

MINUTES OF THE CONSTITUTION WORKING PARTY

Tuesday 11 October at 6pm

Members Present:

In Person: Councillor Oana Olaru (Chair), Councillor Susan Wise (Vice-Chair),
Councillor Amanda De Ryk, Councillor Aisha Malik-Smith,
Councillor James Rathbone, Councillor Luke Warner

Also present: Jeremy Chambers, Director of Law (Monitoring Officer), Claudette Minott (Committee Officer)

Apologies: None.

NB: Before the meeting convened the Committee Officer advised that a Vice-Chair would be required for the Committee. Nominations were then taken.

Councillor Susan Wise was nominated as Vice-Chair. The nomination was proposed by Councillor Rathbone, seconded by Councillor Aisha Malik-Smith and unanimously agreed by the Members of the Committee.

1. Declarations of Interest

1.1. No interests were declared.

2. Minutes

2.1. The minutes of the last meeting were agreed.

3. Review of the Constitution

3.1. The Monitoring Officer presented the report to the Committee.

3.2. Members were advised that due to the large size of the Constitution, it would be reviewed using a 3 phased approach, as outlined in the Officer's report.

3.3. The Monitoring Officer advised Members of the Committee that they were not undertaking any form of decision-making at the meeting. The feedback gained for each item discussed, would be taken to full Council for any decision-making.

- 3.4. Members were advised by the Monitoring Officer that during its review, the local authority's Constitution was compared against the following local authorities: Enfield, Hackney, Lambeth, Southwark and Tower Hamlets.

Proper Officer Designations

- 3.5. The Monitoring Officer informed the Committee that the local authority's Chief Executive was the current designated 'Proper Officer.
- 3.6. Following the Monitoring Officer's update, a Member enquired if the list of existing designated officers had been reviewed. The Monitoring Officer informed the Members that there had been no recent review of the listed officers. Members were advised the Proper Officer functions were not to be confused with the Scheme of Delegation. It was noted that there could be confusion between the Scheme of Delegation and Proper Officer functions and when the Scheme of Delegation was reviewed the Proper Officer Designations would be checked again.
- 3.7. Another Member asked if there was any logic behind the selection of the local authorities for comparison. The Monitoring Officer advised the Committee that there was no logic applied. A good mixture of leader/mayor structured local authorities had been selected.

Council Questions

- 3.8. The Monitoring Officer informed Members that the current format for Council Question allowed unlimited questions to be presented to Council. By comparison the comparable local authorities scrutinised, incorporated a limit to the number of questions and time allowed for the presentation of questions to their Council meetings.
- 3.9. The Monitoring Officer quoted the details of the limitations applied by the other local authorities, as outlined in the report. The Monitoring Officer also noted that some local authorities did not allow the public to present questions to Council.
- 3.10. The Monitoring Officer recommended to Members in order to ensure equality of opportunity, questions to Council should continue, but they should be limited to 2 questions per individual, with a 50 word limit applied. The current time frame of 30 minutes for questions would remain.
- 3.11. The Monitoring Officer also recommended that where individuals attend Council meetings virtually, if they asked supplementary questions that were consequently lost due to technical issues, it would not affect the legality of the Council meeting.

- 3.12. Following the Monitoring Officer's presentation of this report item, Members advised they felt a problem existed where the Council questions procedure was open to abuse. A Member stated that in some instances certain questions should be information requests. Members also noted there was no opposition representation in place at the local authority. Therefore the current format of Council meetings allowed positive transparency for the public.
- 3.13. A Member stated that due to the local authority's current political makeup, questions were sometimes the only way the opposition could ask about the local authority business.
- 3.14. Concern was expressed by Members that the recommendations made especially after the pandemic lockdown, were a move away from public transparency, which was not viewed positively. A Member enquired if it would not be possible to recommend a fair balanced approach to ensure more public engagement, but to eliminate the abuse of the process.
- 3.15. Members advised that they agreed with the Members comments. They also advised the recommendation for 2 questions per individual was good, but limiting and preferred the 50 word limit be increased to 100 words.
- 3.16. At 6.30pm the Chair adjourned the meeting. The meeting was reconvened at 6.31pm.
- 3.17. The Monitoring Officer advised Members if it was felt 2 questions were too restrictive then the following measures could be incorporated: extend the time frame for questions, number of questions or extend the number of words allowed for a question.
- 3.18. A Member noted several councils they worked with, that had Council question limitations in place, were quite progressive and got positive outcomes with regard to their goals. The Member also noted that in contrast the local authority was sometimes openly abused by the public during Council questions from the public gallery, but they did not wish to see public transparency closed.
- 3.19. A Member noted questions could be limited, because Councillors were constantly engaged with the public.
- 3.20. A Member asked if there were any other examples of local authorities managing their Council questions procedure.
- 3.21. The Chair asked why there was the 3 month gap between questions being repeated to Council and if any examples from other local authorities existed.

- 3.22. Members were advised by the Monitoring Officer that it was legitimate to have the gap, as preparation was required for full answers to questions. It was noted that Enfield council incorporated a time gap of 6 months and it was a matter of choice for each local authority.
- 3.23. The Officer advised the Members the following final recommendations would be presented to full Council:
- 1) The number of questions allowed for a member of the public and any councillor would be two.
 - 2) The word limit for questions would be 100 words.
- 3.24. The Monitoring Officer assured the Committee the recommendations would be taken to full Council in November 2022 for a decision and be reviewed after 6 months.

Cabinet appointments

- 3.25. The Monitoring Officer informed Members that with regard to the 'confirmatory hearing' provisions in the Constitution, the legal power to appoint, remove and allocate portfolios rested entirely with the Mayor. The Monitoring Officer advised the Committee that the provisions relating to confirmatory hearings in the Executive Procedure Rules (Rule 2(b) refers) should be removed.
- 3.26. Following the Officers presentation of this item, a Member stated there was no constitutional purpose for the procedure at the Council AGM.
- 3.27. A Member noted that the recommended procedure favoured confident public speakers, tested the confidence of new Members and should not be entwined into the Constitution.
- 3.28. Members discussed the steps required to have the procedure removed from the Council AGM.
- 3.29. There was also discussion regarding the implications of transparency, if restrictions were put upon the Council AGM procedure.
- 3.30. The Monitoring Officer advised the recommendation taken to the full Council would be that the 'confirmatory hearing' provisions as set out in the Constitution relating to confirmatory hearings in the Executive Procedure Rules (Rule 2(b) refers) should be removed.

Key Decision Definition

- 3.31. The Monitoring Officer presented the item to the Committee and made the following recommendation:
1. That the definition of Key Decision should be simplified as below: -
 - a. Any decision with a total value, expenditure or savings, including any grant and/or matched funding, with a total value in excess of: -
 - i. £700,000 in revenue; or
 - ii. £1.5m in capital; or
 - iii. A property transaction, disposal or acquisition, in excess of £1.5m.
 - b. Any decision that, in the opinion of the Monitoring Officer, has a significant impact on the communities in two or more wards;
 2. That the financial thresholds should be adjusted annually, on 1st April to reflect any movement in the Consumer Prices Index.
- 3.32. A Member noted that the recommendation could remove a sizeable portion of funding from that Councillor's portfolio, as such were there any mitigation measures that could be implemented to protect smaller budgets. Other Members agreed and provided examples of how financial cuts might not seem significant from a strategic point of view, but could have a negative impact on local communities and community services.
- 3.33. Members also quoted from Sections 6.c. xxiv and 6.c xxv of the Officer report, to illustrate the concerns raised.
- 3.34. The Members voiced concerns with regard to the Mayor and Cabinet deciding what impacts were experienced by wards and the financial values proposed noting that impacts were not measurable or quantifiable.
- 3.35. Several Members discussed the financial thresholds and expressed concerns with aspects of the key decisions definition, such as a property transaction, disposal or acquisition, in excess of £1.5m. A Member felt the figure should be increased for the £1.5m in capital, as long as it was index linked. Another Member did not have a view on the financial thresholds, but wanted to be assured they would not need to be revised as soon as they were approved and published, due to extensive paperwork administration. A Member supported and welcomed advice on the matter, from the local authority's Head of Financial Strategy, Planning and Commercial.

- 3.36. Overall the Committee agreed with the financial threshold recommendations.
- 3.37. The Members were advised by the Monitoring Officer that where the Speaker took advice from 3 Officers on a matter, before it was decided it should be allocated as to be a key decision.
- 3.38. The Monitoring Officer acknowledged the Committees concerns and recommendations also informed the Committee the recommended definitions proposed, were more extensive than those implemented by the assessed local authorities and examples were provided, as set out in the report.
- 3.39. The Monitoring Officer would implement recommendations and send to full Council for implementation for amendment to the Constitution.

The meeting ended at 7:46 pm.