

COUNCIL		
<b>Report Title</b>	<b>Constitutional Changes</b>	
<b>Key Decision</b>	<b>N/A</b>	
<b>Ward</b>	<b>All</b>	
<b>Contributors</b>	<b>Head of Law</b>	
<b>Class</b>	<b>Part 1</b>	<b>Date 23 May 2018</b>

## 1. Summary

This report proposes changes to the Council's Constitution to enable executive decision making in accordance with the new Mayoral Scheme of Delegation which is presented at the Council's Annual General Meeting. As it is the intention of the newly elected Mayor generally to delegate executive decision making to the Mayor and Cabinet acting collectively, the Council's Executive Procedure Rules need to be amended to reflect that decision. It is also proposed that the requirement to nominate a post as the Council's Data Protection Officer be reflected in the Council's Constitution. Responsibility for considering neighbourhood planning matters lies with the Mayor and it is proposed to amend the Constitution to reflect that fact.

## 2. Purpose

The purpose of this report is to ensure that the Council's Constitution reflects legal requirements in the General Data Protection Regulation (GDPR) and Data Protection Bill and to ensure that its decision making processes reflect the new Mayor's Scheme of Delegation.

## 3. Recommendations

That the Council

- (i) delete the current Executive Procedure Rules which currently appear at Part D of the Council's Constitution and replace them with those appearing at Appendix 1 to this report; and
- (ii) agree that Article 14.3 of the Constitution be amended to reflect the statutory requirement for the Council to nominate an officer as its Data Protection Officer to ensure data protection compliance in the organisation, in accordance with the General Data Protection Regulation and the Data Protection Bill when enacted and to agree that

the Head of Information Governance should fulfil that role

- (iii) Note that responsibility for decisions relating to neighbourhood planning are for the Mayor by law and not for the Council and to delete the reference to neighbourhood planning referendums from the list of Council functions at Article 4(2)(y) of the Constitution and to remove references to neighbourhood planning from the terms of reference of the Strategic Planning Committee at Article 9
- (iv) Amend Article 6.1 and Para E3 of the Constitution as shown in Appendix 2 to exclude members appointed to the Mayor & Cabinet for part of a year from being a member of Overview & Scrutiny and its Select Committees at any time during that year.

## **Background**

### **4. Mayoral decision making**

- 4.1 Under the Local Government Act 2000, as amended, it is a statutory requirement that the Council adopt a Constitution, containing elements required by Direction and that it be available for public inspection. The Council's Constitution complies with those statutory requirements. It is a requirement that the Mayoral Scheme of Delegation should be included in it.
- 4.2 Since the inception of the Mayoral model of governance in Lewisham in 2002, with the exception of decisions relating to contracts and grants, the Mayor has not generally delegated decision making to the Mayor and Cabinet acting collectively. The existing Mayoral Scheme of Delegation and the Council's Executive Procedure Rules have reflected the fact that Mayoral decisions were generally made by the Mayor acting alone at a meeting of the Mayor and Cabinet which was convened as if the decision were being taken collectively.
- 4.3 Elsewhere on this agenda, the Council is asked to note that the new Mayor, though by law he may take decisions alone should he wish to do so, has indicated in his Scheme of Delegation his intention that generally Mayoral decisions which are reserved to members should be taken by the Mayor and Cabinet acting collectively. The current Executive Procedure rules do not reflect that decision and so would not be fit for purpose under the new arrangements.
- 4.4 In order to facilitate decision making in accordance with the delegations of the new Mayor, the Executive Procedure Rules need to be changed and a proposed new set of Rules appears at Appendix 1. Council is asked to endorse them so that Mayor and Cabinet business may be conducted in accordance with the new Mayoral Scheme of Delegation.

### **5. Membership of Overview and Scrutiny Committees**

- 5.1 Currently the Constitution provides at Article 6 that all members of the Council who do not sit on the Executive shall serve on the Overview and Scrutiny

Committee, provided that such composition complies with the political balance requirements of the Local Government & Housing Act 1989. If that is not possible the Council will appoint one overview and scrutiny committee consisting of all members of the Council who are not members of the Executive, provided that this composition complies with the political balance requirements of the Local Government and Housing Act 1989. If that is not possible, or if there is not unanimous agreement at the Annual General Meeting to such arrangements in any year, then the Council will decide on the composition of this committee so as to give the widest possible membership to the committee, but excluding members of the Executive.

- 5.2 The Mayor has decided in his Scheme of Delegation that in his Cabinet two portfolios shall be shared between four people, with two serving in respect of each portfolio from January to June in any year, and the others serving from July to December.
- 5.3 The proposed Executive Procedure Rules provide that those nominated to serve on the Mayor and Cabinet for part of any year should nonetheless be entitled to attend meetings of Mayor and Cabinet and at the Mayor's invitation, to present to Mayor and Cabinet and speak during the period when they do not formally sit on Mayor and Cabinet. However, no member will be entitled to vote at Mayor and Cabinet except during the currency of their formal term on the Mayor and Cabinet.
- 5.4 The law is clear that no member may scrutinise a decision in which they have participated in making. Given the proposal in Para 5.3, there is potential for the lines between Executive and Overview and Scrutiny to become blurred. In order to comply with the letter and spirit of the law in this respect and to be clear, it is proposed that where a member serves on the Executive in any part of a municipal year he/she may not serve as a member of Overview and Scrutiny Committee in that year.

To put this into effect, the changes proposed in Appendix 2 are recommended to Council.

## 6. GDPR

With effect from 25<sup>th</sup> May 2018, the Council must by law nominate an officer to be its Data Protection Officer. Their role will be to ensure data protection compliance within the organisation. To reflect this new statutory requirement, it is suggested that Article 14.3 of the Constitution which sets out the statutory roles for employees be amended by the addition of this post. It is proposed that the Head of Information Governance should fulfil this new statutory role.

## 7. Neighbourhood planning

- 7.1 The Localism Act 2011 introduced the neighbourhood planning regime. It provides for the possibility of neighbourhood areas, neighbourhood forums and subject to approval in a referendum, neighbourhood plans which once agreed become part of the Council's development framework.

- 7.2 There are currently 5 neighbourhood areas and it is anticipated that during 2018, in relation to at least some of these the Council will receive proposals for a neighbourhood plan. By law, a referendum will be held in respect of each compliant proposal. The Council therefore needs to be prepared to deal appropriately with these proposals if and when they are received.
- 7.3 Currently the Council's Constitution states at Article 4(2)(y) that decisions relating to neighbourhood referendums are reserved to full Council, but this is an error and does not reflect current law and recently issued Government Guidance.
- 7.4 The general legal position is that all decisions are for the Mayor to make except to the extent that they are expressed not to be by law and in particular the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended. It is now clear from the legislation and from Government Guidance on neighbourhood planning, that decisions in relation to neighbourhood planning are executive functions and therefore are for the Mayor to make or delegate. Because of this, it is proposed that the referral to neighbourhood planning referenda be removed from paragraph 4(2)(y) of the Constitution.

## **8. Further changes**

The changes to the Constitution proposed in this report are changes which are needed promptly to reflect legal requirements and to enable the Mayoral Scheme of Delegation to work in practice. However, a more thorough review of the Constitution would be appropriate in the light of the election of a new administration. Officers already have this work in hand and propose that a further report be brought back to the Council as soon as possible, once the Constitution Working Party has had an opportunity to consider whether any further changes ought to be referred to Council.

## **9. Legal Implications**

- 9.1 These are broadly set out in the report. Changes to the Constitution are by law for the full Council to make.
- 9.2 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 9.3 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - advance equality of opportunity between people who share a protected characteristic and those who do not.

- foster good relations between people who share a protected characteristic and those who do not.
- 9.4 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed in the paragraph above.
- 9.5 The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.
- 10.6 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:
- <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>
- <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>
- 10.7 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
- [The essential guide to the public sector equality duty](#)
  - [Meeting the equality duty in policy and decision-making](#)
  - [Engagement and the equality duty: A guide for public authorities](#)
  - [Objectives and the equality duty. A guide for public authorities](#)
  - [Equality Information and the Equality Duty: A Guide for Public Authorities](#)
- 10.8 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four

documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance#h1>

## **11. Financial Implications**

There are no financial implications arising from this report.

## **11. Crime & Disorder Implications**

None

## **12. Conclusion**

The Council is asked to endorse the changes proposed and to ask officers to bring a further review of the Constitution to the Constitution Working Party and from there to full Council at the earliest opportunity.

For further information about this report please contact Kath Nicholson, Head of Law on 020 8314 7648.

## **APPENDIX 1**

**Proposed from May 2018**

### **D EXECUTIVE PROCEDURE RULES**

#### **1 Terms of reference**

The Mayor will have responsibility for all executive decisions, namely those decisions not reserved to Council or delegated by Council or required to be so by law.

#### **2 Constitution**

##### **(a) Generally**

Subject to a minimum of 2 and a maximum of 9 other councillors as well as the Mayor, the constitution of the Executive will be as decided by the Mayor, reported to Council and set out in the Mayoral scheme of delegation for the time being.

##### **(b) Confirmatory hearings**

When the Mayor proposes to appoint a councillor to the Executive, he/she will be invited to inform all councillors of his/her proposal/s for appointment, by requesting the proper officer to serve notice on them to that effect. If so requested, and provided the Mayor consents in writing, the proper officer will comply.

The notice will set out details of the Mayor's proposals for the Executive membership, including the names of any councillors proposed for appointment to it, the portfolio for which they will take the lead, and the nature of any proposed delegation to them.

The notice will also contain details of a meeting, to take place at least five clear days after the date of the notice, when each of those proposed for membership will attend to address and answer questions from councillors generally. At these meetings, the Chair of Council, or in his/her absence the Vice Chair, will preside. If neither is present, the meeting will nominate a person from amongst those not proposed for membership of the Executive to preside.

The Mayor may address the meeting in respect of each proposed appointment for a period of no more than 2 minutes, though this may be waived by the Mayor. Each proposed appointee to the Executive will address the meeting for a period of no more than 5 minutes.

Immediately after each proposed appointee has spoken, questions may then be put by councillors to the proposed appointee. After questions have been

asked of each proposed appointee, the meeting will be asked to register by show of hands whether they support the appointment of that particular member to the Executive as proposed by the Mayor. The choice will be a simple yes or no.

The Chair will keep a written record of the results and communicate them to each member of the Council, and the proper officer in writing. Should he/she wish, the Mayor will take account of the outcome of this process before making appointments to the Executive. However, by law, the choice about appointments to the Executive is a choice entirely at the Mayor's discretion.

### **3 Who may make executive decisions?**

By law executive decisions are the responsibility of the Mayor. The Mayor may also delegate executive functions to the extent he/she wishes to:-

- The Executive as a whole
- A committee of the Executive
- An individual member of the Executive
- An officer
- An area committee
- A joint committee
- An individual ward member, to the extent the function is exercisable within the ward
- Another local authority or its executive in accordance with relevant regulations

The law provides that executive functions may not be discharged by the Council.

### **4 A Mayoral Scheme of Delegation**

At the Annual Meeting of the Council, the Mayor will present a written record of delegations made by him/her in relation to executive functions, for inclusion in the Council's scheme of delegation. The document presented by the Mayor must contain the following information in relation to the ensuing municipal year:-

- (i) The names, addresses and wards of the people appointed to the Executive by the Mayor.
- (ii) The nature and extent of the authority delegated to the Executive acting collectively as a whole, including details of any limitation on the delegated authority
- (iii) The nature and extent of the authority delegated to committees of the Executive, including the constitution and terms of reference of any such committees appointed, and the names of the Executive members who are to serve on them, and details of any limitation on their delegated authority

- (iv) The nature and extent of any authority delegated to individual members of the Executive, including the names of the people to whom such power has been delegated and details of any limitation on the delegated authority
- (v) The nature and extent of any authority delegated to individual ward members, including the names of the people to whom such power has been delegated and details of any limitation on the delegated authority
- (vi) The nature and extent of any authority delegated to individual officers, including the names of the people to whom such power has been delegated and details of any limitation on the delegated authority
- (vii) The nature and extent of any authority delegated to area committees, joint committees or other authorities including the name of the body to whom power has been delegated, its composition (where appropriate) and details of any limitation on the delegated authority

## **5 Sub-delegation of Executive functions**

- (a) If the Mayor delegates functions to the Executive, unless he/she decides otherwise, the Executive may delegate further to a committee of the Executive, an area committee, to an officer, to any joint arrangements, or to another authority.
- (b) If the Mayor delegates executive functions to a committee of the Executive, the Committee may delegate further to an officer of the Council or an area committee.
- (c) If the Mayor delegates executive functions to an individual member of the Executive, that member may delegate further to an officer or an area committee.
- (d) Where executive functions have been delegated, that fact does not prevent the discharge of those functions by the person or body who delegated them.

## **6 The Council's scheme of delegation and executive functions**

- (a) The Council's scheme of delegation is appended to the Constitution at Part VIII. It contains the details set out in Article 15 and may be amended from time to time. This includes details of the Mayoral scheme of delegation.
- (b) During the year, amendments to the Mayoral scheme of delegation may be made as follows:-
  - The Mayor may amend the Mayoral scheme of delegation of executive functions at any time during the year. To do so the Mayor must give written notice to the proper officer and report those changes to the next

ordinary Council meeting. When the Mayor seeks to amend or withdraw delegation to a committee, he/she must give notice to all members of that committee.

- The notice to the proper officer will set out the extent of the proposed amendment to the scheme of delegation and whether it entails the withdrawal of delegation from any person, body, committee of the Executive or the executive as a whole. It must also set out details of the nature and extent of any alternative delegations made to any person body, committee of the Executive, or the Executive as a whole. The amendment will take effect on the date when the proper officer gives notice to all councillors to that effect.

## 7 **Executive spokespersons**

If the Mayor decides not to delegate any decision making powers to any individual member of the Executive, he/she may still appoint members from within the Executive to be the Council's spokesperson, with the Mayor, on all matters within such portfolio of activity as the Mayor decides.

Such members will speak on behalf of the Executive in relation to all matters within their allocated portfolio, unless the Mayor decides to the contrary.

Each spokesperson will ensure that reports on matters within their portfolio are considered by the Executive.

Nothing in this rule implies that any executive member is empowered to make any decisions alone unless that power is specifically delegated by the Mayor in accordance with these Rules, and then any such powers will be subject to any limitation placed on them by the Mayor.

## 8 **Assistants**

The Mayor may invite non-Executive members of the Council to act as Assistants to the Executive in any year. There may be up to one Assistant for each of the portfolios established within the Executive. The Assistant would be a point of liaison between an Executive portfolio holder and the non-Executive members of the Council in relation to any matter within the portfolio holder's area, but they would have no formal decision making powers. The Assistant would not be obliged to accept the Mayoral invitation. Holders of the following positions may not become Assistants to the Executive

- The Chair of Council
- The Mayor
- Members of the Executive
- The Chair of the Overview and Scrutiny Committee
- The Chair of any Overview and Scrutiny Select Committee
- The Chair of the Strategic Planning Committee
- The Chair of a Planning Committee

The Mayor will keep under review the role and number of Assistants to the Executive should he/she wish to appoint them.

In the event that the Mayor chooses to appoint any Assistants to the Executive, within 1 month of the appointment, the Mayor will provide a written notification to the Proper Officer of the areas of liaison in which the Assistant is to be involved, and that notification will be sent by the Proper Officer to all members of the Council.

## **9 Conflicts of interest**

Members of the Executive, including the Mayor, are subject to the same rules relating to ethical matters as all members of the authority. They are bound to comply with the Member Code of Conduct appearing at Part V of this Constitution. Where decisions are taken collectively by the Executive, an individual member must declare and/or withdraw from consideration of a matter where the Member Code of Conduct requires that they do so.

If a decision falls to be made by the Mayor alone or an individual member of the Executive and that person has a declarable interest under the Member Code of Conduct, then he/she may not take the decision, or consider the matter further on an individual basis. The matter must be delegated elsewhere. Similar provisions apply where an executive decision is to be taken by an individual ward member, save that the decision may also be taken by the Mayor, unless he/she also has a declarable interest in it.

## **10 Executive meetings – where and when?**

The Executive will meet at least once in each calendar month with the exception of August, at times to be determined by the proper officer in consultation with the Mayor. Executive meetings will take place at a location to which the public have access.

## **11 Executive meetings in public or private**

- (a) Except when it considers a matter which, if considered in public, would entail the disclosure of confidential or exempt information within the meaning of Schedule 12A Local Government Act 1972 the Executive will meet in public if it meets to consider any item in respect of which any key decision may be made at the meeting.
- (b) Subject to the exemptions relating to confidential and exempt information, the Executive may only meet in private in the following circumstances:-
  - i. it meets to consider a matter which does not involve a key decision
  - ii. it meets in the presence of an officer, other than a political or Mayoral assistant, to consider a matter in respect of which a key

- decision will be made, but the date for such decision included in the key decision plan is more than 28 days after the date of the meeting.
- iii. at any time it meets without officers present (save for a political or Mayoral assistant) to consider a matter in respect of which a key decision is to be made
  - iv. it meets with officers for the purposes only of briefing
- (c) The provisions relating to Access to Information for both Executive and other meetings of the Council, and the rules relating to confidential and exempt information are set out in full at Part G - Access to Information Rules.

## **12 Quorum**

The quorum for a meeting of the Executive or a committee of it will be one quarter of the total number of people on the Executive, or 3, whichever is the larger. A meeting of the Executive or a committee of it will not be quorate if neither the Mayor nor Deputy Mayor is present unless five other members of the Executive are present.

## **13 How are decisions to be taken by the Executive?**

The Executive will adhere to the principles of decision making set out in Article 16 of the Constitution in the same way as the Council itself, its committees and sub committees. When the Mayor or any other member(s) make any executive decision, they will do so on the basis of written reports which contain service, legal and financial implications as well as a consideration of options where necessary. Members will only take such executive decisions in the presence of the Head of Paid Service, Chief Finance Officer or Monitoring Officer or their nominee. Each of them has a right to attend any meeting of the Executive and all other Council meetings.

All decisions made by members must be recorded by the proper officer in accordance with Rule G22 (content of record of decisions) and the decision will not be deemed to be made until such a record is made and publicised in accordance with Rule 16 below.

Any reports written by officers for consideration by the Executive, whether by the Executive collectively, the Mayor or another individual member, whether for consideration in public or private, shall contain service, corporate, legal and financial considerations.

## **14 Who may attend Executive meetings**

The Access to Information Rules relating to the Executive are set out in this Part IV at Section G.

Any member who has been appointed by the Mayor to the Executive for part of a municipal year may nonetheless attend Executive meetings during the time in that year when he/she does not so serve. At the invitation of the Mayor such member may make a presentation to the Executive and/or speak on any matter being considered by it. However, no member may vote on any matter being considered by the Executive except during the period for which he/she has been appointed by the Mayor to serve on the Executive.

Any member appointed to the Executive by the Mayor for part of any municipal year may not during that year sit on the Council's Overview & Scrutiny Committee or any of its Select Committees.

## **15     What business is to be conducted at Executive meetings?**

At each meeting of the Executive the following business will be conducted:

- (a) consideration of the minutes of the last meeting;
- (b) declaration of interests if any;
- (c) matters referred to the Executive (whether by the overview and scrutiny committee, its Business Panel, a select committee, a joint select committee or the Council) for reconsideration or response by the Executive in accordance with the rules relating to call in or the councillor's call for action or any other provisions contained in the Overview and Scrutiny Procedure Rules, or the Budget and Policy Framework Procedure Rules set out in Part IV of this Constitution;
- (d) consideration of reports from overview and scrutiny committees;
- (e) consideration of reports from local assemblies and from Positive Ageing Council.
- (f) matters set out in the agenda for the meeting, which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part IV of this Constitution at Section G.

## **16     A programme of business**

- (a) As soon as practical in each year the Executive will establish a programme of business for the remainder of the year to the extent that it is possible to do so.
- (b) Items for consideration by the Executive may be rescheduled as necessary during the course of the year.

## **17 Decisions at meetings of the Executive**

Where the Mayor has delegated decision making to the Executive acting collectively, or to a committee of the Executive, decisions will be taken if agreed by a majority of those present and voting. The meeting will be chaired by the Mayor if present, or by the Deputy Mayor if not. If neither is present then the meeting will be chaired by the member nominated by the Mayor to do so, or in the absence of such a nomination, by the member elected by the meeting to do so.

If the Mayor has previously indicated to the proper officer that the Executive acting collectively may not make a decision under delegated authority, the proper officer will give notice to that effect to all members of the Executive, and in such cases the Mayor will make the decision himself usually at a meeting convened as if the decision was to be taken by the Executive collectively. If it is not practical for such a meeting to be convened, the Mayor may nonetheless make the decision himself on the basis of a written report containing service, corporate, legal and financial implications at a time and place at which notice has been given in accordance with the Access to Information Rules at Part G and at which the Head of Paid Service, Chief Finance Officer and/or the Monitoring Officer and/or their nominee are present.

## **18. Publication of decisions**

- (a) Within 2 working days of an Executive decision being taken it shall be published by the proper officer at the Council's main offices and sent to all members of the Council, where possible by electronic means. Decisions will also be recorded in a central register kept by the proper officer which will be available to all members of the Council and the public.
- (b) The period during which any decision may be 'called in' under these Procedure Rules (see Part E Rule 18) will only begin to run when notice of a decision has been published at the Council's main offices in accordance with this rule.

## **19 Consultation**

All reports to the Executive on proposals relating to the budget or policy framework will contain details of the consultation with stakeholders and relevant overview and scrutiny committees that has been carried out. Reports on other matters must set out the details and outcome of consultation as appropriate. The level of consultation required will be as is considered appropriate to the matter under consideration.

## **20 Who can put items on the agenda for a meeting of the Executive?**

The following people may place an item on the agenda for consideration by the Executive:-

- (a) The Mayor
- (b) Any member of the Executive
- (c) The proper officer will ensure that an item is placed on the agenda for the next available meeting of the Executive if so requested by the Business Panel, by the Council or by the Overview and Scrutiny Committee or any relevant sub-committee in response to a referral made under part E10 or E22 of these rules. Such items will be placed on the agenda in the order in which the request is made of the proper officer that they be so considered and there may only be two such items on the agenda of any Executive meeting unless the Mayor agrees to the contrary.
- (d) Any member of the Council may request the Mayor to put an item on the agenda for an Executive meeting. If the Mayor agrees, the item will be considered at the next available Executive meeting. The agenda will state that the item was referred to the Executive at the request of the individual member and will state the name of the member concerned who will be invited to attend the meeting and to address the Executive on the issue in question.
- (e) The Head of Paid Service, Monitoring Officer or the Chief Finance Officer may include an item for consideration by the Executive.
- (f) Local assemblies. Restricted to a maximum of two such items on any agenda, items will be prioritized in the order they are received. Any not placed on the agenda will have priority for the next agenda, subject always to the maximum of two such referrals per agenda. Only one referral may be made by any local assembly to the Mayor and Cabinet in any twelve month period, unless the Mayor agrees to the contrary.
- (g) The Positive Ageing Council may make referrals to the Mayor and Cabinet provided that the referral has been approved by a general meeting of the Positive Ageing Council.

## **21 No co-optees or substitutes**

There may be no formal co-optees or substitutions to the Executive.

## **22 Attendance of Executive members at overview and scrutiny meetings**

The Mayor and Deputy Mayor (in respect of any executive function) and any other Executive member (in respect of any executive function within their portfolio) may be required to attend any meeting of the Overview and Scrutiny Committee, or any of its select committees or the Business

Panel. If so required they will attend to give account for Executive action and/or performance as set out in Rule E 17. (OSC power to require attendance). Similar provisions apply to individual ward members to whom the Mayor has delegated decision making powers within their ward.

## **Appendix 2**

### **Articles**

#### **Article 6.1 now to read**

6.1 Subject to the exception set out in this paragraph 6.1 , if that is not possible the Council will appoint one overview and scrutiny committee consisting of all members of the Council who are not members of the Executive, provided that this composition complies with the political balance requirements of the Local Government and Housing Act 1989. If that is not possible, or if there is not unanimous agreement at the Annual General Meeting to such arrangements in any year, then the Council will decide on the composition of this committee so as to give the widest possible membership to the committee, but excluding members of the Executive.

The exception referred to in this paragraph is as follows: Any member who is appointed by the Mayor to serve on the Executive for any part of a municipal year may not serve as a member of Overview and Scrutiny Committee or its Sub Committees during that year.

#### **Overview and Scrutiny Procedure Rules**

E3 now to read

##### **3. Who may sit on overview and scrutiny committee?**

All councillors except members of the Executive may sit on the overview and scrutiny committee. However, any member who is appointed by the Mayor to serve on the Executive for any part of a municipal year may not serve as a member of Overview and Scrutiny Committee or its Sub Committees during that year. No member may be involved in scrutinising a decision which he/she has been involved in making.