to the draft text of the appended component of Part 3.
- 2 That the draft, as (if) amended, be approved as the revised first component of Part 3.
- 3 That the Committee **RECOMMEND** to Council that the revised first component of Part 3 be adopted.

REPORT DETAIL

- 1 At its meeting in September 2009, the Committee set up a Working Group of Members and Officers to review the Council's Constitution. This is the third report arising from the work of that Working Group, and deals with the first of several components of Part 3 of the Constitution, which sets out who or what is responsible for which of the Council's many functions. This first component deals with the relationship between the Council, the Leader and Cabinet and the Council's Committees.
- 2 Other components of Part 3 will be the subject of separate reports in the future.
- 3 The text of the first component of Part 3 is appended. The characters in highlighted italics are cross-references to other parts of the Constitution, where the numbers etc may change in the course of the later stages of the review. When the whole text is finalised, these numbers will be corrected.
- 4 The Working Group have identified two issues to refer to this Committee for to consideration in detail, as follows:

(a) Overview & Scrutiny Liaison Committee (section 1.4)

This OSC was established when the Council's Executive Arrangements came into force in 2002. The composition and functions of the Committee were as shown in the Appendix. It has, however, rarely met and there is doubt about whether it should continue.

The Committee is requested to consider whether there continues to be need for the Committee, and if so whether any change is needed to its functions.

(b) Area Committees (section 1.5)

- (i) Several Members have suggested that the functions of the Area Committees should include monitoring of local issues; currently the text is “to consider local issues ...”, but they would alter it to read “to consider and monitor local issues ...”.

The Committee is requested to consider the point.

- (ii) Area Committees have delegated powers to deal with a range of highways schemes. Generally, they do this entirely on their own; but where more than one Area Committee has an interest in a scheme, the ultimate decision is made by, on or behalf of, the Regulatory Services Committee.

Members of the Working Group were not convinced that the current procedure was entirely suited to the Council’s needs.

The Committee is requested to consider the point.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no significant financial implications or risks arising from this exercise. The cost of reproducing the new Constitution will be met from existing budget provision.

Legal implications and risks:

The Council has a legal obligation to adopt a Constitution and to keep it under review. The new executive arrangements effective from May 2010 require extensive review to be undertaken.

Human Resources implications and risks:

There are none.

Equalities implications and risks:

The purpose of the Constitution is to assist the community to understand how the Council works and to make its processes and procedures accessible.

BACKGROUND PAPERS

There are none.

Part 3: Responsibility for Functions

This part sets out which body or individual is responsible for exercising each of the functions assigned to the Council by law. Under the Local Government Act 2000, each of the Council's functions falls into one of the following categories:

- Council functions, which are the responsibility of the full Council and/or its committees and sub-committees
- executive functions, which are the responsibility of the Executive, meaning the Cabinet or individual Cabinet members.
- local choice functions, where the Council determines whether the function is the responsibility of the Council or of the Executive.

Both Council functions and executive functions may (with some exceptions) be delegated to staff.

This part sets out responsibility for functions as follows:

1 Council functions

- 1.1 Functions exercised by full Council alone
- 1.2 Functions delegated to general council committees
- 1.3 Statutory and non-statutory bodies
- 1.4 Functions delegated to overview and scrutiny committees
- 1.5 Functions delegated to area committees

2 Executive functions

- 2.1 Functions exercised by Cabinet alone
- 2.2 Functions delegated to individual Cabinet members
- 2.3 Functions exercised by another authority on behalf of this authority
- 2.4 Functions exercised by joint arrangements with another authority or other authorities

3 Functions delegated to staff

- 3.1 General provisions and limitations
- 3.2 Powers of Chief Executive
- 3.3 Powers of Group Directors
- 3.4 Powers of Assistant Chief Executive, Assistant Directors and Heads

of Service

3.5 Social Care and Learning

3.6 Culture and Community

3.7 Finance & Commerce

3.8 Chief Executive

4 **Functions not to be the responsibility of an authority's Executive**

5 **Local choice functions**

6 **Proper officer functions**

7 Appendices

Appendix A: Names, addresses and wards of individual Cabinet members

Appendix B: Functions delegated to staff: specified sums of expenditure

Appendices C to F to be amalgamated

Appendix C: Enactments enforceable by Head Housing & Public Protection

Appendix D: Enactments enforceable by Head of Housing & Public Protection: licensing and registration of premises and persons

Appendix E: Enactments enforceable by Head of Housing & Public Protection: licensing and registration of premises or persons

Appendix F: Enactments enforceable by Head of Housing & Public Protection

Appendix **G**: Code of practice: disposal of surplus property

1 Council functions

1.1 Functions exercised by full Council alone

The functions listed in Article 4.02 of Part 2 are reserved to Council. The Council undertakes those functions assigned under Part 3, section 4: functions not to be the responsibility of an authority's Executive (group D, E, F, G and I functions).

1.2 Functions delegated to general council committees

The following functions are delegated to the general council committees. Any reference to "the regulations" is a reference to the Local Authorities (Functions and Responsibilities) (England) Regulations 2002, as subsequently amended. Reference is made to the following functions:

- functions not to be the responsibility of an authority's Executive, set out in Part 3, section 4 (delegated in accordance with schedule 1 of the regulations)
- local choice functions, set out in Part 3, section 5 (delegated in accordance with schedule 2 of the regulations).

Council committee	Functions
Adjudication and Review	<p>Appeals and complaints</p> <p>To determine an appeal against any decision made by or on behalf of the authority, except where statute provides for some other route of appeal (see Part 3, section 4: functions not to be the responsibility of an authority's Executive (group B functions) and Part 3, section 5: local choice functions) - see Hearings Panels below</p> <p>Admission and exclusion of pupils</p> <ul style="list-style-type: none"> • To make arrangements pursuant to Chapter I of Part III of the School Standards and Framework Act 1998 (admission appeals) • To make arrangements pursuant to Chapter V of Part II of the School Standards and Framework Act 1998 (exclusion appeals and children to whom section 87 applies: appeals by governing bodies) <p>Governing bodies</p> <p>To hear appeals from teachers about early retirement decisions by governing bodies</p> <p>Governor removal</p> <p>To remove LA governors from governing bodies where appropriate</p>
Appointments	<p>Appointments and dismissals</p> <ul style="list-style-type: none"> • To make recommendations to Council about appointing and dismissing the Head of Paid Service • To appoint and dismiss Group Directors and Heads of Service, in accordance with the procedures set out in the Staff Employment Procedure Rules in Part 4 of this constitution <p>Terms and conditions</p>

Governance Committee, 25 November 2009

Council committee	Functions
	<p>To determine the local terms and conditions, pay and grading arrangements of the Head of Paid Service, Group Directors, Assistant Chief Executive, Assistant Directors and Heads of Service</p>
Audit	<p>Internal control</p> <ul style="list-style-type: none"> • To consider and monitor the adequacy and effectiveness of the authority's risk management and internal control environment and to make recommendations to full Council where necessary <p>External audit</p> <ul style="list-style-type: none"> • To monitor the adequacy and effectiveness of the External Audit Service and respond to its findings <p>Internal audit</p> <ul style="list-style-type: none"> • To support the Group Director Finance & Commerce with his or her delegated responsibility of ensuring arrangements for the provision of an adequate and effective internal audit • To monitor the adequacy and effectiveness of the internal audit service and to receive and monitor an annual internal audit plan from the audit manager • To receive and approve the Annual Statement of Accounts • To monitor proactive fraud and corruption arrangements
Governance	<p>Monitoring constitution</p> <p>In accordance with Part 2, Article 15 of this constitution:</p> <ul style="list-style-type: none"> • To monitor and review operation of the constitution to ensure that the aims and principles of the constitution are given full effect • To make recommendations to the Council about amending the constitution • To monitor and review the Members' Allowance Scheme and make recommendations to Council • To monitor and review the role of Overview and Scrutiny including numbers, operation and responsibility of Overview and Scrutiny Committees and their terms of reference and make recommendations • To monitor and review all aspects of Corporate Governance • To approve the Annual Governance Statement <p>Staff disciplinary, capability and grievance procedures</p> <ul style="list-style-type: none"> • Where necessary, to establish a panel to consider and determine any allegation under the Council's disciplinary or capability procedures against the Head of Paid Service, a Group Director, Assistant Chief Executive, Assistant Director or a Head of Service and, where necessary, to establish a second panel to hear an appeal by the Head of Paid Service, a Group Director, Assistant Chief Executive, Assistant Director or a Head of Service from the decision of the first panel • Where necessary, to establish a panel to hear a grievance submission made by the Head of Paid Service, a Group Director, Assistant Chief Executive, Assistant Director or a Head of Service • Where necessary to establish a panel to consider and determine any

Governance Committee, 25 November 2009

Council committee	Functions
	<p>appeal against dismissal or final stage grievance lodged by “Havering Grade” staff.</p> <p>Appointments</p> <ul style="list-style-type: none"> • To appoint (or in the case of appointments to be made by the Executive, to recommend for appointment) any individual: <ul style="list-style-type: none"> (a) to any office (other than an office in which he is employed by the authority) in the authority’s gift (b) as the authority’s representative to any body other than the authority or to any committee or sub-committee of such a body and to revoke any such appointment (see Part 3, section 5: local choice functions) • To approve delegated arrangements for such appointments • To interview candidates for the independent member positions on the Standards Committee and to make recommendations to Council about the appointment of the independent members <p>Member support</p> <p>To oversee matters related to the facilities available to support members</p> <p>Miscellaneous</p> <p>To undertake those functions assigned under Part 3, section 4: functions not to be the responsibility of an authority’s Executive (group I functions)</p>
Pensions	<p>Pension fund</p> <p>To consider and agree the investment strategy and statement of investment principles for the pension fund and subsequently monitor and review performance</p> <p>Advisers and investment managers</p> <p>Where appropriate and above staff delegation levels to recommend staff to invite tenders and award contracts for actuaries, advisers and fund managers or other related investment matters</p> <p>To appoint and review the performance of advisers and investment managers for Council and pension fund investments</p> <p>Non-executive matters</p> <p>To take decisions on those matters not to be the responsibility of the Cabinet under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 relating to those matters concerning pensions made under Regulations set out in Sections 7, 12 or 24 of the Superannuation Act 1972</p>
Regulatory Services	<p>Health and safety</p> <p>To carry out functions relating to health and safety under any “relevant statutory provision” within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council’s capacity as employer</p> <p>Highways use and regulation</p> <p>To exercise powers relating to the regulation of the use of highways as set out in Part 3, section 4: functions not to be the responsibility of an authority’s Executive and that are not delegated to the area committees (see Part 3, section 1.4) or to staff</p>

Governance Committee, 25 November 2009

Council committee	Functions
	<p>Planning and conservation</p> <p>To carry out functions relating to town and country planning and Planning Control as specified in:</p> <ul style="list-style-type: none"> • Part 3, section 4: functions not to be the responsibility of an authority's Executive • Part 3, section 5: local choice functions <p>that are not delegated to staff</p> <p>Urban Development Corporation</p> <p>To form planning views on behalf of the Council in its role as consultee on applications to be decided by the Board of the Urban Development Corporation</p>
Standards	<p>General</p> <ul style="list-style-type: none"> • To promote and maintain high standards of conduct by the members and co-opted members of the authority • To assist members and co-opted members of the authority to observe the authority's code of conduct • To monitor, advise on, and educate members in matters relating to Council guidelines on conduct and/or probity • To hear, determine and report upon any local matters including the application of relevant and permitted sanctions • To make any report to the Council and to take any appropriate action arising from the terms of reference, legislation and regulations • hearing, determining and reporting upon any matters relating to breach of the Rules regarding the Party Whip set out in Article 13.09 including the application of relevant and permitted sanctions. <p>Members' code of conduct</p> <ul style="list-style-type: none"> • To advise the authority on the adoption or revision of a code of conduct • To monitor the operation and effectiveness of the authority's code of conduct • To advise, train or arrange to train members and co-opted members of the authority on matters relating to the authority's code of conduct • To assess and review complaints about Members • To conduct determination's hearings • To grant dispensations to Members with prejudicial interests • To grant exemptions for politically restricted posts <p>Guidelines for members in dealing with staff</p> <ul style="list-style-type: none"> • To advise the authority on the adoption or revision of the Guidelines on members dealing with staff • To monitor the operation of the authority's Guidelines on members dealing with staff • To advise, train or arrange to train members and co-opted members of the authority on matters relating to the authority's Guidelines on members dealing with staff

Council committee	Functions
	<p>Protocol on probity in planning</p> <ul style="list-style-type: none"> • To advise the authority on the adoption or revision of the Protocol on Probity in Planning • To monitor the operation of the authority's Protocol on Probity in Planning • To advise, train or arrange to train members and co-opted members of the authority on matters relating to the authority's Protocol on Probity in Planning <p>Whistleblowing Policy and Procedure</p> <p>To monitor and evaluate complaint numbers and general types made in respect of the Council Whistleblowing policy and procedure and to make any recommendations for improvement to staff and/or Cabinet</p> <p>Adjudication</p> <ul style="list-style-type: none"> • To consider a notice from a case tribunal or interim case tribunal of the Adjudication Panel for England and prepare a report on the notice as required by the Local Government Act 2000 • To prepare a report responding to any recommendations made to the authority by a case tribunal of the Adjudication Panel for England, and to take any appropriate action as a result of those recommendations <p>Standards for England</p> <ul style="list-style-type: none"> • To consider any matters as may be referred by Standards for England • To consider any initial complaints against the Assessment Framework • To review any matters requested • To consider any report and recommendations made by the monitoring officer to the committee • To take any action prescribed by the regulations, including censuring a member or suspending or partially suspending a person from being a member <p>Register of members' interests</p> <ul style="list-style-type: none"> • To issue guidelines to members about how to make a declaration of interest • To grant a dispensation to a member participating in a business which is prohibited under the members' code of conduct, in accordance with any regulations made by the Secretary of State
Licensing	<ul style="list-style-type: none"> • To exercise the functions required by the Licensing Act 2003 and the Gambling Act 2005. • To determine applications for licences and registration under Schedule 1 to the regulations not otherwise dealt with

Sub-Committees

By convention, the Council agrees that the following sub-committees should be exempt from political balance requirements imposed under section 17(1) of the Local Government and Housing Act 1989.

Committee establishing sub-committee	Name of sub-committee	Functions
Adjudication and Review Committee	Hearings Panel	In relation to each category of hearing listed below, the Hearings Panel is empowered to make such awards as it considers appropriate in the interests of justice provided that it does not act

Committee establishing sub-committee	Name of sub-committee	Functions
		<p>outside of Council Policy.</p> <p>If the Hearings Panel is of the view that Council Policy is erroneous the Chairman of the Panel shall draw the policy provision to the attention of the relevant Head of Service and Cabinet Member for consideration and possible review.</p> <p><u>General hearings</u></p> <p>To consider complaints by service users relating to the service made available to them, in accordance with the authority's agreed complaints procedure</p> <p><u>Hearings under the Children Act 1989 Representations Procedure (England) Regulations 2006</u></p> <p>To consider representations by or on behalf of users of children's services in accordance with the Regulations</p> <p><u>Hearings under the Local Authority Social Services Complaints and NHS (England) Regulations 2009</u></p> <p>To consider representations by or on behalf of users of adult services in accordance with the Regulations</p> <p><u>Secure accommodation hearings</u></p> <p>To carry out reviews for the purposes of the Secure Accommodation Regulations 1991</p> <p><u>Housing Service appeals</u></p> <ul style="list-style-type: none"> • To consider the case of any tenants' association which is not recommended for recognition by the Council in accordance with the criteria from time to time adopted by the Council for that purpose. (Part IV of the Housing Act 1985) • To consider non Homes in Havering cases referred where: <ul style="list-style-type: none"> (a) a suspended order for possession of a dwelling-house on grounds of non-payment of rent has been granted by the court, and (b) the tenant has failed to comply with the terms on which the court suspended that order, and (c) it is considered that, in all the circumstances, it is now appropriate to obtain and execute a warrant for possession of the premises on grounds of continued non-payment of rent and breach of the terms of suspension of the possession order, and (d) the tenant concerned is desirous of being heard by the Hearings Panel before authority is given for the warrant of possession to be executed, so that the panel may have opportunity to consider the circumstances • To consider and determine representations from tenants made under the following section of the Housing Act 1996: <ul style="list-style-type: none"> (a) section 164 (applicants' right to request review of decisions in respect of inclusion etc. on the housing register)

Governance Committee, 25 November 2009

Committee establishing sub-committee	Name of sub-committee	Functions
		<p>(b) section 202 (review of decisions in respect of people who are homeless)</p> <p><u>Access to files</u></p> <ul style="list-style-type: none"> To review decisions made pursuant to the: <ul style="list-style-type: none"> (a) Access to Personal Files (Housing) Regulations 1989 (b) Access to Personal Files (Social Services) Regulations 1989 <p>where the applicant is aggrieved</p>
Licensing	Licensing Sub-Committee	To carry out functions relating to licensing and registration as set out in Schedule 1 to the regulations
Standards	Assessment Sub-Committee	To assess complaints referred for attention by the Standards Committee
	Review Sub-Committee	To review decisions of an Assessment Sub-Committee where the complainant is aggrieved
	Consideration Sub-Committee	To consider the outcome of investigations and determine whether to proceed to a hearing, to refer the matter to an Adjudication Panel of Standards for England, or that there is no case to answer.
	Hearings Sub-Committee	To consider findings that there is a case to answer following formal investigations into complaints alleging breached of the Members' Code of Conduct

1.3 Statutory and non-statutory bodies

The Council has established (or convenes as necessary) various bodies in accordance with legislative requirement or Government guidelines. These bodies will continue to meet (or be convened) as necessary. The bodies are as follows:

Name of body	Functions
Admissions Forum	To undertake the functions assigned by the School Admissions (Local Authority Reports and Admission Forums) (England) Regulations 2008
Adoption Panel	To undertake the functions assigned by the Adoption Agencies Regulations
Corporate Parenting Panel	To co-ordinate Councillors' response to the Government's Care Matters Protects Initiative and to raise awareness of their responsibilities as corporate parents
Standing Advisory Council on Religious Education (SACRE)	To advise the Council as Local Education Authority on matters relating to Religious Education.
Children's Trust	To uphold and champ the vision, principles and commitments for children and young people in Havering.

1.4 Functions delegated to overview and scrutiny committees

In accordance with s.21 of the Local Government Act 2000, the Overview & Scrutiny Committees are empowered:

- a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Cabinet, including power—
 - (i) to recommend that the decision be reconsidered or
 - (ii) to arrange for the Council to review that decision;
- (b) to make reports or recommendations to the Council or the Cabinet with respect to the discharge of any functions which are the responsibility of the Cabinet;
- (c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Cabinet;
- (d) to make reports or recommendations to the Council or the Cabinet with respect to the discharge of any functions which are not the responsibility of the Cabinet; and
- (e) to make reports or recommendations to the Council or the Cabinet on matters which affect the Council’s area or the inhabitants of that area.

All Overview & Scrutiny Committees have powers in relation to scrutiny of the Local Area Agreement and partner bodies’ contributions to it under the Local Government & Public Involvement in Health Act 2007; the Health Overview & Scrutiny Committee has powers under the National Health Service Act 2006; and the Crime & Disorder Committee has powers under the Police & Criminal Justice Act 2006.

<p>Overview and Scrutiny Liaison Committee</p>	<p>To include the Chairman and Vice Chairman of each overview and scrutiny committee¹</p>	<ul style="list-style-type: none"> • Oversight of the work programmes of each overview and scrutiny committee, including the resources available to service the programme • Considering the contribution of overview and scrutiny committees to the wider Council agenda • Ensuring overview and scrutiny committees do not duplicate work • Co-ordinating contact with the Executive on behalf of overview and scrutiny committees • Social inclusion
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¹ The Council agrees that this committee should be exempt from political balance requirements imposed under section 17(1) of the Local Government and Housing Act 1989.

Governance Committee, 25 November 2009

Overview and Scrutiny Committee	Area of responsibility
Corporate	<ul style="list-style-type: none"> • Community safety • Customer access • E-government and information communications technology • Finance (although each committee is responsible for budget process that affect its area of oversight) • Human resources • Oversight of best value functions (although each committee is responsible for best value functions in its area of oversight) • Property resources • Social inclusion • Diversity
Housing	<ul style="list-style-type: none"> • The contractual relationship with the ALMO • Housing Retained Services • Social Inclusion
Environment	<ul style="list-style-type: none"> • Environment • Transport • Social inclusion • Regulatory Services • Environmental Strategy • Planning & Building Control
Children's Services	<ul style="list-style-type: none"> • School Improvement • Pupil and Student Services (including the Youth Service) • Strategy and Commissioning • Children's Social Services • Children's Health Services • Social Inclusion
Culture and Regeneration	<ul style="list-style-type: none"> • Leisure, art, culture • Social and economic regeneration • Social inclusion • Adult Education
Adult Services	<ul style="list-style-type: none"> • Adult Services • Social inclusion
Health	<ul style="list-style-type: none"> • Scrutiny of NHS Bodies under the Council's Health Scrutiny function
Crime and Disorder	<ul style="list-style-type: none"> • Exercise of the functions conferred on the Committee by the Police & Justice Act

1.5 Functions delegated to area committees

The Council will appoint the area committees set out below, composed of members of the authority representing the wards included in each area. The committees are not required to be politically balanced.

Area Committee	Wards included
Elm Park & Hylands	<ul style="list-style-type: none">• Elm Park• Hylands
Emerson Park & Harold Wood	<ul style="list-style-type: none">• Emerson Park• Harold Wood
Gidea Park	<ul style="list-style-type: none">• Pettits• Squirrels Heath
Harold Hill	<ul style="list-style-type: none">• Gooshays• Heaton
Hornchurch	<ul style="list-style-type: none">• Hacton• St Andrews
North Romford	<ul style="list-style-type: none">• Havering Park• Mawneys
Romford	<ul style="list-style-type: none">• Brooklands• Romford Town
South Hornchurch & Rainham	<ul style="list-style-type: none">• Rainham & Wennington• South Hornchurch
Upminster	<ul style="list-style-type: none">• Cranham• Upminster

Area committees are empowered to undertake the following functions relating to their areas:

1. To consider [and monitor] local issues, consult with local people, and make recommendations to the Council or Cabinet;
2. To decide local highway management schemes, subject to certain limitations within the policies and practices set by the Regulatory Services Committee and in accordance with the agreed process for such decisions appended below; and
3. To be responsible for any budgets allocated to them and that these responsibilities be exercised in accordance with the principles of the Rules and Conventions for Area Committees (set out in the Appendix to the Committee Procedure Rules in **Part 4**)

Process for approving highway schemes:

1. Where only one Area is concerned, the Area Committee shall receive a report on initial design of scheme and
 - (a) approve it in principle for public consultation or, if changes are required to the scheme before it goes to consultation, delegate approval of them to the Head of Streetcare in consultation with the Chairman of the Area Committee; and
 - (b) delegate approval of the final scheme in the light of the results of the public consultation to the Head of Streetcare in consultation with the Chairman of the Area Committee.

2. Where a scheme is set within more than one Area:
 - (a) the views of the relevant Area Committees shall be sought on the initial design for public consultation;
 - (b) the Head of Streetcare in consultation with the Chairman of the Regulatory Services Committee and in the light of the views of the Area Committees may approve the scheme for public consultation; and
 - (c) the Head of Streetcare shall approve the final scheme in the light of results of the consultation and in consultation with the Chairman of the Regulatory Services Committee and the Chairmen of the relevant Area Committees.



GOVERNANCE COMMITTEE

REPORT

25 11 2009

Subject Heading:

MONITORING OFFICER NO 36
AMENDMENTS TO THE
CONSTITUTION

Report Author and contact details:

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Policy context:

Monitoring Officer Amendments to the
Constitution

Financial summary:

Not applicable

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input type="checkbox"/>
Value and enhance the life of every individual	<input type="checkbox"/>
High customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

SUMMARY

Part 2 Article 15.02(c) of the Constitution authorises the Monitoring Officer to amend the Constitution to correct errors or to comply with any legal requirement or to reflect organisational changes to the Council's structure.

The constitution provides that this committee must be notified of any such amendment at the first reasonable opportunity.

RECOMMENDATIONS

That this report be noted.

REPORT DETAIL

The Monitoring Officer has the ability to make limited amendments to the Constitution as set out in the summary above.

Amendments to the Constitution were made by the Monitoring Officer since 1st May 2002 and this latest amendment is Amendment No. 36 dated 10th November 2009.

In addition to the Constitutional requirements the Monitoring Officer has determined that she will notify Group Leaders as soon as any Monitoring Officer amendments are made to the Constitution. The notification will then appear in Calendar Brief so that all members are aware of the amendments. The notification of the amendments will be numbered so there is no confusion.

The meeting of this committee is the first opportunity for the reporting of the most recent amendments made and the committee is requested accordingly to note the amendments made.

IMPLICATIONS AND RISKS

*There is a **corporate** requirement to set out the implications and risks of the decision sought, in the following areas*

Financial implications and risks: None

Legal implications and risks: The Constitution provides for the Monitoring Officer to make certain amendments to the constitution

Human Resources implications and risks: None

Equalities implications and risks: None

BACKGROUND PAPERS

E-mail correspondence re: amendments

SUBJECT: AMENDMENTS TO CONSTITUTION

Notification No. 36

Date 10th November 2009

Notification of amendments to the constitution

Amendments made by the Monitoring Officer

Part 2, Article 15.02(c) of the constitution provides that the Monitoring Officer has a limited authority to amend the constitution. The Monitoring Officer is authorised to amend the constitution to correct errors or to comply with any legal requirement or to reflect organisational changes to the Council's structure. The Governance Committee must be notified of any such amendment at the first reasonable opportunity.

In accordance with this authority, the Monitoring Officer gives notice of the following amendments to the constitution effective from the respective dates shown in the attached document headed Transitional Arrangements.

Part and article/ section	Page reference	Substance of amendment / amended wording	Reason for amendment
Part 3.7.3 Head of Finance & Performance Part 4 Financial Procedure Rules	125-126 271-292	Replace Head of Finance and Performance with Head of Financial Services wherever it appears throughout the Constitution and the Financial Framework	Restructure
Part 4 Section 2 Budget and Policy Framework Procedure Rules	204	Add a new section 10 10 Fees & Charges (a) A schedule of fees & charges will be produced by each service and submitted to Cabinet and Council for approval as part of the annual budget-setting process. The relevant Cabinet Member should be consulted on the fees & charges within their portfolio. (b) All fees & charges must be set in accordance with the corporate charging policy and with the relevant service charging policy. (c) Any changes to fees & charges during the financial year require the approval of the Cabinet Member Finance & Commerce. (d) The schedules will be posted onto the Council's website once approved.	Organisation Change

Governance Committee, 25 November 2009

Part and article/ section	Page reference	Substance of amendment / amended wording	Reason for amendment
Part 3 Section 3.7.3 Head of Finance & Performance	126	Replace paragraph 3.7.3 with the attached.	Organisation Change
3.7.4 Exchequer Services	126	Add as new paragraph 8. To review and maintain the corporate charging policy and monitor its implementation including any relevant deadlines.	Organisation Change
3.3.1 All Heads of Service/AD	89	Add new paragraph 14 as a general power for all Heads of Service/ADs as follows: 14. Where appropriate, to establish and maintain a fees & charges policy for the service, ensuring that this is consistent with the corporate charging policy, and to review and monitor the schedule of fees & charges for the service.	Organisation Change
Part 4 Section 7 Financial Procedure Rules:	271	Amend second paragraph of introduction to read: The Financial Procedure Rules focus on an overview of the key financial areas and responsibilities. Details, clarifying and explaining the processes involved, are set out in greater depth in the Council's Financial Framework. The Financial Framework underpins the Rules and all employees are responsible for ensuring that they comply fully with the Framework, and that any procedures, controls and other mechanisms are consistent with the Framework.	Organisation Change
Part 4 Section 7 Financial Procedure Rules:	287	Amend Rule 22 (i) to read: The level of fees and charges should be kept regularly under review by the appropriate Group Directors, Assistant Chief Executive, Assistant Directors and their Heads of Service. As a minimum, charges should be reviewed at least annually to coincide with the approval of the revenue budget and the Council's fees and charges publication, which is on the Council's Intranet and Internet sites. Fees & charges should be set within both the corporate charging policy and the relevant service charging policy.	Organisation Change
Part 4 Section 7 Financial Procedure Rules	288	Add under Rule 22 as a new paragraph (j): (j) Any changes to fees and charges outside the budget-setting process should be discussed with the relevant Cabinet member as soon as practicable prior to seeking formal approval from the Cabinet Member for Finance & Commerce.	Organisation Change

Governance Committee, 25 November 2009

Part and article/ section	Page reference	Substance of amendment / amended wording	Reason for amendment
Part 3. Section 2.2 paragraph 28	80	Write off-debts Amend paragraph from £25,000 to £50,000 to follow consistency of paragraph Part 4 Section 7 paragraph 23 (d) 28 The Cabinet Member for Finance & Commerce to approve the write off of irrecoverable debts where the individual debt exceeds £50,000 £25,000 or where the overall level of service debt exceeds a cumulative £250,000 or 1% of the annual service debt in any financial year whichever is the higher.	Error

GOVERNANCE COMMITTEE

SUPPLEMENTARY AGENDA

25 November 2009

Additional information

5 PAPERLESS COUNCILLOR

Cheryl Coppel
Chief Executive

Governance Committee, 25 November 2009

Supplementary Report

Comments of officers (continued)

Comments of the Head of Asset Management

Currently, the courier delivers to members three times per week on Monday, Wednesday and Friday. Deliveries to members are incorporated in to the normal courier routes that delivers to other corporate buildings and schools. The number of members receiving a delivery varies between 21 and 48, on this basis an estimated saving of two hours per week can be achieved if there is no delivery to members on Monday and Wednesday. The mop up delivery on Fridays will continue to be carried out as part of the normal daily courier run

Arsing from the above there are amended Financial and Human resource implications and risks as follows -

Financial implications and risks: A saving of approximately £3,350 per annum would be achieved if it is agreed to remove two of the three daily courier runs to members. The cost of continuing the Friday mop up service would be contained within existing budgets. There are no material financial risks associated with the proposed change in practice.

Human Resources implications and risks: There are not any direct HR implications. Savings will be met by the reduction of voluntary overtime arrangements.