



Council

Report title: Proposed changes to the Council's Constitution.

Date: 26 May 2021.

Class: Part 1.

Ward(s) affected: All

Contributors: Director of Law, Governance & HR

Outline and recommendations

This report asks the Council to adopt Constitutional revisions regularising the rights of parental and Diocesan representatives on Overview & Scrutiny Task and Finish Groups, amending the provisions providing that the Mayor is automatically the Chair of the Health and Well Being Board and confirming the validity of electronic signatures in contractual matters. The Council is recommended to amend the Constitution to include the proposed revisions at Appendices 1 to 3 of this report.

Timeline of engagement and decision-making

There have been many Council decisions amending the Constitution since its introduction in 2002. Consultation about these proposals has taken place with the Chair designate of the Constitution Working Party, Councillor Susan Wise and were recommended at a Task and Finish Panel that took place prior to this meeting of Council.

1. Summary

- 1.1. This report proposes amendments to the Council's Constitution confirming the rights of parental and Diocesan representatives on Overview and Scrutiny Task & Finish Groups, amending the provisions providing that the Mayor is automatically the Chair of the Health and Well Being Board, and authorising the use of electronic signatures for contractual matters.

2. Recommendations

- 2.1. Council is recommended to agree that the Constitution be amended to include the revisions shown at Appendices 1 to 3.

3. Policy Context

- 3.1. The Council's Corporate Strategy makes an explicit commitment to strong corporate governance. The introduction of the procedures at Appendices 1 to 3 would build on that commitment and enable open decision making in relation to all of the priorities set out in the Corporate Strategy.

4. Background

- 4.1. Minor revisions to the Constitution are suggested as set out in this report.
- 4.2. Parental and Diocesan representatives would be granted voting rights on Overview and Scrutiny Task and Finish Groups.
- 4.3. The Mayor will no longer be automatically appointed as Chair of the Health and Well Being Board. Instead the Mayor will be able to nominate another councillor to act as Chair, as is the practice for most other London Boroughs. It is currently intended that the Mayor will nominate the Cabinet Member for Health and Adult Social Care (who the Mayor has appointed to the Health and Well Being Board) to act as Chair.
- 4.4. It is also proposed to authorise the use of electronic signatures under the Contract Procedure Rules. Remote working during the pandemic has emphasised the need to enable signatures to be electronic to avoid authorised signatories needing to attend the office specifically to sign documents for contractual matters which could otherwise be signed electronically. Processes will be put in place to ensure that arrangements for electronic signatures operate in the same way as physical signatures with identical

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checks and authorisation being required for both processes.

5. The need for amended rules of procedure

- 5.1. It is a legal requirement under Section 9P Local Government Act 2000 that the Council have and keep up to date a Constitution which contains standing orders/rules of procedure. Amendments to the Constitution are for full Council to decide.

6. Financial implications

- 6.1. There are no new financial implications arising from the proposed amendments to the Constitution.

7. Legal implications

- 7.1. The legal implications pertaining to governance issues are set out in the body of the report.
- 7.2. Members are reminded of the Council's duties under the Equality Act 2010
- 7.3. The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality gender reassignment, marriage and civil partnership, pregnancy and maternity, race, duty or the duty). It covers the following protected characteristics: age, disability, religion or belief, sex and sexual orientation
- 7.4. 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.
- 7.5. 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.
- 7.6. 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
- 7.7. 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:

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<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>

7.8. 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](#)

7.9. 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>

8. Equalities implications

8.1. Creating new Overview Task and Finish Groups which are accessible to the public is designed to ensure that the decision making processes of the Council are transparent to as many as possible and that the Council remains as open and transparent to all.

9. Climate change and environmental implications

9.1. There are none associated with the proposed change to the Constitution.

10. Health and wellbeing implications

10.1. There are no specific implications

11. Background papers

12. Glossary

12.1. [Type here, Arial size 11]

12.2. See ***Section 7 – “Glossary” in the guidance*** for more information.

| Term | Definition |
|--------------|---|
| Constitution | The rules which govern how council business is done |

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| Term | Definition |
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13. Report author and contact

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Appendix 1

1. That for the purpose of all Task and Finish Groups that are delegated by the Overview and Scrutiny Committee to look into any and all education themed topics, they shall consist of 5 elected members plus invited parent and diocesan representatives.

[Proposal is to amend para.6.11 pg 44 Constitution.]

2. All parent and diocesan representatives who attend an education themed Task and Finish Group shall have full voting rights.

[proposal is to amend para 6.11 pg. 44 Constitution.]

3. That for the purpose of the Education Business Panel, parent and diocesan representatives shall have full voting rights

[pg. 32 proposed amendment to para 6.3.]

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Appendix 2 – Chair of the Health and Well Being Board

Amend paragraph 32.2(g) of Section C of the Constitution to say:

(g) Chair and Vice Chair – The Chair of the HWB shall be the Mayor or such other councillor as the Mayor may nominate to act as Chair; The Vice-Chair of the HWB shall be elected at the first meeting of the HWB in each year.

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Appendix 3 - Electronic Signing

Add a new paragraph at paragraph 1 of the Contract Procedure Rules to say:
In these rules, any reference to “signed” includes signed electronically.

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