



Haverling

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

GOVERNANCE COMMITTEE AGENDA

7.30 pm

**Wednesday
9 November 2011**

**Town Hall, Main Road,
Romford**

Members 13: Quorum 4

COUNCILLORS:

**Conservative Group
(8)**

**Residents' Group
(2)**

**Labour Group
(2)**

**Independent
Residents' Group
(1)**

Frederick Thompson
(Chairman)
Becky Bennett (Vice-
Chair)
Robert Benham
Osman Dervish
Steven Kelly
Eric Munday
Roger Ramsey
Michael White

Clarence Barrett
Gillian Ford

Keith Darvill
Paul McGearry

Jeffrey Tucker

For information about the meeting please contact:

**Grant Soderberg 01708 433091
grant.soderberg@haverling.gov.uk**

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 & SUBSTITUTE MEMBERS

(If any) – receive

3 DECLARATIONS OF INTEREST

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 (Pages 1 - 4)

To approve as a correct record the minutes of the Committee held on 7 September 2011, and to authorise the Chairman to sign them.

5 PROPOSED NEW PARLIAMENTARY CONSTITUENCIES - WHETHER COUNCIL TO COMMIT (Pages 5 - 14)

Members are invited to consider whether the Council should provide a formal response to the Boundary Commission concerning the proposed constituency boundary changes.

6 TRANSFORMATION OF SERVICE DELIVERY - MOVING TO ELECTRONIC DELIVERY OF COUNCIL, CABINET AND COMMITTEE AGENDAS AND REPORTS (Pages 15 - 20)

The Committee is invited to consider whether to support the measures currently being applied to move the way in which Council business is transacted from paper-based agendas and reports to electronic counterparts.

7 PUBLIC ACCESS TO THE COUNCIL CHAMBER - FURTHER REVIEW OF ARRANGEMENTS (Pages 21 - 26)

Members are asked to consider whether the proposed changes around public access to the Council Chamber are adequate to ensure recent disruptions are not repeated.

8 KEY DECISIONS (Pages 27 - 32)

Members are invited to consider the proposed changes to the manner in which "Key Decisions" are defined and make recommendations to Council.

9 AMENDMENTS TO THE CONSTITUTION (Pages 33 - 36)

The Committee is asked to endorse the changes to the Constitution and recommend them to Council.

10 URGENT BUSINESS

To consider any other item in respect of which the Chairman is of the opinion, by reason of special circumstances which shall be specified in the minutes, that the item should be considered at the meeting as a matter of urgency.

**Ian Buckmaster
Committee Administration &
Member Support Manager**

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Public Document Pack Agenda Item 4

**MINUTES OF A MEETING OF THE
GOVERNANCE COMMITTEE
Town Hall, Main Road, Romford
7 September 2011 (7.30 - 7.40 pm)**

Present:

COUNCILLORS

Conservative Group Frederick Thompson (Chairman), Robert Benham, Osman Dervish, Steven Kelly, Eric Munday, Roger Ramsey, Michael White and +Billy Taylor

Residents' Group Gillian Ford and +Barbara Matthews

Labour Group Keith Darvill and Paul McGeary

**Independent Residents
Group**

Apologies were received for the absence of Councillors: Clarence Barrett, Becky Bennett and Jeffrey Tucker.

+Councillor Barbara Matthews substituted (for Clarence Barrett) and +Councillor Billy Taylor substituted (for Becky Bennett)

All decisions were taken with no votes against.

There were no declarations of interest.

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

1 MINUTES

The Minutes of the meeting held on 5 July 2011 were agreed and signed by the Chairman

2 POLLING DISTRICT REVIEW

The Committee considered a report from Electoral Services concerning its recent review of polling station provision. A Member raised concerns about the recommendations to have voters within the Havering Park (HP) Ward 5 relocate to HP4. The Interim Monitoring Officer reminded Members that the Boundary Commission Report was due to be published within the next week and invited the Committee to accept the report (if there were no further issues) except those relating to this particular element.

RESOLVED:

1. **To delete recommendations 6c and 6d and accept the remainder of the report without amendment and**
2. **To require Election Services to review elements 6c and 6d and allow any revision to be accepted by a Chairman's Decision.**

3 OUTSIDE BODY APPOINTMENTS - THE LUCAS PLAYSITE TRUST

Members received a report detailing the reappointment of Councillors to the Board of the Lucas Children's Play Charity.

RESOLVED:

To reappoint Councillors Andrew Curtin and Linda Hawthorn for the term of office from November 2011 to November 2015

4 MONITORING OFFICER REPORT - 08

The Committee **NOTED** the Monitoring Officer's report concerning amendments to the Constitution relating to the Criminal Records Bureau and Trading Standards.

5 MONITORING OFFICER REPORT - 09

The Committee **NOTED** the report of the Monitoring Officer concerning amendments to the Constitution relating to the renaming of IT, Exchequer and Financial services.

6 MONITORING OFFICER REPORT

The Committee received the Monitoring Officer's report on amendments to the Constitution relating to changes to the section concerning Town and Country Planning and Planning Control by the addition of a new paragraph and to amend the delegated powers of the Head of Development and Building Control relating to Temporary Stop Notices.

RESOLVED:

To RECOMMEND TO COUNCIL that the addition of a new paragraph 11A to the Constitution and amend the delegated powers of the Head of Development and Building Control be accepted.

7 **CONDUCT OF BUSINESS AT THE ANNUAL MEETING OF THE COUNCIL**

The matter was considered urgent under Section 100(b) of the Local Government Act 1972 as it was necessary for the Committee to determine what course of action should be taken at the earliest opportunity.

The Leader raised concerns about events which had occurred during the last Annual Council and which he and the Leader of the Opposition Group agreed had adversely affected the dignity of the occasion and brought disrepute upon the Council. He asked the Committee to agree to Officers providing a report to find ways of ensuring that such a situation could not reoccur in future. Members of the Committee were unanimous in supporting this proposal.

RESOLVED:

That officers report to the Committee in the near future with recommendations on ways to ensure that future Annual Councils would be free of unseemly and vexatious incidents.

Chairman

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GOVERNANCE COMMITTEE

REPORT

9 November 2011

Subject Heading:

**PROPOSED NEW PARLIAMENTARY
CONSTITUENCIES – whether Council
to comment**

Report Author and contact details:

Ian Buckmaster, Committee
Administration & Member Support
Manager
Tel: 2431;
ian.buckmaster@havering.gov.uk

Policy context:

New parliamentary constituency
boundaries

Financial summary:

There are no relevant financial
implications

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 checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

SUMMARY

The Boundary Commission for England has published proposals for new Parliamentary Constituencies for Havering, two of which would be wholly within the borough, with a third partly covering Havering and parts of eastern Barking & Dagenham.

This report outlines the proposals and their context and invites consideration as to whether the Council should respond formally.

RECOMMENDATIONS

For consideration as to the response, if any, to be made to the proposed constituency arrangements.

REPORT DETAIL

- 1 In September, the Boundary Commission for England published proposals for new Parliamentary Constituencies within Greater London. The proposals arise from Parliamentary Voting System and Constituencies Act 2011, which (among other things) reduced the number of Parliamentary Constituencies nationally from 650 (533 in England) to 600 (502), and sought bring the number of voters in each constituency more nearly even.
- 2 The changes will take effect on and from the next Parliamentary General Election, which is due on 7 May 2015, following the enactment of the Fixed-term Parliaments Act 2011.
- 3 Overall, the number of constituencies in Greater London is reduced by five. Havering retains two whole constituencies and part of a third but the boundaries are different.
- 4 The Commission proposes that the new constituencies (as illustrated by the appended maps):

Constituency (Electorate)	Comprising the following Wards
Hornchurch and Upminster (80,227)	Elm Park; Hacton; Hylands; Rainham & Wennington; St Andrew's; South Hornchurch; and Upminster
Romford (80,166)	Emerson Park; Gooshays; Harold Wood; Havering Park; Heaton; Pettits; Romford Town; and Squirrels Heath
Dagenham North (74,095)	Brooklands and Mawneys

- 5 The current electoral quota (the total electorate nationally, divided by constituencies) is 76,641. Every constituency – except two covering the Isle of Wight – must have a number of registered electors that is no more than 5% lower or higher than this figure. In practice, this means constituencies

must contain between 72,810 and 80,473 electors. The proposals above achieve that.

- 6 In putting forward their proposals, the Commission acknowledge that it has not been possible to keep constituencies within individual local authority areas, and it will be seen that the proposed Dagenham North constituency includes a number of wards from Barking & Dagenham together with Havering's Brooklands and Mawneys Wards. This contrasts with current constituencies where Dagenham & Rainham crosses the boundary of the two boroughs but includes different Havering Wards (Elm Park, Rainham & Wennington and South Hornchurch), which in the new arrangements revert to being within a wholly Havering constituency.
- 7 The proposals are subject to consultation, closing on 5 December 2011. It is open to the Council to offer comment should it wish to, although individual Members and political groups will undoubtedly wish to make their own points to the Commission.

IMPLICATIONS AND RISKS

Financial implications and risks: There are no specific financial implications for the Council. The cost implications of the boundary adjustments for Election Services are minimal.

Legal implications and risks: There are no relevant legal implications for the Council. The division of the borough in to constituencies has no effect on the provision of Council services.

Human Resources Implications and risks: None

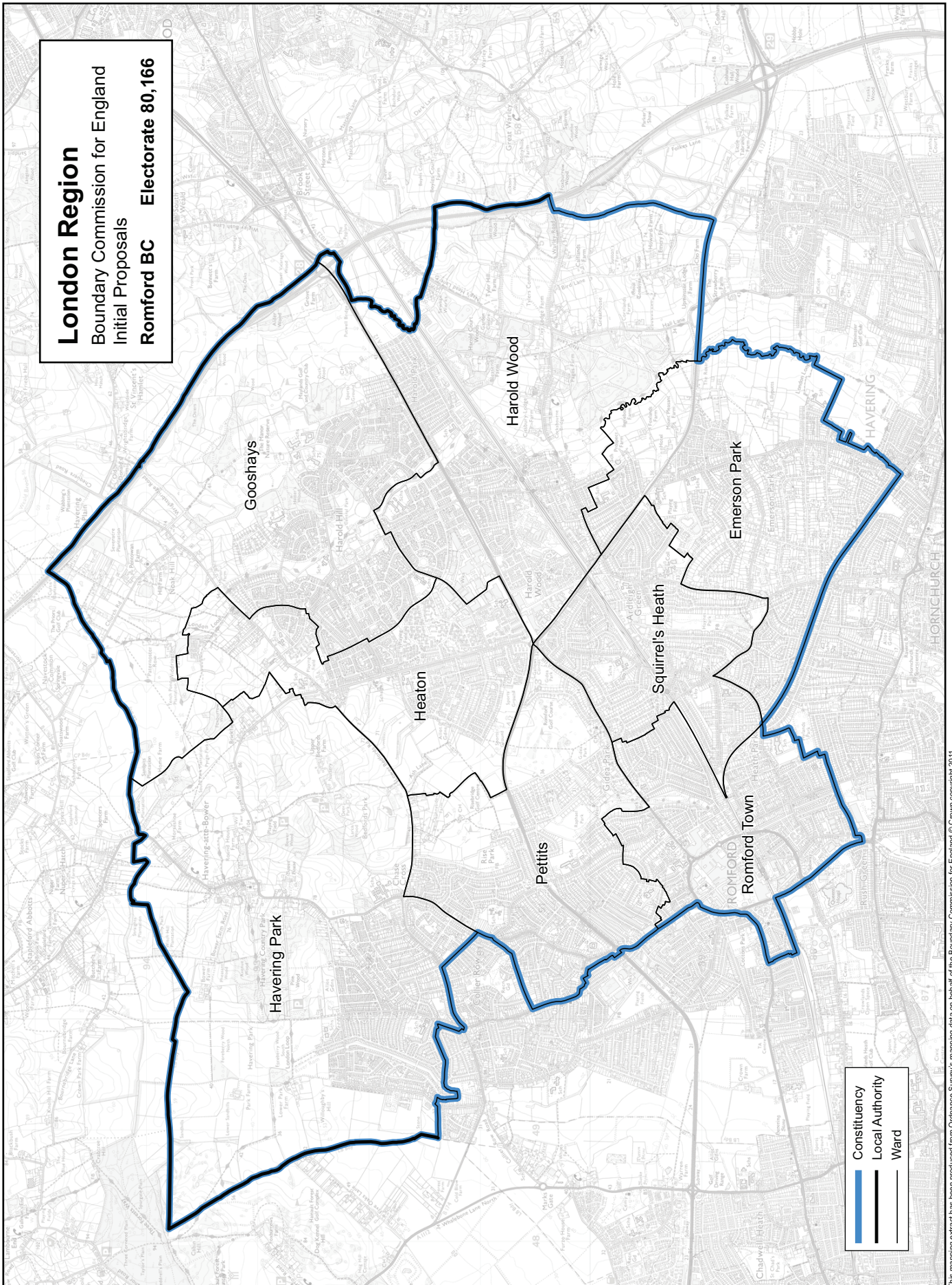
Equalities implications and risks: None

BACKGROUND PAPERS

There are none

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London Region
 Boundary Commission for England
 Initial Proposals
Romford BC Electorate **80,166**



Constituency
 Local Authority
 Ward

This mapping extract has been produced from Ordnance Survey's mapping data on behalf of the Boundary Commission for England © Crown copyright 2011.

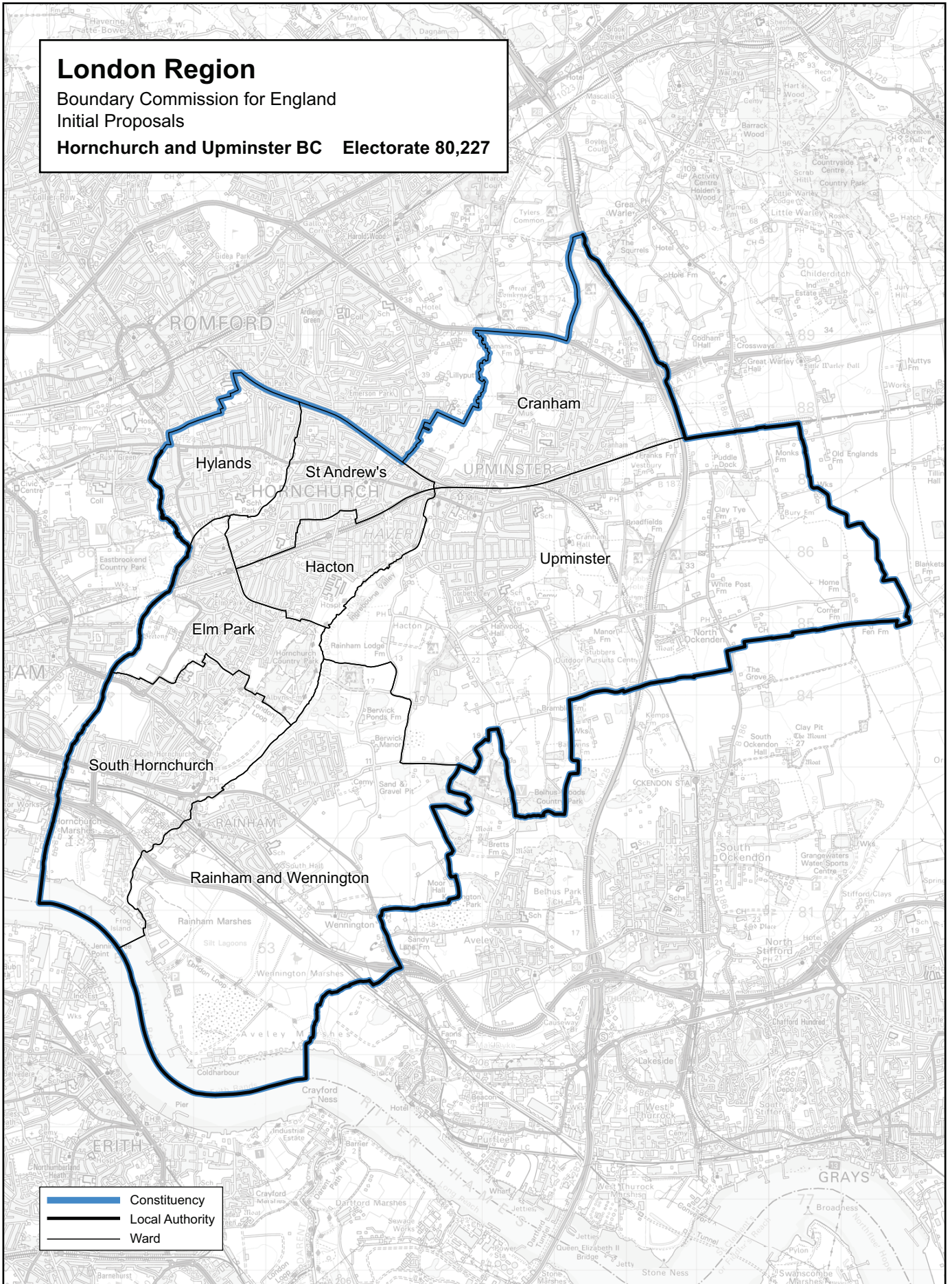
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London Region

Boundary Commission for England

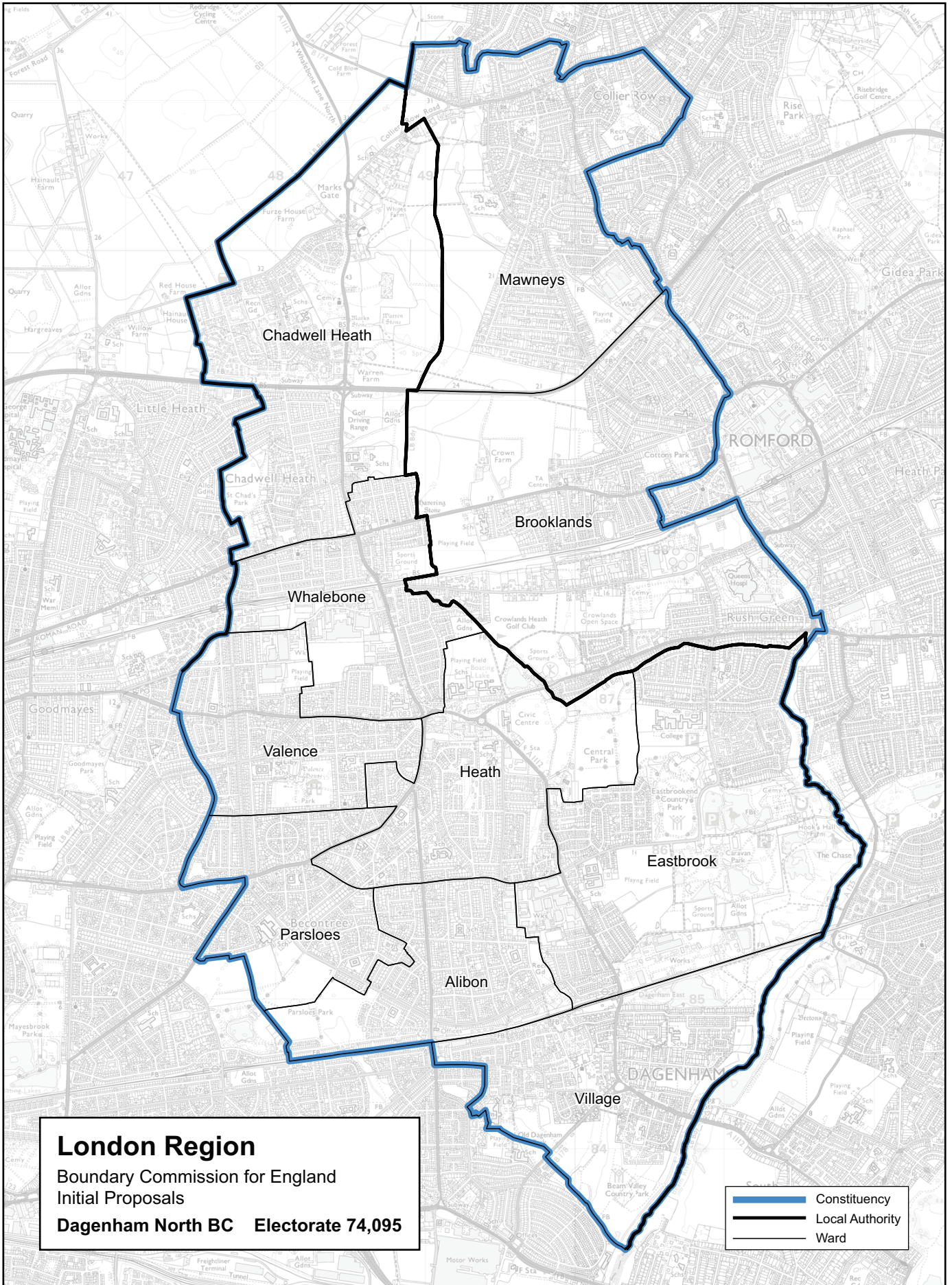
Initial Proposals

Hornchurch and Upminster BC Electorate 80,227



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GOVERNANCE COMMITTEE

REPORT

9 November 2011

Subject Heading:

TRANSFORMATION OF SERVICE DELIVERY – moving to electronic delivery of Council, Cabinet and Committee agendas and reports

Report Author and contact details:

Ian Buckmaster, Committee Administration & Member Support Manager
Tel: 2431;
ian.buckmaster@havering.gov.uk

Policy context:

Improving the decision making process as part of the transformation of the Council's service delivery arrangements

Financial summary:

Savings will be generated through changes that also aim to improve decision-making.

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 checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

SUMMARY

As part of the broader programme for transforming the delivery of services, Committee Administration now uses Committee Process Management software that has potential to streamline decision-making through the electronic publication of Council, Cabinet and Committee agendas and reports rather than continuing to use mainly paper-based approaches.

This report gives details of progress to date, indicates forthcoming improvements and seeks approval of the strategy for future development.

RECOMMENDATIONS

- 1 That progress with the transformation of production arrangements for Council, Cabinet and Committee meeting documents be noted.
- 2 That the general roll out of tablet PCs to Members and officers be endorsed, subject to the cost thereof being met from existing budget provision.
- 3 That the Committee Administration & Member Support Manager explore with other services improved means of presenting information to Members, using electronic production of documents and the projection facilities in the Council Chamber and Committee Rooms.
- 4 To **RECOMMEND** to Council that the Monitoring Officer be authorised to adjust the Council' Constitution as necessary to reflect the move from paper-based agenda and report production to primarily website based.

REPORT DETAIL

- 1 In parallel with the transformation of service delivery, the production of Council, Cabinet and Committee agendas and Executive Decisions has undergone change, with further changes in the pipeline. The aim has been to move from mainly paper-based production of such documents to electronic production.
- 2 Committee Administration now use *Modern.gov*, Process Management software that simplifies the production of documents for meetings and also acts as the web-host for a number of meeting-related articles and documents, such as those details about Members that must be publicly available. *Modern.gov* has simplified in particular the means of ensuring that relevant and necessary information is placed on the website in a timely fashion.
- 3 Documents produced using *Modern.gov* are particularly “user-friendly” for people who wish to access them on-line during a meeting, using tablet PCs (an iPad or other, similar portable form of PC).
- 4 As part of the spending reductions necessary following national budget changes, Committee Administration is required to make savings: the target has largely been achieved early, partly through the introduction of *Modern.gov*, which has led to increased efficiency within the service by streamlining the process of placing information on the website and simplifying the production of documents.

- 5 To be effective, however, the changes need to be supported by more extensive use of tablet PCs. The rolling out of tablet PCs to Members and senior staff is in hand. Once users have access to tablet PCs, it will be possible to cease providing paper copies to them.
- 6 In addition to reducing (if not eliminating) the need for paper copies, use of tablet PCs will facilitate other improvements in the availability of information – for example, judicious use of links within electronic reports will enable readers to access background information without the need, as at present, to produce lengthy appendices to reports. Large numbers of pages can be accessed simply without the need to carry around bulky (and expensively-produced) bundles of paper.
- 7 For legal reasons, however, a limited number of paper copies will still be required, to enable members of the public who attend meetings to follow the agenda. Even here, however, improvements are possible – hitherto, it has not generally been possible to reproduce coloured images etc within paper copies in an economic manner. This has, on occasion, resulted in charts and other illustrations being unreadable. Given the small print runs mainly required once the bulk of documents are reproduced electronically only, it will be economically viable in future to reproduce colour images.
- 8 Large print runs will still be required on occasion for the use of people attending Council, Cabinet, Regulatory Services Committee and, possibly, Highways Advisory Committee meetings when there are items of major interest.

Use of tablet PCs

- 9 If the strategy outlined above is to succeed, Members and officers attending meetings will need to be able to access documents on-line. As the Town Hall is now Wi-Fi equipped, so that Wi-Fi enabled devices can connect to the internet wirelessly, all that is needed therefore is a laptop PC or a tablet PC with a wireless connection (and most modern devices come with that built in). Their size means that tablet PCs are the more convenient form of device for use during a meeting.
- 10 A number of Members and staff have already been using tablet PCs on a trial basis and the Committee is invited to agree that the roll out of such devices to all Members who require them should now begin. Officers who can demonstrate a business case for having one will also be included in the roll out (usually on the basis that, if they already have a laptop, it will be surrendered for allocation elsewhere).
- 11 Members will be aware that publicity critical of the Council was generated earlier this year over tablet PC use, based on false assumptions about the cost of providing them. Although the retail cost of tablet PCs varies widely, with the average around £400, the Council pays nothing like that. In fact, the current arrangement is that the device is provided at no cost other than a monthly contract price of £25 including mobile telephone connection for data

transmission. Indeed, the first four months is without charge, so in the initial year the cost is £200 and, thereafter, £300 per annum, per device, including data telephone connection.

- 12 The cost for Members is charged to provision for Members' IT expenses; for officers, the cost is chargeable to relevant service budgets.
- 13 Members and officers are responsible for purchasing any "apps" (applications, or programs) they require that do not come with the device as issued.

Use of IT facilities in meeting rooms

- 14 Members will be aware that the Council Chamber and Committee Rooms are all equipped with projection equipment and internet-capable PCs. Hitherto, no great use has been made of this equipment (apart from at Council and some Cabinet meetings). Integral to the new strategy is the assumption that greater use will in future be made of the equipment as a means of illustrating points in reports etc.

Constitutional adjustments

- 15 Some changes will need to be made of the Council's Constitution, and to the Access to Information rules in particular, to reflect the change in emphasis from paper-based agenda and report production to website-based. Authority is sought for the Monitoring Officer to make the requisite changes.

IMPLICATIONS AND RISKS

Financial implications and risks:

The introduction of *Modern.gov* was funded by the government as part of a project covering a number of London Boroughs, although implementation in Havering was delayed until various technical issues could be resolved.

Use of *Modern.gov* and associated changes, such the roll out to Members and senior officers of tablet PCs (or the like) will substantially reduce the requirement for printed paper copies of Council, Cabinet and Committee papers (though, unless legislation changes, there will always be need for some paper copies).

At present, it has not been possible to quantify the exact savings likely – not least because the general roll out of tablet PCs (etc) has yet to begin – but they are expected ultimately to be at least £10,000 per annum (taking into account the additional cost of tablet PCs), which will accrue to Democratic Services budgets.

At present, the cost per tablet PC per annum is expected to be of the order of £300, including 3G telephony connection charges.

Legal implications and risks:

The Council has a legal obligation to make copies of agenda papers available to the public. The relevant legislation predates the development of the internet and modern information technology by many years and is thus based on paper copies.

Until legislation changes – and that is not expected in the foreseeable future – there will continue to be a need for paper copies to be produced, albeit (except for Council, Cabinet and Regulatory Services Committee papers) in small numbers.

The Council's Constitution contains a number of provisions relating to the availability of Committee and other papers that will require adjustment to reflect the changes proposed in this report.

Human Resources Implications and risks:

None

Equalities implications and risks:

The availability of Council etc agendas by means other than paper will assist people with disabilities or who have other vulnerabilities to gain access to those agendas.

BACKGROUND PAPERS

There are none

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GOVERNANCE COMMITTEE

REPORT

9 November 2011

Subject Heading:	PUBLIC ACCESS TO THE COUNCIL CHAMBER – further review of arrangements
CMT Lead:	Ian Burns Acting Assistant Chief Executive 01708 432442
Report Author and contact details:	Ian Buckmaster Committee Administration & Member Support Manager ian.buckmaster@havering.gov.uk 01708 432431
Policy context:	Members of the public have a statutory right to attend meetings of Council, Cabinet and Committees. The limited accommodation available in the Council Chamber means that public use of some areas of it must be restricted.
Financial summary:	There are no financial implications

SUMMARY

The Committee reviewed the rules about the admission of the public to areas of the Council Chamber at its meeting in July, since when incidents of disruption of meetings have occurred, prompting requests from the Mayor and the Leader of the Council for further review.

This report is submitted accordingly.

RECOMMENDATIONS

- 1 That for Council and Cabinet meetings, with immediate effect:

- a. The seating in the lobby at the rear of the Members' area and at the side area of the Chamber be reserved for Civic guests, press, officers and people who have a mobility disability preventing use of the stairs to the balcony
 - b. Members' guests be seated in the gallery at the side of the Chamber rather than at the rear of the Members' area
 - c. Members of the public be seated in the balcony (or, if need be, an overspill room).
- 2 That a further report be submitted about seating arrangements at meetings of the Regulatory Services Committee to the next meeting.

REPORT DETAIL

Introduction

- 1 When the Council Chamber was extensively refurbished and remodelled in 1997/98, opportunity was taken to extend (to nearly double) its accommodation for the public and, at the same time, to provide additional seating at the rear of the Chamber, primarily for use by Members' guests.
- 2 The Chamber area is divisible into five main areas:
 - "the Members' area" – comprising the main seats, also known as the "floor of the Chamber", and the dais, with full access to the microphone system
 - "the side area" of seats by the side windows (beneath the portrait of the Queen), including two seats for the press
 - "the lobby" – the seating area at the rear of the Chamber, by its main entrance, with 14 seats for staff, Members' guests and press
 - "the gallery" – the side area, normally curtained off and also used as a corridor between the original Town Hall building and the recent extension: there are up to 19 seats for the public in this area
 - "the balcony" – the original public area, above the main parts of the Chamber: there are 25 seats for the public in this area

Public access issues

- 3 There is a statutory right of access by members of the public to all meetings, other than those where confidential or exempt business is to be transacted. That right is, however, not absolute: the Council has no obligation to admit the public when numbers are so large that they cannot all reasonably be accommodated – for example, where the numbers are in excess of those permitted access in accordance with a fire risk assessment.

Governance Committee, 9 November 2011

- 4 Moreover, in the event of a meeting being disrupted, there is a common law right to exclude those causing the disruption and, if judged necessary, any member of the public in attendance.
- 5 The Committee last reviewed the question of public access to the Chamber in July, when maintenance of the current policy about access was agreed (with the addition of a right for the public to sit at the rear of the Chamber).
- 6 Since then, however, several incidents have occurred that disrupted meetings. The Mayor had to ask a member of the public to leave July's Council meeting; and a meeting of the Regulatory Services Committee was seriously affected by disorder, to the extent that police assistance was required when the personal safety of some Members and officers was compromised.

Proposed new arrangements

- 7 In the light of these recent developments, the Mayor and the Leader invite the Committee to consider changes that, if agreed, will be implemented immediately for Council and Cabinet meetings. The question of public attendance at the Regulatory Services Committee is also being reviewed but the position there is more complex and a separate report will be submitted to the next meeting.
- 8 It is proposed that the side gallery should no longer be available for public use but reserved for Members' guests. The location presently used by them – the lobby – would then be available to staff in attendance at the meeting, press representatives and people who have a mobility problem that prevented the use of stairs.
- 9 The side area (beneath the Queen's portrait) would continue to be used by Civic guests (generally Honorary Aldermen, former Mayors, MPs and senior representatives of partner authorities/organisations).
- 10 Members of the public (other than the disabled) would no longer use the accommodation at Chamber level but would, instead, be directed to balcony. The balcony can seat up to 25 people – at most meetings, there are generally no more than five or so members of the public. On the rare occasion when it is likely that more people may attend than can be accommodated in the balcony, arrangements can be made for them to access an overspill room elsewhere in the Town Hall.
- 11 The current, different arrangements for the Annual Meeting of the Council would be retained, as many more people attend then and special arrangements are necessary to manage the limited space available.
- 12 The new arrangements would therefore be as set out in the following table:

Area:	Members' area	Side area	Lobby	Gallery	Balcony
Meeting:					
Annual Council	Not open to public	Not open to public	Members' guests only (and those having a disability preventing them accessing the balcony)	Members' guests only	Open to the public
Other Council meetings (including Council Tax and Extra-ordinary meetings)	Not open to public	Not open to public	Not open to public (except those having a disability preventing them accessing the balcony)	Members' guests only	Open to the public
Cabinet	Not open to public (but, where agreed in advance, seats to be available for members of the public coming forward to address the meeting)	Not open to public	Not open to public (except those having a disability preventing them accessing the balcony)	Members' guests only	Open to the public

Financial Implications and Risks

There are no financial implications or risks arising from this report.

Equalities and Social Inclusion Implications and Risks

No implications or risks have been identified. The Chamber areas are as reasonably accessible by disabled people as practicable given the design and construction of the Town Hall.

Environmental Implications and Risks

There are no implications or risks for the environment.

Legal Implications and Risks

The Local Government Act 1972 obliges the Council to admit the public to meetings, except when confidential or exempt information is being dealt with. Case law has modified the absolute obligation to the extent that the right of access is exercisable only when those seeking access can be physically accommodated in the room.

Nothing in the existing designation policy affects the right of persons to have access to meetings at which they can be physically accommodated, nor is it likely that any change proposed and agreed will affect their rights. Where necessary, the Council provides overspill accommodation at which the events of meeting can be viewed and heard by CCTV and audio links.

Human Resources Implication and Risks

There are no implications or risks for Human Resources. The availability of clear guidelines on the use of the different areas within the Chamber assists staff deal with awkward situations.

BACKGROUND PAPERS

There are no background papers

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GOVERNANCE COMMITTEE

REPORT

9 November 2011

Subject Heading:

Report Author and contact details:

Policy context:

Financial summary:

KEY DECISIONS

Ian Buckmaster, Committee
Administration & Member Support
Manager
Tel: 2431;
ian.buckmaster@havering.gov.uk

Proposing a revision in the definition of what constitutes a “Key” executive decision

The proposal seeks to introduce more realistic financial limits for what constitutes a key decision

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 checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

SUMMARY

This report invites consideration of revised definitions of what constitutes “significant” when deciding whether or not an Executive Decision is a Key Decision.

If an Executive Decision is a Key Decision, certain administrative processes must be followed that are not otherwise needed and the intention has been to define what constitutes a Key Decision in such a way as to avoid unnecessary bureaucracy.

RECOMMENDATIONS

That the Committee **RECOMMEND** to the Council that:

- 1 the definition of Key Decision be revised as set out in paragraphs 10 and 17 of the report; and
- 2 the Monitoring Officer be authorised to make all necessary amendments to the Council's Constitution and administrative procedures consequent upon the revised definition.

REPORT DETAIL

- 1 As part of the executive governance arrangements established by the Local Government Act 2000, the concept of "Key Decision" was introduced. Key Decisions differ from other decisions in that they must be notified in advance on the Forward Plan, which is published monthly, and (unless confidential or exempt) must be taken in public.
- 2 A Key Decision is defined by the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 as a decisions that:
"is likely—
 - (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
 - (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.... in determining the meaning of "significant" ... regard shall be had to any guidance for the time being issued by the Secretary of State."
- 3 The 2000 Regulations also require that (except where a report is contains, or relates to, information that is confidential or exempt), a draft of the Key Decision must be available for public inspection for five clear days before the decision is due to be taken (whether at a Cabinet meeting, or by an individual Cabinet Member or an officer).

Definition of "significant" financial implications

- 4 In the (continuing) absence of guidance from the Secretary of State as to what is "significant", in 2002 the Council adopted a definition of "significant" in the context of spending or saving of £500,000, whether capital or revenue. That definition has not been reviewed since then.

- 5 The effect of inflation alone since 2002 means that £500,000 (especially in capital terms) now represents substantially lower value and, accordingly, the Committee is now invited to review the definition and to consider whether to recommend to Council changes in the financial thresholds.
- 6 Research has revealed a range of practices by other local authorities. Some use a definition similar to that of Havering, while others have higher thresholds (and a few, somewhat lower). No common theme emerges; the principal determinant is clearly operational convenience.
- 7 Having reviewed the position in the light of both current operational need and practice elsewhere, officers suggest that the thresholds for revenue and capital should be different, and that opportunity be taken to include exceptions and provisos intended to ensure that only decisions that are truly Key are so termed.
- 8 It should be stressed that any change will not affect Members' rights to call in decisions for scrutiny by Overview & Scrutiny Committees. The principal effect will be a reduction in the number of decisions of which forewarning is required through the Forward Plan on financial grounds.
- 9 Accordingly, the Committee is invited to consider the following revised definition of the financial thresholds for Key Decisions and, if content, to recommend to the Council that it be adopted and the Constitution amended accordingly:

Capital	Expenditure or savings (including the receipt or loss of income or use of capital receipts) of not less than £1,000,000.
Revenue	Expenditure or savings (including the receipt or loss of income or use of capital receipts) of not less than £1,000,000
Exceptions	The following will not count as a key decision regardless of the financial amount involved: (i) any decision to borrow money to meet the short term borrowing requirements of the Council, to fund the approved capital programme, to refinance maturing debt or to restructure the long term borrowing of the Council; (ii) any decision to invest funds in accordance with the Treasury Management Strategy approved by the Council; (iii) subject to the Council obtaining best consideration, any of the following decisions relating to the management of Council land - rent reviews, release or waiver of covenants, short term leases (i.e. less than 7 years) (iv) any decision to apply scheme-specific third party grants or contributions towards expenditure where the net cost to the Council of the decision is below

	<p>the level of significant expenditure or savings referred to above;</p> <p>(v) the settlement of any actual or threatened legal proceedings in the interests of the Council;</p> <p>(vi) the acceptance of tenders for contracts wholly or mainly involving capital expenditure where the Group Director Finance & Commerce in consultation with the Cabinet Member for Value, has previously issued formal capital expenditure approval for the scheme.</p>
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Definition of “significant” effect on communities

- 10 The term “significant in terms of its effects on communities living or working in an area comprising two or more wards” has never been defined. It is clear that an effect on more than a small number of individuals is required – “communities” clearly implies a group of people having a collective identity, whether defined by locality, ethnicity or some other common factor, and it relates not only to residents but also to those working in the area. Moreover, that effect must be “significant” – simply to have “an impact” is not enough.
- 11 It is clear that most day-to-day operational decisions are unlikely to be “significant” in their impact on communities. Equally, decisions that make major changes – for example, to make a major change in a service that is available, if not to everyone, then to at least a large minority – could well have a “significant impact”, even if they do not reach the financial threshold for “significant”.
- 12 There is more room for individual judgment as to what is “significant” in terms of effect rather than finance. The requirement is to have a working definition that ensures that decisions that are truly key are dealt with appropriately, while avoiding putting forward comparatively trivial matters.
- 13 For example (a) a decision to close a facility, alter or withdraw services or carry out major, permanent street works **might** be a key decision whereas (b) a matter which has no obvious impact on local people, such as an internal Council policy, **would not**. Where a decision is likely to have a significant impact, but only on a very small number of people, it would only be a key decision if it exceeded the financial threshold. Similarly, responses to consultation documents or representations on external issues where the comments to be submitted are consistent with Council policy and/or are part of an on-going dialogue within that established policy would not constitute a key decision. However, where a substantive new response is required, this might well constitute a key decision.
- 14 In the case of strategies and plans, the key decision is made at the time the strategy or plan is agreed: subsequent discussions or decisions about the finalising of specific points of detail would not, themselves, be key decisions. A major change in a strategy or plan that clearly alters its focus would, however, be a key decision,

15 It is suggested that, where there is uncertainty, the matter in question should be treated as a key decision.

16 Accordingly, the Committee is invited to consider the following revised definition of the community impact threshold for Key Decisions and, if content, to recommend to the Council that it be adopted and the Constitution amended accordingly:

“A decision shall be regarded as having a “significant effect on ... two or more wards” where:

- (a) at least 25% of the people who live or work in the wards in question will be directly adversely affected ; or**
- (b) at least 50% of the users of a service or facility available to people living or working in two or more wards will be directly adversely affected.**

A decision consequent upon a Key Decision taken earlier shall only be regarded as a Key Decision where it makes a substantial change to the action authorised by the earlier decision.”

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no specific financial implications or risks for the Council. The adjustments proposed should lead to a small reduction in bureaucracy but any savings would be marginal. A range of controls is already in place to govern Council spending and these would simply need to be reviewed in the light of any change.

Legal implications and risks:

There will be a small reduction in the number of key executive decisions sought and made and thus a similar reduction in the risk that due process will not be followed. It will also reduce the potential for challenges to Council decisions on the basis that a decision should have been regarded as a key decision and accordingly the appropriate procedure had not been followed.

Human Resources Implications and risks: None

Equalities implications and risks: None

BACKGROUND PAPERS

Survey of other local authorities' procedures for taking executive decisions

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**GOVERNANCE
COMMITTEE**

REPORT

9 November 2011

Subject Heading:	AMENDMENTS TO THE CONSTITUTION
Report Author and contact details:	Ian Burns Acting Assistant Chief Executive, Legal & Democratic Services – 2442
Policy context:	Constitutional amendments
Financial summary:	There are no relevant financial implications

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
- Value and enhance the life of every individual
- High customer satisfaction and a stable council tax

SUMMARY

1. While the Monitoring Officer has the power to make amendments to the Constitution in certain limited circumstances other amendments are dealt with under Part 1 Article 4.02 paragraph (a) of the Constitution, which provides that only the Council will exercise the function of adopting and changing the Constitution.
2. Part 3 Section 1 paragraph 1.2 of the Constitution provides that this Committee will
 - a. monitor and review the operation of the Constitution to ensure that the views and principles of the Constitution are given full effect
 - b. make recommendations to the Council about amending the Constitution

3. Recent applications of the Constitution have identified a number of areas where small amendments or additions to various delegated powers would assist the delivery of the Council's work.

RECOMMENDATIONS

Governance Committee recommend to Council the amendments as set out in the body of this report.

REPORT DETAIL

- A. To amend Part 3 Section 2.5 Para (q) of the Constitution – powers of Cabinet Members - which currently states:-

(q) To approve applications for the submission of bids for grants and other financial assistance which require the provision of additional finance or match funding or are likely to lead to residual costs or implications for the Council

by adding at the end:-

"or where the amount of the grant application exceeds £500,000".

This is to complement the authority already delegated up to £500,000 to a Director in consultation with the relevant cabinet member under Part 3 Section 3.3 of the Constitution

- B. To amend Part 3, Section 2.5 paragraph (t) – powers of Cabinet Members – which currently states:

(t) To approve the 'in principle' decision of the Council disposing of an interest in property or land where the disposal or acquisition receipt is not considered likely to exceed £1,000,000.

by adding after 'Council disposing':

"or acquiring"

While it is unusual now for the Council to acquire land, the situation has arisen and the amendment would simplify the internal authorisation process while retaining Member control of the issue.

- C. To amend Part 3, Section 3.6.5 of the Constitution – powers of the Head of Regeneration, Policy & Planning – adding:

(q) To lead and co-ordinate the Council's corporate equalities and diversity programme, and to advise the Council on statutory and non-statutory equalities and diversity issues.

This is to reflect the extended equalities obligations that the Council has as a result of the Equalities Act 2000.

- D. To amend Part 3, Section 3.8.1 of the Constitution – powers of the Assistant Chief Executive, Legal & Democratic Services – by adding:

(2a) To authorise Council staff to represent the Council in proceedings in the County Court and the Magistrates Court”.

Councils have particular powers to be represented in the County Court and Magistrates Court by non-legally qualified staff. This currently happens with staff dealing with Council Tax and other debts. The delegation of this power would simplify the authorisation process for appointing new staff to undertake such activities

- E. To amend Part 3 Section 3.7.6 of the Constitution – powers of the Head of Development & Building Control – by adding

(b) (xiv) to decide all proposals under the advertisement regulations and applications for external building alterations including shop-fronts in respect of LBH submitted applications which, were they not Havering properties, would be determined under staff delegated powers.

These applications are routinely brought to Regulatory Services Committee solely because of the Council's interest in the property. They very rarely generate any neighbour responses and / or concerns about impact on their surroundings including amenity. In terms of risk, the inclusion of such applications on the Committee agenda adds unnecessarily to the Committee business and is disproportionate to the extremely low risk of the Council acting, or being perceived to act, improperly in the determination of such proposals.

The delegation procedure would continue to have a Call - in facility through which any Member can exceptionally request that an application falling within the above category be brought to Committee for its decision, thereby providing a safeguard in the process.

- F. To amend Part 3 Section 3.7.6 (l) of the Constitution – powers of the Head of Development & Building Control that currently states:

(l) To determine the making of tree preservation orders and applications for the topping, lopping and felling of trees where the trees are covered by a confirmed tree preservation order, to serve Tree Replacement Notices, to waive the requirement to replace trees where appropriate to determine applications under High Hedges legislation (Anti Social Behaviour Act 2003 [Part 8]) and undertake any related legal or direct action arising from such application, including issuing of Remedial Notices.

by replacing with:

“ (l) To determine the making of Tree Preservation Orders and applications for the topping, lopping and felling of trees where the trees are covered by a Tree Preservation Order; to confirm or revoke Tree Preservation Orders; to waive the requirement to replace trees where appropriate; to serve Tree Replacement Notices when necessary; to determine applications under High Hedges legislation (Anti Social Behaviour Act 2003 [Part 8]) and undertake any related legal or direct action arising from such applications, including issuing of Remedial Notices.”

Deletion of "confirmed" (from line 2) is to ensure that the service can issue consents before orders are confirmed in cases where action needs to be taken quickly, for example where trees are found to be causing damage or causing a legal nuisance. It will also help the service to issue a consent which could allay a householder's anxieties about the size of a tree which would otherwise cause them to object to an order which leads in turn to a formal objection to a new TPO - which in turn uses up staff time and adds to the Council's operational costs.

The addition of the power to revoke a tree preservation order (line two) is to streamline the Council's administrative procedures. Some TPOs become redundant over time when the trees they protect cease to exist but the orders themselves still exist as legal entities unless revoked. At present the matter can only be dealt with by a non-executive report, which is time consuming and unnecessarily expensive way of dealing with what should be straightforward administrative matter.

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: There are no specific financial implications

Legal implications and risks: There are no relevant legal implications

Human Resources Implications and risks: There are no relevant HR implications

Equalities implications and risks: There are no relevant equality implications

BACKGROUND PAPERS

There are none