



Haverling

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

GOVERNANCE COMMITTEE AGENDA

7.30 pm

Wednesday
13 March 2013

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
Steven Kelly
Eric Munday
Roger Ramsey
Michael White
Ted Eden

Clarence Barrett
Gillian Ford

Keith Darvill
Paul McGeary

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 DISCLOSURE OF PECUNIARY INTERESTS

Members are invited to disclose any pecuniary interest in any of the items on the agenda at this point of the meeting.

Members may still disclose any pecuniary interest in any item at any time prior to the consideration of the matter.

4 MINUTES (Pages 1 - 6)

To approve as a correct record the minutes of the Committee held on 16 January 2013 and to authorise the Chairman to sign them.

5 ANNUAL COUNCIL ARRANGEMENTS (Pages 7 - 12)

6 GUESTS AND PUBLIC AT COUNCIL MEETINGS (Pages 13 - 16)

7 MEMBERS' QUESTIONS AT COUNCIL MEETINGS (To Follow)

8 WEBCASTING: REVIEW OF CURRENT POSITION (Pages 17 - 22)

9 CHANGES TO THE COUNCIL'S CONSTITUTION AS RESULT OF THE HEALTH AND SOCIAL CARE ACT 2012 (Pages 23 - 28)

10 HEALTH OSC FUNCTIONS (Pages 29 - 34)

11 APPOINTMENT OF MEMBER CHAMPION FOR THE ARMED FORCES (Pages 35 - 38)

12 OUTSIDE BODIES - HORNCHURCH HOUSING TRUST (To Follow)

13 MONITORING OFFICER NO 15 AMENDMENTS TO THE CONSTITUTION (Pages 39 - 42)

14 MONITORING OFFICER NO 16 AMENDMENTS TO THE CONSTITUTION (Pages 43 - 46)

15 CONFIDENTIAL REPORTING (WHISTLE-BLOWING) (To Follow)

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

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**MINUTES OF A MEETING OF
THE GOVERNANCE COMMITTEE
Havering Town Hall
16 January 2013 (7.30pm – 8.45pm)**

Present:

COUNCILLORS:

Conservative Group Frederick Thompson (in the Chair), Becky Bennett, Ted Eden, +Georgina Galpin, +Robby Misir, +Gary Pain, Roger Ramsey and +Melvin Wallace

Residents' Group Clarence Barrett and Gillian Ford

Labour Group Keith Darvill and Paul McGeary

Independent Residents' Group Jeffrey Tucker

+ **Substitute Members:** Councillors Gary Pain (for Robert Benham), Georgina Galpin (for Eric Munday), Robby Misir (for Steven Kelly) and Melvin Wallace (for Michael White)

Councillors David Durant and Pat Murray were also present.

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

Apologies for absence were received from Councillors Steven Kelly, Eric Munday and Michael White

There were no disclosures of pecuniary interest

19 **MINUTES**

The minutes of the meeting held on 14 November 2012 were agreed as a true record and signed by the Chairman.

20 **MEMBERS' ALLOWANCES SCHEME REVIEW**

A report was submitted following discussion at the last meeting about Members' Allowances, in particular the Special Responsibility Allowance for Chairmen of Committees.

Opportunity was also taken to seek Members' agreement to an amendment to the Scheme following the appointment of the Independent Person for standards of Members' conduct.

The Committee requested further information about the Chairmen's SRA position but approved the amendment relating to the Independent Person and, accordingly, **RESOLVED to RECOMMEND to the Council that paragraph 15 of the scheme be amended to read:**

15 Co-Optees and Independent Persons' Allowances

The standard rate of allowance for statutory co-optees is £117 per meeting attended.

The Independent Person for standards of Members' Conduct will be paid an annual allowance of £1,000, in monthly instalments.

Co-optees and Independent Persons will be reimbursed for all travel costs in accordance with the above, whether the travel is within or outside the Borough, but will not be paid subsistence.

21 APPOINTMENTS TO OUTSIDE BODIES: LONDON CITY AIRPORT CONSULTATIVE GROUP

The Committee was advised that the London City Airport Consultative Group reviewed and monitored all aspects of the airport's operation to ensure that noise pollution was kept to a minimum, and had a role in discussing complaints from the public.

The Group comprised representatives of the London Boroughs of Bexley, Greenwich, Newham, Barking and Dagenham Councils, a single representative for Tower Hamlets, Waltham Forest, Redbridge and Havering Councils jointly, and representatives of Community Groups and the Airport and airport users. Members served for three years (with the exception of those for LBs Newham and Greenwich who are nominated on an annual basis).

The Committee now **NOTED** that London Councils had appointed Councillor Barry Tebbutt as the representative Tower Hamlets, Waltham Forest, Redbridge and Havering for the period September 2012 to April 2015.

22 MONITORING OFFICER'S REPORT – CHANGES TO THE CONSTITUTION (No 14)

A review of the Council's Constitution, and recent legislation, had led to proposals for amendment of the Constitution.

The Committee NOTED the report

23 KEY DECISION LIMITS

The Local Government Act 2000, as amended by the Localism Act 2011, required that, when decisions considered to be "Key" were to be made, particular procedural steps be taken. Failure comply with the requirements could result in

the decisions being challenged and, for example, left open to be being quashed on judicial review.

There was, however, no statutory definition of what constituted a “key decision”: each local authority had been left free to develop its own definition. The Council’s current definition was as follows:

A key decision is an Executive decision which is likely

(i) 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. For this purpose “significant” is defined as

(a) In excess of £500,000

(b) In excess of 10% of the gross controllable composite budget at Head of Service/ Assistant Chief Executive level (subject to a minimum value of £250,000)

In determining the meaning of “significant”, regard must be had to any guidance issued by the Secretary of State

The Committee was now advised that the term “savings” had not thus far been defined further. This had not resulted in any particular difficulty until recent changes in the law relating to the making of executive decisions, with the explicit aim of ensuring that decision-making by the executives of local authorities was more transparent and more open to public scrutiny. It was now reported that the lack of definition of savings left the Council potentially open to challenge in that, for example, if a decision to dispose of an asset valued in excess of £500,000 were treated as non-key (on the basis that the prospective capital receipt was not a “saving”), it would be open to an aggrieved party to accuse the Council of acting improperly.

The Committee accepted that the meaning of “saving” should now be defined in order to avoid the possibility of such challenges and accordingly **RESOLVED to RECOMMEND to the Council that the note to paragraph (14)(a)(i) of the Council’s Executive Procedure Rules be amended to read:**

In determining the meaning of “significant”, regard must be had to any guidance issued by the Secretary of State. For the avoidance of doubt, “savings” includes expenditure avoided, additional revenue income generated or capital receipts obtained.

24 REVIEW OF THE ANNUAL COUNCIL ARRANGEMENTS

The Committee had previously reviewed the arrangements for the Annual Meeting of the Council, following several years in which the meeting’s proceedings had, for various reasons, been less than satisfactory. Consideration was invited of several options for the arrangements for future meetings.

Consideration was now invited as to the arrangements to be made for the Annual Meeting for 2013. Following discussion, the consensus was that the Council Procedure Rules should be amended to provide permanently for an arrangement similar to that used in 2012 (with the Annual Meeting in May reserved for civic and organisational business, and an additional ordinary meeting in June to deal with other business).

Consideration was also invited as to whether (except in the year of an election of Councillors), the civic Awards should be conferred at an extraordinary meeting held immediately before the Annual Meeting, an arrangement that had met with success in May 2012.

The Committee agreed that the 2012 arrangements should be used in future and accordingly instructed that a report as to the adjustment necessary in the Council procedure Rules be submitted to the next meeting.

25 **REVIEW OF CALL-IN TIMINGS**

In accordance with requirements of the Local Government Act 1972, the Council's Executive Arrangements provided for the call-in of certain Executive Decisions for review by the relevant Overview & Scrutiny Committee (OSC). It was noted that, generally, unless the next ordinary meeting was imminent, a special meeting of the OSC needed to be called.

There was need for balance between:

- compliance with the legal requirements for convening a meeting
- ensuring that the executive business of the Council can be taken forward without avoidable disruption
- ensuring that the Members who have submitted the requisition have due opportunity to explain the reasons for their requisition and to seek the support of the OSC

In practice, this meant that the OSC would generally need to meet either at the end of the week following receipt of the requisition or during the week following that.

There was no specific timescale for convening an OSC meeting following receipt of a requisition, which had, on occasion, led to difficulty. The Committee agreed that it would be useful to include in the Council's Overview & Scrutiny Procedure Rules a requirement that the OSC to be convened to meet within 10 working days of the requisition being received, where it is practicable to do so (for example, it might not be practicable to do so over the Christmas/New Year period) unless an ordinary meeting of the OSC was due within 15 working days.

The Committee therefore **RESOLVED to RECOMMEND that the Overview & Scrutiny Procedure Rules be adjusted by amending paragraph 17(b) of the Rules to read as follows:**

- (b) If the Committee Administration and Member Support Manager is notified

of a requisition of a decision shown on that notification within three working days in Calendar Brief (or any supplementary Calendar Brief) of a decision, then that decision shall not be acted upon but shall be submitted to the OSC as soon as possible, either at the next ordinary meeting if due within 15 working days of receipt of the requisition or at a special meeting convened for the purpose (to be held, so far as practicable, within 10 working days of the receipt of the requisition), for determination.

(Amended text highlighted for clarity)

26 WEBCASTING: REVIEW OF CURRENT POSITION

The Committee was reminded meetings of full Council and Cabinet had been 'webcast' since December 2009, and more recently that "Ask the Cabinet" and 'Havering Community Questions' had similarly been webcast.

A report now submitted invited consideration as whether the Council should expand its webcasting operation to include certain meetings of the Regulatory Services Committee.

Contrasting views were expressed as to the merit of webcasting such meetings. Some members considered that there would not be sufficient interest to merit them being webcast, whilst others commented that all meetings of the Regulatory Services Committee should be covered.

Ultimately, Members considered however, that it was currently premature to consider that proposal and agreed therefore to defer it to the next meeting of the Committee.

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GOVERNANCE COMMITTEE

Subject Heading:	Arrangements for the Annual Meeting of the Council
CMT Lead:	Ian Burns, Assistant Chief Executive
Report Author and contact details:	Ian Buckmaster, Committee Administration & Member Support Manager Tel: 01708 432431 Email: ian.buckmaster@havering.gov.uk
Policy context:	To improve the arrangements for Annual Meetings of the Council
Financial summary:	There no cost implications
Has an Equality Impact Assessment (EIA) been carried out?	There are no equalities implications

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

Ensuring a clean, safe and green borough	<input type="checkbox"/>
Championing education and learning for all	<input type="checkbox"/>
Providing economic, social and cultural activity in thriving towns and villages	<input type="checkbox"/>
Valuing and enhancing the lives of our residents	<input type="checkbox"/>
Delivering high customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

SUMMARY

At its last meeting, the Committee agreed in principle to make further changes to the way in which the Annual Meeting is arranged. This report sets out the changes needed to the Constitution in order to give effect to the intended changes.

RECOMMENDATIONS

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

- 1 The proposed new arrangements for the Annual Meeting be approved
- 2 That, accordingly, the changes to the relevant Council Procedure Rules set out in the Appendix to this report be approved.

REPORT DETAIL

- 1 At its last meeting, the Committee agreed that the arrangements for the Annual Council that were followed in 2012 should become permanent. This requires amendment of the Council Procedure Rules; this report is submitted accordingly.
- 2 The new arrangements will provide as follows:
 - (a) Other than in the year of the local elections – next due in 2014 – immediately before the main Annual Meeting there will be a brief extraordinary meeting of the Council to deal with nominations for the election of Honorary Freemen (in election years, this will be dealt with at the July meeting of the Council, as at present)
 - (b) The Annual Meeting itself will follow on as seamlessly as possible from the extraordinary meeting, and the business to be considered will be:
 - (i) The Election of the Mayor
 - (ii) The appointment of Deputy Mayor
 - (iii) The appointment of Committees and their Chairmen and Vice-Chairmen
 - (iv) The appointment of Member Champions
 - (v) A statement by the Leader of the Council
 - (c) A further, ordinary meeting of the Council will be held two or three weeks after the Annual Meeting, at which the business will include:
 - (i) A debate upon the Leader of the Council's statement at the Annual Meeting
 - (ii) Other, ordinary business (Reports, Questions and Motions)
- 3 The new Council Procedure Rules to give effect to these arrangements are set out in the Appendix to this report.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no direct financial implications or risks. Although the new arrangements require additional meetings of the Council to those traditionally held, the cost of holding them is marginal and can be absorbed within existing budgets.

Legal implications and risks:

There are none. There are legal obligations to hold an Annual Meeting and to elect a Mayor.

Human Resources implications and risks:

There are no HR implications or risks

Equalities implications and risks:

There are no HR implications or risks

BACKGROUND PAPERS

There are no background papers

Proposed changes in the Council Procedure Rules

A. Replace the existing Rule 1 by the following:

1. ANNUAL MEETING OF THE COUNCIL

- 1.1 In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will normally take place in May but may, if the Council so agrees, take place in March or April.
- 1.2 Other than in a year when there is an ordinary election of Councillors, an extraordinary meeting of the Council shall be held in accordance with Council Procedure Rule 4.3, commencing at 7.30pm, and the Annual Meeting shall commence immediately following the conclusion of that extraordinary meeting. In the year of an election, there shall be no extraordinary meeting but Council Procedure Rule 2(d) shall apply.
- 1.3 The business of the Annual Meeting shall be to:
- (a) choose a Member to preside if the outgoing Mayor is not present and to receive apologies for absence;
 - (b) elect the Mayor of the Borough for the forthcoming municipal year and receive notice of the appointment of the Deputy Mayor;
 - (c) approve the minutes of the last meeting and of any subsequent extraordinary meeting;
 - (d) receive any declarations of interest from members;
 - (e) receive any announcements from the Mayor and/or Chief Executive;
 - (f) in a year when there is an ordinary election of Councillors, elect the Leader of the Council, and receive notice of the appointment of the Deputy Leader of the Council and the Members of the Cabinet
 - (g) appoint the overview and scrutiny committees and any such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions; appoint their Chairmen and Vice Chairmen and appoint the following Member Champions:
 - (i) for Diversity
 - (ii) for the Historic Environment
 - (iii) for the Over Fifties

- (iv) for Standards
 - (v) for the Voluntary Sector Compact
 - (vi) for Younger Persons
 - (vii) *for Armed Forces veterans (subject to acceptance of this proposed appointment)*
 - (h) receive a statement by (or on behalf of) the Leader of the Council relating to any aspect of the Council policy or in respect of any issue affecting the Council or the borough.
- 1.4 An additional Ordinary Meeting of the Council shall be held on such date as the Council may determine no more than 21 days after the Annual Meeting. Council Procedure Rule 2 shall apply to that additional meeting.
- 1.5 The Initial, Revised and Final Agendas for the Annual Meeting, and any papers or other submissions for consideration at that meeting, shall be delivered in accordance with Timetable 1 appended to these Rules.

B. In Rule 2, add a new subparagraph (d) as follows, and renumber subsequent subparagraphs accordingly

2. ORDINARY MEETINGS

- (d) at the ordinary meeting held following the Annual Meeting in accordance with Council Procedure Rule 1.4, debate the Statement given by the Leader of the Council to the Annual Meeting.

C. In Rule 4, add a new paragraph 4.3 as follows:

4. EXTRAORDINARY MEETINGS

4.3 Conferment of Honorary Freedom

Immediately before the Annual Meeting of the Council in any year other than when there is an ordinary election of Councillors, an extraordinary meeting shall be convened for the purpose of considering any nominations for the conferment of the Honorary Freedom of the Borough in accordance with Council Procedure Rule 24.

D. In Rule 11, add a new paragraph 11.12 as follows:

11. MOTIONS OF WHICH NOTICE IS GIVEN

11.12 Debate of Leader of the Council's Statement to the Annual Meeting of the Council

At the additional ordinary meeting following the Annual Meeting of the Council held in accordance with Council Procedure Rule 1.4, there shall be deemed to be a motion "That the Statement given by the Leader of the Council's to the Annual Meeting of the Council be received". Amendments may be moved to that deemed motion in accordance with the provisions of this Rule.

The provisions of Rules 11.1 and 11.2 shall not apply to that deemed motion.

E. Insert into Rule 24 the words highlighted:

24. CONFERMENT OF AWARDS FOR EMINENT SERVICE

24.1 Other than in a year in which there is an ordinary election of Councillors, Council shall consider **at an extraordinary meeting held immediately before the Annual Meeting** whether to confer on any person the Honorary Freedom of the borough, in recognition of their distinction or eminent services to the borough.



GOVERNANCE COMMITTEE

Subject Heading:

Attendance of Members’ guests and members of the public at meetings of the Council

CMT Lead:

Ian Burns, Assistant Chief Executive

Report Author and contact details:

Ian Buckmaster, Committee Administration & Member Support Manager
Tel: 01708 432431
Email: ian.buckmaster@havering.gov.uk

Policy context:

Inviting review of present arrangements for accommodating Members’ Guests and the public at meetings of the Council

Financial summary:

There are no direct financial implications

Has an Equality Impact Assessment (EIA) been carried out?

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

- Ensuring a clean, safe and green borough
- Championing education and learning for all
- Providing economic, social and cultural activity in thriving towns and villages
- Valuing and enhancing the lives of our residents
- Delivering high customer satisfaction and a stable council tax

SUMMARY

This report outlines the present position relating to the attendance of Members' guests and members of the public at meetings of the Council and invites consideration of whether any changes are needed.

RECOMMENDATIONS

For consideration as to whether any change should be made in the arrangements for accommodating Members' guests and members of the public at meetings of the Council.

REPORT DETAIL

- 1 This report is submitted at Members' request, in the light of recent confusion about the extent and nature of the Council's obligation to admit members of the public and Members' Guests to meetings of the Council and about the arrangements for accommodating them.

Background

- 2 It has long been the Council's practice to admit the public to its meetings and to facilitate Members' inviting guests to attend. The Council Chamber as originally constructed included the Balcony; and when the Chamber was refurbished in 1997/98, opportunity was taken to add the Side Gallery seating area and seats in the Lobby area at the rear of the Chamber.
- 3 There is a legal obligation to admit the public to Council meetings (except when confidential or exempt information is under discussion), although the balcony was provided when the Town Hall was built, long before that obligation first arose in 1960. The obligation does not, however, extend to requiring that particular areas be made available for public use; so long as there is some reasonable provision, the Council has discharged its obligation.
- 4 There is no provision in law for Members' guests but it has long been the Council's practice to facilitate their attendance. In legal terms, such guests are no different to other members of the public and, for example, were a meeting to go into private session to discuss confidential or exempt business, the guests would need to leave along with any members of the public present. Any area set aside for seating guests is, therefore, simply an area in which particular members of the public have been invited to sit. It is entirely at the Council's discretion what area is so designated.

Accommodation available

- 5 Within the Council Chamber, there are five distinct seating areas:

- (a) the Members' seats (61 seats)
 - (b) a group of seats on the left-hand side of the Chamber (as seen when facing the Mayor) (used at Council meetings by senior staff and civic guests such as Past Mayors, Honorary Aldermen, Members of Parliament and former Members) (12 seats, plus 2 reserved for use by the press)
 - (c) the Lobby area at the rear of the Chamber (12 seats)
 - (d) the Side Gallery (18 seats) and
 - (e) the Balcony (which alone existed prior to 1998) (25 seats)
- 6 Until 2011, the Lobby area was used for Members' guests and both the Side Gallery and the Balcony were available for members of the public; it was then decided, following some inappropriate behaviour and breaches of Members' security, that the Side Gallery should be available only for Members' guests and people having a disability that prevented them from accessing the Balcony, and that any other public attendees should be seated in the Balcony.
- 7 It should be noted that the view of the meeting from the Side Gallery is far superior to that from the Lobby area. The Lobby area is now generally used only by officers (if any) attending the meeting, or those attending for presentations etc who do not intend to remain for the whole meeting.

Members' guests

- 8 The arrangements for Members' guests are of long standing. Special arrangements apply for the Annual Meeting (because of the Mayor making and associated ceremonial activity) but, for other meetings, the arrangement is simply that seats are available for reservation in the Side Gallery on a first come, first served basis to named individuals nominated by Members.
- 9 Generally, around a dozen individuals are invited to each meeting, though by no means all attend. There are rarely any members of the public in attendance.
- 10 At the meeting of the Council in January, an unprecedentedly high number of guests were invited, many by one Member. Of the 18 seats in the Side Gallery, 12 were allocated to the guests of that Member; a number of his other guests, and those of other Members, had to be seated in the Balcony. An overspill area was also provided in Committee Room 3 (with audio-visual links to the Chamber) but only a few people used it, for a small part of the meeting.
- 11 It should be noted that Members are responsible to the Mayor and their fellow Members for the conduct of their guests. Generally, guests do not act in a disruptive manner or seek to interrupt proceedings; any interruptions are usually made by members of the public.

- 12 Consideration is now invited of the arrangements for Members' guests and whether any change is needed. In particular, the Committee may wish to consider whether the number of guests per Member should be limited in some way, and if so to what number, and whether at the Annual Meeting the number guests invited by the outgoing and prospective Mayors should be subject to the same limit.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no direct financial implications or risks

Legal implications and risks:

The Local Government Act 1972 requires meetings to be held in public, except to the extent that they are considering information that is confidential or exempt. The accommodation provided must be reasonable but there is no obligation to make available particular areas or numbers of seats.

Human Resources implications and risks:

There are no HR implications or risks

Equalities implications and risks:

There are no equalities implications or risks

BACKGROUND PAPERS

There are no background papers

GOVERNANCE COMMITTEE

Subject Heading:	Webcasting: Review of current provision
CMT Lead:	Ian Burns, Assistant Chief Executive
Report Author and contact details:	Andy Beesley, Principal Committee Officer. 01708 432437. andrew.beesley@havering.gov.uk
Policy context:	Webcasting is a means of making the Council's decision-making procedures open and accessible to its stakeholders
Financial summary:	Any associated costs will be met from existing budget provision
Has an Equality Impact Assessment (EIA) been carried out?	Not required

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

Ensuring a clean, safe and green borough	<input type="checkbox"/>
Championing education and learning for all	<input type="checkbox"/>
Providing economic, social and cultural activity in thriving towns and villages	<input type="checkbox"/>
Valuing and enhancing the lives of our residents	<input checked="" type="checkbox"/>
Delivering high customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

SUMMARY

At its meeting on 16 January 2013, the Governance Committee deferred consideration of a report addressing the review of current webcasting provision pending further detailed information. That information is now included within the main body of this report, with a recommendation to Members on how they wish to proceed with this matter.

RECOMMENDATIONS

That the Committee **RECOMMEND** to the Council that all meetings of the Regulatory Services Committee be webcast with immediate effect, with associated costs being absorbed from existing budget provision.

REPORT DETAIL

Introduction

1. As part of its commitment to improving engagement with local people, the Council commenced the webcasting of meetings of Council and Cabinet in October 2009. Table 1 below provides details of the viewing figures for those meetings.

Table 1 Viewing figures

<i>Meeting</i>	<i>No. of meetings</i>	<i>Live viewing figures</i>	<i>Archived viewing figures</i>	<i>Total</i>
Cabinet (Ask the Cabinet)	31	432	5104	5536
Council	21	508	4019	4527

2. It was felt at that time that once experience of webcasting had been gained, it could be extended to cover other Committees, subject to there being adequate capacity within the webspace contract. It is considered that the webcasting of additional meetings of Councils' Committees will continue to help people understand how local democracy works, and allow them to view the process in action at a time and a place that is convenient for them. This would be consistent with the strong message from the Secretary of State for Communities & Local Government that Councils should be as open and transparent in their decision-making as possible.
3. The terms of the contract, 120 hours of webcasting per annum is allowed for. In 2011/12, 49 hours were used for the webcasting of meetings, leaving 71 hours unused; the figures for 2012/13 seem unlikely to be significantly

different. There is therefore considerable capacity within the contract to expand the webcasting operation.

Regulatory Services Committee

4. The Council's Regulatory Services Committee attracts the highest number of attendees to its meetings. Indeed, there have been occasions where members of the public have been turned away from meetings as there has been insufficient space within the Council Chamber and the overspill facilities in Committee Rooms 3A & B to cater for the numbers who wished to view proceedings. In addition, the Committee generates a large volume of calls from interested parties post-meeting which Committee Administration staff have to respond to. Considerable staff time would be saved by directing such queries to the webcast facilities available on the Council's website were it available.
5. In the 2011/12 calendar year there were 24 meetings of the Regulatory Services Committee totalling 38 hours; there is therefore more than sufficient capacity within the contract to cover all meetings of the Committee. In addition, the webcast providers have advised that there is some leeway within the operation of the contract to enable the Council to slightly exceed the number of hours specified, by up to 10%. There is no budget provision to expand the webcasting operation beyond contained within the terms of the current contract.
6. To alleviate pressure on staff resources and to expand the webcasting operation to incorporate one of the Council's most high profile meetings it is suggested that meetings of the Regulatory services Committee be webcast.
7. In the previous report to Committee, it was suggested that only certain meetings of the Regulatory Services Committee. However, having listened to the concerns raised by Members at the meeting, staff now recommend that all meetings of the Committee be webcast.
8. Members may be interested to know that neighbouring local authorities, including Epping Forest and Brentwood District Councils, webcast meetings of their equivalents to the Regulatory Services Committee (including, in Epping Forest, their Area Committees that deal with planning issues). By increasing the webcasting operation this will not only increase the profile of this Council's Regulatory Services Committee but also enhance the reputation of the Council.

Members' concerns

9. When webcasting of Council meetings was first introduced in 2009, Members raised concerns about their ability to speak freely at meetings, without fear of legal action for defamation, and the possibility that malicious extracts from webcasts could be used against Members and others. To date, there have been no standards complaints received concerning Member conduct following

the viewing of either a Council or Cabinet meeting which has been webcast. Members are also reminded at meetings of the Council and its Committees convened under the Local Government Act 1972 they enjoy 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 they were not made with malicious intent. That qualified privilege applies to webcasts as it would to the meetings themselves.

10. A Protocol (based on similar protocols tried and tested by other local authorities) which addresses the rights of members of the public attending meetings who might not wish to appear in the webcast has been in operation since October 2009. The Protocol ensures Council compliance with the Data Protection Act 1998 and the Human Rights Act 1998

IMPLICATIONS AND RISKS

Financial implications and risks:

The webcasting of meetings of the Regulatory Services Committee, if approved, will be covered by existing contract provision. Any extra staff costs that would be incurred in webcasting such meetings will be absorbed into the duties of those staff who already attend the meetings.

There is no budget provision to expand the webcasting operation beyond that contained within the terms of the existing contract.

Legal implications and risks:

The recording and broadcasting of the meetings will result in a clear record of how the committee reached its decisions on the applications before it. This could result in the recording being used to either attack or defend the Council in any legal challenges against particular decisions.

Human Resources implications and risks:

The webcasting of meetings of the Regulatory Services Committee will be absorbed into the duties of those staff who already attend the meetings.

Equalities implications and risks:

There are no direct equalities implications or risks, however any increased provision for the webcasting of Council meetings is considered to enhance Council compliance with equalities legislation and helps to promote knowledge of local democracy decision-making.

BACKGROUND PAPERS

Report to the Governance Committee, 2 June 2011 and 16 January 2013

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GOVERNANCE COMMITTEE

Subject Heading:

CHANGES TO THE COUNCIL'S CONSTITUTION AS RESULT OF THE HEALTH AND SOCIAL CARE ACT 2012

CMT Lead:

Ian Burns, Assistant Chief Executive

Report Author and contact details:

Sean Cable, Committee Officer
sean.cable@havering.gov.uk

Policy context:

Changes in legislation relating to the scrutiny of health services require the establishment of a Health and Wellbeing Board and transfer responsibility for most public health functions to local authorities. This report details a number of changes to the Council's Constitution in response to the Health and Social Care Act 2012..

Financial summary:

There are no costs associated with the changes now reported.

Has an Equality Assessment (EA) been carried out?

Not applicable

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

- Ensuring a clean, safe and green borough [X]
- Championing education and learning for all []
- Providing economic, social and cultural activity in thriving towns and villages []
- Valuing and enhancing the lives of our residents [X]
- Delivering high customer satisfaction and a stable council tax [X]

SUMMARY

This report details the changes required to the Council's Constitution arising from requirements in the Health and Social Care Act 2012. In particular, it details the changes necessary for the Council to incorporate public health into its governance structure, as well as the establishment of the Health and Wellbeing Board.

RECOMMENDATIONS

That the Committee:

1. Agree the recommended changes to the Council's Constitution as detailed in the Appendix to this report.
2. Recommend the proposal to the Council for formal approval.

REPORT DETAIL

1. Background

- 1.1 The Health and Social Care Act 2012 introduced the largest and most significant change to the NHS since its creation. The Act transfers public health functions back to local authorities with effect from the 1 April 2013. The Act requires the establishment of a Health and Wellbeing Board as an executive committee of the Council (all other committees of the Council carry out non-executive functions), also with effect from 1 April 2013.
- 1.2 At its meeting on 11 September 2012, the Committee approved the membership of Havering's Shadow Health and Wellbeing Board (HWB) in line with legal requirements. The Shadow HWB had been meeting since March 2011 and, at its last meeting in February 2013, agreed to request this Committee to agree specific rules of procedure required to comply with all relevant primary and secondary legislation affecting the HWB. The Committee is asked to recommend that those rules of procedure proposed by the Shadow HWB be adopted by the Council. These are incorporated into the recommended changes to the Constitution along with additional changes required to integrate public health functions into the Constitution.

2. Powers & Governance

Public Health

- 2.1 Part 1 of the Health and Social Care Act confers the responsibility for public health functions directly onto local authorities. At present, public health is delivered by the local Primary Care Trust (PCT) (legally, NHS Havering, but operationally NHS North East London and City) by the Public Health Team. As of 1 April 2013 the local PCT will cease to exist. Arrangements are currently underway to incorporate the existing Public Health Team into the Council, but that is outside of the scope of this report.
- 2.2 To fully incorporate the public health functions into the Council and enable the authority to meet its statutory responsibilities, numerous amendments will be required to the Constitution, which are set out in Appendix 1. These

changes include amendments to Parts 1, 2 and 3, to include public health as a council function and to outline the role, function and responsibilities of the Director of Public Health and staff, the HWB and the Cabinet Member with responsibility for public health.

2.3 Section 12 of the Health and Social Care Act 2012 outlines the specific requirements of local authorities in exercising public health duties. In general, public health sets out to improve the health of residents. In particular, this means that the Council will, as of 1 April 2013, have a duty to:

- (a) provide information and advice;
- (b) provide services or facilities designed to promote healthy living (whether by helping individuals to address behaviour that is detrimental to health or in any other way);
- (c) provide services or facilities for the prevention, diagnosis or treatment of illness;
- (d) provide financial incentives to encourage individuals to adopt healthier lifestyles;
- (e) provide assistance (including financial assistance) to help individuals to minimise any risks to health arising from their accommodation or environment;
- (f) provide or participating in the provision of training for persons working or seeking to work in the field of health improvement;
- (g) make available the services of any person or any facilities.

2.3 The Health and Social Care Act 2012 requires local authorities to appoint a Director of Public Health (DPH) to exercise and have responsibility for the Council's public health function. It is intended that the newly appointed DPH will become a member of the Council's Corporate Management Team. Amendments to the Constitution are proposed to reflect this.

Health and Wellbeing Board

2.4 The Health and Wellbeing Board is required to be an executive committee of the Council. This is an entirely new form of local government body and is at odds with the division of executive functions which are the responsibility of the Leader and the Cabinet, and non-executive functions which are carried out by committees. It is understood that the Department of Health did not take advice from the Department of Communities and Local Government before creating the arrangement. The Board comprises statutory members which are detailed in Appendix 2. Again this is a unique arrangement in local government as non-councillors in the form of external health representatives and senior officers of the Council are full members of the Committee. The Board has a duty to develop and monitor a Joint Strategic Needs Assessment (JSNA) for the borough and to use this to further develop and implement a Health and Wellbeing Strategy (HWBS).

2.5 More broadly, the Board is expected to work to align health, social care and public health commissioning plans and to promote joint-commissioning and integrated provision. The Shadow HWB agreed its purpose on 25 July 2012

was to work in partnership to ensure people in Havering have services of the highest quality which promote their health and wellbeing. The HWB committed to achieving greater integrated working and better use of collective resources to improve the wellbeing of Havering residents and to work with Health, Social Care and other local services to narrow inequalities and improve outcomes for local residents.

2.6 As already indicated, whilst the Health and Social Care Act 2012 requires that the Board function in the same manner as any other local authority committee, the Board is unique in several respects. For example:

- The Board's core membership is fixed by the Health and Social Care Act 2012, whilst allowing for additional members to be appointed;
- CCG and Healthwatch representatives sit alongside elected councillors; and
- certain local authority officers are required to be members
- the councillor members of the Board are directly appointed by the Leader of the Council

2.7 Given this unique arrangement, the Department of Health drafted Regulations in early 2013, which were laid before Parliament on 8 February 2013, to amend or dis-apply various aspects of legislation covering council committees in order to allow boards to run as intended. The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 come into force on the 1 April 2013.

2.8 These Regulations do not affect the current setup of Havering's Shadow HWB. The specific provisions amended in the Regulations related to voting rights (enabling equal rights to all Board members), ability to establish sub-committees or delegate to officers (makes the Council restrict this power), dis-applying rules around political proportionality and easing restrictions on membership disqualifications (which would have otherwise restricted NHS representatives from membership). However, all other statutory requirements on committees and their membership apply in relation to disclosures of personal and financial interests.

2.9 It is possible for the Council to direct that certain members of the HWB are to be non-voting members, but before making such a direction the Council must consult with the HWB. Unless the Committee decides otherwise currently there isn't a proposal to issue such a direction.

3. Further Changes

3.1 As the public health team transfers to the Council and working arrangements are finalised, it is possible that further changes will be brought forward to improve practice and delineate roles and procedures.

3.2 A sub-committee of the Health and Wellbeing Board, the Health Protection

Forum was agreed by the Board in February. The Committee is asked to agree the addition of the Forum to the Constitution, whilst noting that further changes may be required as the arrangements for this body are finalised. It is proposed that the formation of any further sub-committee will need the approval of the Council.

4. Health Scrutiny

- 4.1 The Regulations referred to in paragraph 2.7 above also amend the scrutiny function of the Health Overview and Scrutiny Committee in relation to the NHS. These are covered in detail in a separate report on this agenda.

IMPLICATIONS AND RISKS

Financial implications and risks:

These changes are purely procedural and have no specific financial implications.

Legal implications and risks:

The proposed changes will update the Council's Constitution to reflect the changes brought about by the Health and Social Care Act 2012.

Human Resources implications and risks:

There are no apparent implications or risks.

Equalities implications and risks:

There are no apparent implications or risks.

BACKGROUND PAPERS

- Governance Report to the Health and Wellbeing Board, 13th February 2012
- Health and Social Care Act 2012

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GOVERNANCE COMMITTEE

Subject Heading:

OVERVIEW & SCRUTINY OF HEALTH SERVICES – responsibility for functions

CMT Lead:

Ian Burns, Assistant Chief Executive

Report Author and contact details:

Ian Buckmaster, Committee
Administration & Member Support
Tel 01708 432431
Email ian.buckmaster@havering.gov.uk

Policy context:

Changes in legislation relating to the scrutiny of health services require review of the functions of the Health Overview & Scrutiny Committee.

Financial summary:

There are no costs associated with the changes now reported.

Has an Equality Impact Assessment (EIA) been carried out? Not applicable

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

- Ensuring a clean, safe and green borough [X]
- Championing education and learning for all []
- Providing economic, social and cultural activity in thriving towns and villages []
- Valuing and enhancing the lives of our residents [X]
- Delivering high customer satisfaction and a stable council tax [X]

SUMMARY

The Health & Social Care Act 2012 and Regulations recently made under it have changed the way in which the Council scrutinises the work of local NHS bodies. This report outlines the changes that have been made and their effect upon the Council, the Health Overview & Scrutiny Committee and the scrutiny arrangements that exist jointly with the outer North East London boroughs of Barking & Dagenham, Redbridge and Waltham Forest and the County of Essex (in relation to

Epping Forest and Brentwood, both of which look to hospitals in the North East London sector for health services).

RECOMMENDATIONS

- 1 That the report be noted.
- 2 That the Committee **RECOMMEND to the Council** that:
 - (i) The Health Overview & Scrutiny Committee (and any successor OSC) continue to carry out the day-to-day health scrutiny functions
 - (ii) Responses to any formal consultation by a health service body be reported to the next convenient meeting of the Council for information and, where necessary, endorsement
 - (iii) Where the Health OSC considers that a health service proposal should be referred formally to the Secretary of State, it should report upon the matter to the Council and such referral shall be made only by resolution of the Council.
 - (iv) The Council continue to participate in the activities of the Outer North East London Joint Health OSC and that the Council's Joint Health OSC continue to have authority to enter into other Joint Health O&S arrangements as appropriate.
 - (v) Accordingly, the functions of the Health OSC be amended by the insertion after the current description of the OSC's functions in Section 1.4 of Part 3 of the Constitution of the words:

“(except any referral to the Secretary of State, which is reserved to the Council by resolution)”

REPORT DETAIL

Introduction

- 1 Scrutiny of health services by local authorities was first introduced by the Health & Social Care Act 2001 (the original Act). The original Act uniquely conferred the powers of scrutiny on the Overview & Scrutiny Committee (OSC) carrying out that scrutiny rather than, as in all other cases, upon the Council.
- 2 In particular, the original Act gave the OSC a statutory right to make representations on its own initiative to the Secretary of State where changes were being proposed to a health service about which the OSC had

concerns. That right was exercisable even where the Council collectively, or its Executive, did not wish to object to the changes.

- 3 The Health & Social Care Act 2012 (the new Act) has changed that position. The original Act's provisions conferring powers directly upon the OSC have been altered so that the powers are now conferred upon the Council itself.
- 4 Neither Act required that a particular form of OSC be set up to exercise these health scrutiny powers. At first, the Council gave the powers to the Adult Services & Health OSC but, in 2006, in consequence of a heavy health-related workload, decided to establish a separate Health OSC, which has remained since then.
- 5 The current powers of the Health OSC, as set out in the Constitution, are:

Health	<ul style="list-style-type: none">• Scrutiny of NHS Bodies under the Council's Health Scrutiny function
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- 6 The new Act, and Regulations recently made under it, do not, of themselves, affect that allocation of functions. It is the way in which the functions are exercised that has changed.
- 7 Issues affecting the provision of health services tend to attract considerable public interest. Locally, the current and future operation of maternity services and accident & emergency services at Queens Hospital have been matters of major concern, prompting several debates and resolutions at Council and leading to the only exercise to date of the right of referral to the Secretary of State by the Health OSC (acting on its own behalf and jointly with the Health OSCs of Barking & Dagenham, Redbridge and Waltham Forest and Essex).
- 8 Under the new legislation, that referral would have been made on behalf of each Council as a whole rather than by the individual Health OSCs acting on their own initiative. An express purpose of the provisions in the new Act was to ensure that, in future, no Health OSC could act unilaterally and take a position different to that of its appointing Council. Although there was no inconsistency between the Health OSC and the view expressed in resolutions by the Council, it appears that such inconsistencies had occurred elsewhere. The possibility of that occurring is now avoided.

Future exercise of the scrutiny function

- 9 The arrangements for the Health OSC are now no different from those of any other OSC. It is possible for any OSC to take a position on an issue before the Council that is different to that taken by the Cabinet as local Executive; but any such difference of view would need to be settled by the Council.

- 10 Although the legislative position has left the functions unchanged, it is important to ensure that, for the future, there is clarity about the way in which the Health OSC (and any future OSC exercising the health scrutiny function) goes about its work. In particular, it would be useful to define the circumstances in which the OSC should report to the Council rather than act on its own initiative.
- 11 The power conferred upon the Council is to “review and scrutinise any matter relating to the planning, provision and operation of the health service in its area”. In doing so, the Council must take account of relevant information, including information provided by or on behalf of the local Healthwatch organisation (which must be dealt with in specified ways). Reports and recommendations arising from such scrutiny activity may be provided to the Council (if undertaken by a Committee, or jointly with other Councils’ health scrutiny bodies) and to relevant health service bodies.
- 12 Health service bodies are, as at present, obliged to consult the Council on any substantial development of the health service or substantial variation in the provision of such service (except where action is needed urgently because of a risk to the safety or welfare of patients – in which case the reason for urgency must be explained). The Council may respond by a date set for closure of the consultation, or decline to do so. The health service body in question must formally respond to any response by the Council and, should it fail to do so, or its response be considered inadequate, the Council may report its concerns to the Secretary of State.
- 13 The power continues (with some limitations for exceptional circumstances) for the Council to require the attendance of any member or employee of a health service body to answer questions about matters under scrutiny. This existing power has not so far had to be invoked but its existence means that the Council has power to ensure that health service bodies co-operate with scrutiny exercises.

Suggested distribution of scrutiny powers

- 14 To avoid misunderstanding and confusion, it is suggested that Council be invited to approve the following arrangements for the exercise of the health scrutiny function.
- 15 Day-to-day scrutiny activity should continue to be carried out at OSC level. Whether that is by a dedicated Health OSC or by an OSC having health scrutiny functions in addition to others is a matter for review and decision in due course – for now, it is assumed that the Health OSC will continue but operate under the new arrangements.
- 16 Where formal consultation on health service changes is being undertaken, again it is suggested that the day-to-day work on that should continue to be undertaken at OSC level. Due to the need to respond formally to the health service body carrying out the consultation, it is unlikely to be feasible

to report first to full Council before the response is submitted but that response should be reported to the next convenient meeting of the Council for information and, where necessary, endorsement.

- 17 On the (probably) rare occasions that it is intended that the Council should refer a matter to the Secretary of State, that will need to be done by formal resolution of full Council, on the recommendation of the Health OSC. Submitting a report to the Council would give all Members the opportunity to debate the issues and for the Council formally to resolve its policy on the matter. It should be noted that, in consequence, it may be necessary to convene an extraordinary meeting of the Council to do this within the consultation timetables specified by the relevant NHS body and/or Secretary of State.
- 18 A small adjustment to the functions of the Health OSC as listed in section 1.4 of Part 3 of the Constitution is recommended to give effect to his proposed change.
- 18 It is also suggested that the Council should continue to engage with its neighbouring local authorities through the Joint Health OSC. The Joint Health OSC (which is administered by Havering on a cost recovery basis) enables cross-borough discussion, particularly important as the acute hospitals serving Havering residents also serve Barking & Dagenham, Redbridge and Brentwood residents, and many community services are provided by a healthcare trust that also serves Waltham Forest and Epping Forest.
- 19 Finally, from time to time, proposals emerge for wider-ranging Joint Health O&S arrangements. For example, several years ago a London-wide Joint Health OSC was established in response to proposals from a Joint Committee of all London Primary Care Trusts for major changes in hospital provision for cardiac, stroke, major trauma and other specialist services. Havering participated fully in that OSC, which achieved significant modification of the original proposals for the benefit of all London residents. It is suggested that the Council should continue to participate in such initiatives and that the Health OSC should be able to agree to that as the need arises. This is again in line with existing arrangements and current provisions in the Constitution.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no obvious, direct financial implications. The cost of administering the Joint Health OSC is shared with the participating local authorities on a fully recoverable basis.

Legal implications and risks:

New legislation in the Health & Social Care Act 2012 and The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 alters the way in which the Council scrutinises health service provision but the duty on local authorities to scrutinise health services continues.

Human Resources implications and risks:

There are no HR implications or risks

Equalities implications and risks:

There are no equalities implications or risks

BACKGROUND PAPERS

There are no background papers

GOVERNANCE COMMITTEE

Subject Heading:	Appointment of Member Champion for Armed Forces
CMT Lead:	Ian Burns, Assistant Chief Executive
Report Author and contact details:	Ian Buckmaster, Committee Administration & Member Support Manager
Policy context:	As part of the Council's commitment to expressing support for the Armed Forces and present and past service men and women, the appointment is proposed of a Member Champion for them
Financial summary:	There are no direct financial costs associated with the appointment.

Has an Equality Impact Assessment (EIA) been carried out? No equalities issues arise

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

Ensuring a clean, safe and green borough	<input type="checkbox"/>
Championing education and learning for all	<input type="checkbox"/>
Providing economic, social and cultural activity in thriving towns and villages	<input checked="" type="checkbox"/>
Valuing and enhancing the lives of our residents	<input checked="" type="checkbox"/>
Delivering high customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

REPORT DETAIL

At the Council meeting on 30 January 2013, in response to a Member's question, the Leader of the Council indicated that he supported the proposition that the Council should appoint a Member Champion for Armed Forces veterans. This comment was met with approval from all present at the meeting. Subsequently it was considered that a Champion for the Armed Forces inclusive of currently

serving personnel, veterans and youth cadet organisations would be more appropriate.

The Committee is, therefore, now invited formally to endorse the appointment of a new Member Champion accordingly.

It is customary for Member Champions to undertake their duties as they see fit. Limited support is available from within Committee Administration & Member Support, principally in carrying out routine clerical and administrative tasks. The cost of such activity is met from existing budget provision.

There are no specific terms of reference for this appointment but the Member appointed would be expected to establish and maintain links with the Armed Forces units with which the Council has a relationship such as The Royal Anglian Regiment and HMS Raider as well as the wide number of different veterans' organisations such as the Royal British Legion, the Burma Star Association and the Royal Air Force Association. The role would also provide an opportunity to promote the work of the pre-service youth cadet organisations in the borough and to promote the Armed Forces Community Covenant which Havering signed in 2012.

RECOMMENDATIONS

That the Committee **RECOMMEND to the Council** that a Member Champion for Armed Forces be appointed.

IMPLICATIONS AND RISKS

Financial implications and risks:

No direct costs are associated with making this appointment. To the extent that the post holder might require clerical or administrative support, it will be provided by Committee Administration & Member Support from within existing budget provision.

Legal implications and risks:

There are no legal implications or risks

Human Resources implications and risks:

There are no legal implications or risks

Equalities implications and risks:

There are no legal implications or risks

BACKGROUND PAPERS

There are none.

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GOVERNANCE COMMITTEE

REPORT

Subject Heading:	MONITORING OFFICER NO 15 AMENDMENTS TO THE CONSTITUTION
Report Author and contact details:	IAN BURNS Acting Assistant Chief Executive, Legal & Democratic Services – 2442
Policy context:	Monitoring Officer Amendments to the Constitution
Financial summary:	These changes are purely procedural and have no specific 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 type="checkbox"/>
High customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

SUMMARY

Part 2 Article 11.02(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.

As a new Constitution has been adopted with effect from 9th May 2010 the numbering system has commenced again from 01/10.

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:

These changes are purely procedural and have no specific financial implications.

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. 15

Date 18th February 2013

Notification of amendments to the constitution

Amendments made by the Monitoring Officer

Part 2, Article 11.02(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.

Part and article/ section	Page reference	Substance of amendment / amended wording	Reason for amendment
Part 3.6.2	82	<p>Amend:</p> <p>(I)The Benefits Manager is authorised to lay informations on behalf of the Council before the Magistrates Court and to prosecute or defend all actions before the Court in respect of benefit fraud offences</p> <p>To read:</p> <p>(I) The Council Tax, Internal Audit and Corporate Risk Manager is authorised to lay informations on behalf of the Council before the Magistrates Court and to prosecute or defend all actions before the Court in respect of housing benefit and Council tax support fraud offences</p>	Restructure and Legislation Change
Part 3.6.2	82	<p>To move the following powers from the Head of Customer Services and add to Head of Financial & Procurement after (j)</p> <p>Part 3.7.3</p> <p>(k) To be responsible for the implementation, management and administration of the Council's prosecution policy in relation to housing benefits and Council Tax fraud.</p>	Restructure and Legislation Change

Part and article/ section	Page reference	Substance of amendment / amended wording	Reason for amendment
		<p>To delete</p> <p>(I) To authorise activity under the Regulation of Investigatory Powers Act 2000.</p> <p>Internal Audit & Corporate Risk Manager is authorised to lay informations on behalf of the Council before the Magistrates Court and to prosecute or defend all actions before the Court in respect of benefit fraud offences</p>	
Part 3.6.2	81	<p>From 1st April 2013</p> <p>Head of Customer Services</p> <p>Replace (g), (h), (h)(i), (k)</p> <p>Housing and Council Tax</p> <p>To Read:</p> <p>Housing Benefit and Council Tax Support</p>	Legislation Change
Part 3.6.2	81	<p>Amend:</p> <p>(h) (v) exercising the Council's discretionary powers in relation to the administration of housing and council tax benefits and discretionary housing payments</p> <p>To read</p> <p>(h) (v) exercising the Council's discretionary powers in relation to the administration of housing benefit and council tax support and (for housing benefit) discretionary housing payments</p>	Legislation Change

GOVERNANCE COMMITTEE

REPORT

Subject Heading:	MONITORING OFFICER NO 16 AMENDMENTS TO THE CONSTITUTION
Report Author and contact details:	IAN BURNS Acting Assistant Chief Executive, Legal & Democratic Services – 2442
Policy context:	Monitoring Officer Amendments to the Constitution
Financial summary:	These changes are purely procedural and have no specific 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

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

That the Committee **recommend** to the Council that the amendments set out in the body of this report be adopted.

REPORT DETAIL

Part 3.6.2 Head of Customer Services

Add after (h) (iii) new paragraph (iv) Authorising staff to represent the Council on all matters relating to council tax support appeals in the Valuation Tribunal service

Renumber current (iv) to (v)

Reason for change

Staff, other than solicitors, can appear on behalf of the Council at various Tribunals only if they have been duly authorised to do so. While the Assistant Chief Executive has a general delegation to authorise Council staff to appear in Courts and Tribunals, representation of the Council at the Valuation Tribunal on Council tax support matters will be a specialist task and the Head of Customer Services is best placed to know which staff are suitably knowledgeable and experienced to represent the Council in Tribunal proceedings. It is therefore recommended that the Head of Customer Services is delegated the power to authorise staff in these particular circumstances.

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

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