

<b>REPORT TO:</b>	<b>GENERAL PURPOSES AND AUDIT COMMITTEE</b> <b>3 March 2022</b>
<b>SUBJECT:</b>	<b>REVISIONS TO THE COUNCIL'S CONSTITUTION</b>
<b>LEAD OFFICER:</b>	<b>John Jones, Monitoring Officer</b>
<b>WARDS:</b>	<b>All</b>
<b>PUBLIC/ EXEMPT:</b>	<b>Public</b>

<p><b>SUMMARY OF REPORT:</b></p> <p>This report asks the Committee to recommend to the Council changes to the Constitution which are necessary for the implementation of the mayoral model of governance. The report also includes other constitutional changes to improve the Council's governance, which have been recommended by the Constitution Working Group. Whilst additional changes have been recommended, a complete review and update of all parts of the Constitution has not been conducted.</p>
<p><b>CORPORATE PRIORITIES 2021-24:</b></p> <p>Changes to the Constitution proposed in this report will enable improvements to the Council's governance as part of the Croydon Renewal Plan.</p>
<p><b>FINANCIAL IMPACT</b></p> <p>Implementation of the recommendations within this report shall be contained within existing budgets.</p>
<p><b>RECOMMENDATIONS:</b></p> <p>The Committee is asked to recommend to Council that they:</p> <ol style="list-style-type: none"> <li>1. Approve the changes to the Constitution as detailed in section 2 and set out more fully in Appendix 1 and that: <ol style="list-style-type: none"> <li>i) The following changes shall be implemented with immediate effect: <ul style="list-style-type: none"> <li>• Section 4.22 (Emergency or extreme urgency) of Part 3 – Responsibility for Functions</li> <li>• Part 4I – Tender and Contract Regulations</li> </ul> </li> <li>ii) All other changes shall be implemented with effect from 00.01 hours on the third day after the day of declaration of the result of the poll at the first election of the Mayor.</li> </ol> </li> </ol>

## **1. BACKGROUND**

- 1.1 Consideration of changes to the Constitution is a responsibility of the General Purposes and Audit Committee, prior to referral of any proposals to full Council for approval.
- 1.2 In July 2021, full Council agreed that a politically proportionate Constitution Working Group be established to keep the constitution under review and inform proposals for any revisions to the Constitution.
- 1.3 The Constitution Working Group has been meeting since late November 2021 to consider revisions to the constitution in preparation for the introduction of the mayoral governance model, which will commence in May 2022.
- 1.4 General Purposes and Audit Committee agreed, at its 25 January meeting, to recommend other constitutional changes to full Council. Due to the delayed January meeting of the Committee, it was not possible for full Council to consider these changes at its 31 January meeting and so they will be considered instead at the full Council meeting of 23 March.
- 1.5 The Constitution Working Group has prepared proposals both to ensure a legally compliant constitution as from the date when the elected Mayor takes office (9<sup>th</sup> May 2022) and also to make other improvements more generally to support good governance. This report sets out all of the revisions proposed by the Working Group for consideration by the Committee.
- 1.6 A number of changes to the Planning and Planning Sub-Committee Procedure Rules have been under discussion between the Chair of Planning Committee and senior Planning officers. These included changes to the approach for consideration of minor applications, provisions for speakers at committee meetings, the number of members on each committee and the order of business.
- 1.7 These discussions began more than a year ago. More work (and engagement with members and officers) is required to prepare detailed proposals which address all knock-on impacts. It will also be necessary to consider whether these (and other) changes are still right for Croydon at this time. Consequently the only proposals in relation to the Planning and Planning Sub-Committee Procedure Rules proposed at this time are to ensure consistency across the constitution (see 2.15 below)

## **2. PROPOSAL**

- 2.1 The proposed revisions to the Constitution appear, in track changes, at Appendix 1. These proposals have been prepared on the basis of the following principles and assumptions:

- (i) The constitution should support high standards of accountability and transparency (within the constraints of legislation relating to confidential and 'exempt' information);
- (ii) While decisions about the extent of executive decision making are a matter for the elected Mayor, the context in which those decisions will take place is assumed to be as close as possible to the operation of the current Leader/Cabinet model. This is consistent with the basis on which the referendum was conducted, as set out in the notice of proposals agreed by Council on 5 July 2021;
- (iii) Membership of the Cabinet will be drawn from the same party as the elected Mayor. In the event that the Cabinet contains Members from other parties, the Council may need to review some elements of the constitution relating to the definition of the 'Opposition'.

2.2 In addition to changes of terminology where relevant (eg substituting 'Mayor' for 'Leader', ensuring that substantive changes in one Part are reflected in all other Parts of the constitution) the following sections set out the material changes which are proposed.

2.3 Part 1 - Summary and Explanation: the proposed changes are designed to provide an easy-to-read introduction to the Constitution. This includes a summary of the key structures of the Council and an explanation of how the Council exercises and scrutinises its decision-making powers as well as summarising role and responsibilities of the elected Mayor and how this differs from the role of the Civic Mayor.

2.4 Part 2 – Articles of the Constitution: changes are proposed which will:

- (i) Simplify the presentation of the number of Members in each ward (Article 2.1);
- (ii) Clarify that the Members' Code of Conduct also applies to co-opted Members (Article 2.4);
- (iii) Reflect the requirement for the elected Mayor to report their scheme of delegation to full Council (Article 4.1);
- (iv) Remove the requirement for admission arrangements for community schools to be decided by full Council, and add the Corporate Plan to the Policy Framework (Article 4.02);
- (v) Clarify the role of the Civic Mayor as a) Chair of the Council and b) ceremonial representative of the Council at civic events (Article 5.1);
- (vi) Set out the ability of Scrutiny and Overview Committee to hold enquiries and investigate options to inform policy development (Article 6.2);

- (vii) Ensure that the description of Executive arrangements appropriately reflects the Mayoral model of governance (Article 7);
- (viii) Provide additional clarity about the roles of statutory officers (with further, more detailed content moved and added to Part 3 – Responsibility for Functions) (Article 12.2);
- (ix) Provide for signature and sealing of documents by electronic means (Article 14.4);
- (x) Provide that any changes to the Constitution, with the exception of changes relating to the operation of Scrutiny and Overview Committee or its Sub-Committees, may only be made with the written consent of the elected Mayor (Article 15.2).

2.5 Part 3 – Responsibility for Functions: the following changes are proposed:

- (i) Addition of text to clarify the distinction between Council, Executive and Local Choice functions;
- (ii) Revise the terms of reference of Appointments and General Purposes and Audit Committee with the aim of:
  - Creating an Audit and Governance Committee (section 2.3) with capacity to undertake the full range of functions of a local authority Audit Committee (revised terms of reference are based on the CIPFA model terms of reference for local authority Audit Committees);
  - Implementing the decision of Ethics Committee on 19<sup>th</sup> February 2021 which agreed that the JNC Model Disciplinary Procedure for Statutory Chief Officers should be adopted by the Council. This includes revising Appointments Committee to become Appointments and Disciplinary Committee (section 2.1) and the creation of Appeals Committee (section 2.2). Associated procedures are set out in Part 4J – Staff Employment Procedure Rules;
  - Creating a non-executive General Purposes Committee (section 2.5) to conduct the non-audit functions of General Purposes and Audit Committee and the staffing functions of Appointments Committee, meeting on an ‘as required’ basis. The General Purposes Urgency Sub-Committee remains unaffected;
- (iii) The Committee is asked to note that, while the current constitution lists the Mayoralty and Honorary Freedom Selection Sub-Committee (section 2.8) without any reference to a ‘parent’ committee, the decision to establish the Sub-Committee by Annual Council in 2014 was on the basis that the Sub-Committee be a sub-committee of General Purposes and Audit Committee.

In light of changes to General Purposes and Audit Committee referenced above, and recent practice that full Council has itself made appointments to the

Committee, it is proposed to amend the title of the Sub-Committee to 'Civic Mayoralty and Honorary Freedom Selection Committee', and for this to be a committee of the Council.

- (iv) Addition of arrangements for the elected Mayor's scheme of delegation (section 3.3 – 3.5);
- (v) Addition of information relating to the responsibilities of Corporate Directors (section 4) in accordance with the Local Government Act (Constitutions) (England) Direction 2000 which requires all local authorities to include a description of the roles of officers within their constitutions. The opportunity has been taken to move text about the roles of statutory officers from Part 2 – Articles to this Part with the aim of increasing transparency about the roles of senior Council officers and their accountabilities. More detail is proposed to be included in the Mayoral scheme of delegation, to be brought to the Annual Council Meeting in May 2022.
- (vi) Addition of text to enable the Chief Executive to exercise any executive or non-executive function in cases of emergency or extreme urgency (section 4.22). Irrespective of the change of form of executive, these changes provide the Council with a resilient decision-making process for cases of urgency, which is to be found in most Council constitutions. It is valuable for this to be in place with immediate effect. There is the necessary safeguard that the Chief Executive, if they elect to exercise this power, must account to the Executive or Council as appropriate as soon as reasonably practicable.
- (vii) Addition of measures which will be taken by the Chief Executive to ensure correctness of decision making (section 4.23).

2.6 Part 4A – Council Procedure Rules: the proposed changes are designed to:

- (i) Clarify arrangements for determining quoracy of Council meetings (section 1.1);
- (ii) Clarify that the Chair has discretion to decide on matters of interpretation of the Council Procedure Rules relating to meetings of the Council (section 1.2);
- (iii) Clarify the basis on which a point of order or point of personal explanation/clarification may be raised (sections 1.15, 1.16 and 1.17);
- (iv) Add provision that the elected Mayor shall present their scheme of delegation to Annual Council and a statement reflecting on the previous year and outlining their priorities for the year ahead (section 2.3);
- (v) Add provision that a 'State of the Borough' debate may take place annually, in a form to be decided by the Chair of Council and agreed with the elected Mayor, with the aim of enabling wider public engagement and informing the Mayor's policy proposals (section 2.4);

- (vi) Clarify the process for identifying substitute members (section 2.9 and 2.10);
- (vii) Clarify the definition of the Opposition (section 2.12);
- (viii) Revise the Guillotine procedure (sections 3.3 to 3.5 and 3.64) and the Order of Business (section 3.7) to enable time for debate on significant policy proposals and recommendations;
- (ix) Revise the process for Public Question Time to ensure sufficient time to enable the preparation of good quality responses and the inclusion of questions on the printed agenda and to further clarify the grounds on which a question may be rejected (sections 3.16 to 3.24);
- (x) Further clarify the grounds on which a question for Mayor and Cabinet Questions may be rejected (section 3.28);
- (xi) Add provision for the Monitoring Officer to liaise with the proposer of a motion with the aim of ensuring that a motion is consistent with Council Procedure Rules and therefore may be accepted for debate (section 3.40);
- (xii) Amend provisions for recommendations from the Executive and Committees so that matters may be debated and not deferred for debate, if so proposed and seconded (sections 3.57 to 3.64);
- (xiii) Amend provisions for Executive and Committee recommendations to be referred back (sections 3.67 to 3.70);
- (xiv) Make express provision for the circumstances in which the Council Procedure Rules may be suspended (section 3.72);
- (xv) Add provision for the Council by resolution, Monitoring Officer, Chief Executive and/or the Chief Finance Officer to call an Extraordinary Council Meeting (section 5.1).

2.7 Part 4B – Access to Information Procedure Rules: the following additional content is proposed:

- (i) Clarification of the process which must be complied with if the public are to be excluded from a meeting of the Cabinet, Cabinet Sub-Committee or Joint Committee (section 14);
- (ii) Entitlement for the Head of Paid Service, Monitoring Officer and Chief Finance Officer to attend meetings of the Executive and its Committees (section 17);
- (iii) Clarification that Executive decisions are deemed to be made when they are recorded and publicised in accordance with the Constitution (section 20);

- (iv) Detailed requirements for contents of a report to be provided by the Mayor and/or Cabinet when required by Scrutiny and Overview Committee (section 33.4);
- (v) Increased frequency for the Mayor to report use of Special Urgency powers to Council (from annually to quarterly) (section 34).

2.8 Part 4C – Budget and Policy Framework Procedure Rules: the budget, policies and strategies contained within this Framework (as defined in Article 4.02) are proposed by the Mayor but must be agreed by the full Council. Different rules apply in a mayoral authority in the event that full Council does not agree the Executive's proposals in comparison to the Leader/ Cabinet model. The opportunity has been taken to look at good practice in other mayoral authorities to mitigate the risk of conflict between the Mayor and full Council.

2.9 The following changes to the Procedure Rules are proposed:

- (i) Clarification of what is meant by plans, strategies and budgets within the Budget and Policy Framework (section 2a));
- (ii) Addition of arrangements to publicise and consult on proposals to amend any plan, strategy or budget within the Framework (section 2b) – d));
- (iii) Amendment of the procedure which applies if full Council rejects the Mayor's proposal (section 2h)) and the same or an amended proposal returns to full Council for a second time (the opportunity has been taken to simplify the wording of the wider procedure in sections 2 e) – g));
- (iv) Provisions to support consideration of the Mayor's budget proposals and the preparation of alternative proposals (section 3a) – f).

2.10 Part 4D- Executive Procedure Rules: this Part is revised to add the Mayor's role in relation to the Executive, including their powers of delegation and in particular:

- (i) The contents to be included in the Mayor's scheme of delegation (section 1.2);
- (ii) The process by which the Mayor may make amendments to their scheme of delegation (section 1.4);
- (iii) Clarification relating to the Council's Scheme of Delegation (section 1.5);
- (iv) Clarification relating to the exercise of functions which have been delegated where there is a conflict of interest (section 1.6);
- (v) Revision of provisions for Guillotine for meetings of the Executive to be consistent with Council Procedure Rules (section 1.7(d));

- (vi) Requirements for executive decisions to be made on the basis of written reports, in the presence of appropriate officers and appropriately recorded (section 1.9);
- (vii) A requirement for the Mayor to establish and publish a programme of business for the year (section 1.9(e));
- (viii) Additional text for the order of business of Cabinet meetings (the current Constitution has missing text in this section) (section 2.5);
- (ix) The process for placing items on the agenda for Executive meetings and those individuals and bodies which may do so (section 2.6);
- (x) Removal of wording relating to Advisory Committees (Traffic Management Advisory Committee) which may not be applicable under the Mayor and Cabinet form of executive.

2.11 Part 4E – Scrutiny Procedure Rules: the Centre for Governance and Scrutiny (CfGS) has reviewed the Council’s current Procedure Rules in light of good practice as well as recent changes arising from the Scrutiny Improvement Review and has made suggestions which are reflected in these proposals:

- (i) Changed arrangements for the appointment of vacancies to Scrutiny and Overview Committee between meetings to support the ongoing conduct of business (section 2.3);
- (ii) Changes are proposed to mirror changes to the Guillotine procedure in the Council Procedure Rules (section 3.7 – 3.9);
- (iii) Additional and new detail about the work programming process to reflect changes implemented following the Scrutiny Improvement Review (section 6.3 – 6.7 and 7.2 – 7.3);
- (iv) Clarification on recommendations to be made by Scrutiny to the Council or Executive and how these should be responded to (section 8.1 – 8.7);
- (v) Clarification of the basis on which any investigations carried out by Scrutiny will be conducted (section 10.2 – 10.3);
- (vi) Detail on the basis on which Call-Ins will ordinarily be raised (section 11.4), arrangements for the arrangement of Call-In meetings (section 11.10) and the approach to be taken if Scrutiny and Overview Committee considers that an Executive decision is contrary to the Budget and Policy Framework (section 11.12 – 11.14);
- (vii) Addition of provision for Councillor Call for Action (section 12) and Members and Officers giving account (section 13).

## 2.12 Part 4F – Non-Executive Procedure Rules:

- (i) Changes are proposed to mirror changes to the Guillotine procedure, points of order, points of personal explanation and clarification in the Council Procedure Rules (sections 3.5 – 3.8, 9.6, 9.7 and 9.8 respectively);
- (ii) Provision is added to enable recorded votes to be taken at Non-Executive Committee meetings (section 10.3).

2.13 Part 4I – Tender and Contract Regulations: a small number of minor modifications to the Regulations are recommended in order to improve efficiency and speed up the procurement process. Other proposed changes to the constitution (with the exception of section 4.22 of Part 3) relate to the operation of the Executive and conduct of meetings of the Council and its committees. It is therefore appropriate that they come into force from the start of the new municipal year and administration. However, there is ongoing work which could be more efficiently progressed prior to the start of the new municipal year by applying the revised Tender and Contract Regulations straight away. To enable the benefits of improved efficiency and swifter procurement to be realised by the Council as soon as possible, it is proposed to implement the following changes with immediate effect:

- (i) Increase the threshold at which the fuller level of governance and reporting applies from the current level of £100,000 to the Procurement Contracts Regulations 2015 ('PCR') threshold for Goods and Services (currently £177,898), defined as 'Low Value Expenditure'. The PCR state the contract values at which a formal procurement exercise must take place by public bodies and are changed every two years, set by the World Trade Organisation. It is unusual for a local authority to apply a value below the PCR threshold: the current level was set in 2013 and has not been adjusted for inflation or to align with the PCR since that time.

Approval to award contracts up to the Low Value Expenditure threshold will be by the relevant Director. This will have the effect of speeding up the award of contracts, allowing faster implementation of projects, delivery of outcomes and savings. The burden on suppliers when bidding will be simplified and the process will be quicker, making the Council more attractive to suppliers and thus increasing competition, resulting in more competitive prices. To ensure rigour and good governance, an additional sign-off for spend between £10,000 and the new threshold will be required by the Head of Procurement or the Strategic Procurement Manager

- (ii) Amendment of reference to the Price/ Quality split (section 22.4) to ensure that this is considered and the justification for the split chosen set out in the procurement report. This will bring Croydon in line with common procurement practice, considering every procurement on its merits instead of the current default of 40% Price and 60% Quality. Social Value will continue to be applied in line with Council policy.

- (iii) Removal of the current requirement that all Lead Member decisions on award of contracts go to Cabinet first (section 28.7), replaced with a requirement for a retrospective report of all Lead Member delegated decisions. The current provision is in conflict with provision elsewhere in the Tender and Contract Regulations (section 24.4c) which enables Lead Member decisions: the change will speed up the approvals process for award of contracts by approximately 4 to 6 weeks which should significantly improve supplier engagement. It will be a matter for the Mayor to decide the extent of any delegation of decision making to Lead Members.

2.14 Part 4J – Staff Employment Procedure Rules: these procedure rules have been revised alongside the terms of reference of Appointments Committee, to ensure consistency with the JNC Model Disciplinary Procedure for Statutory Chief Officers. Key features of the changes are:

- (i) Application of the rules in relation to appointments to the Monitoring Officer and Chief Finance Officer in addition to the Head of Paid Service (section 3);
- (ii) Changes to clarify the disciplinary process and distinguish between matters in respect of which the Appointments and Disciplinary Committee recommend dismissal and those in respect of which the Appointments and Disciplinary Committee recommend no action or such recommendations fall short of dismissal (section 4);
- (iii) Provision for urgent action to be taken to suspend in consultation with the Chair of the Appointments and Disciplinary Committee (section 4.10);
- (iv) Parameters for the operation of suspension of the Head of Paid Service, Monitoring Officer or Chief Finance Officer (section 4.11);
- (v) Establishment of an Independent Panel to consider a proposal to dismiss the Head of Paid Service, Monitoring Officer or Chief Finance Officer (section 4.15);
- (vi) Establishment of the Appeals Committee to consider appeals where the proposal is disciplinary action short of dismissal (section 4.16).

2.15 Part 4K – Planning and Planning Sub-Committee Procedure Rules: changes are proposed as follows:

- (i) The requirement, at section 2.18, for Ward Members to attend training before they may make a referral to committee is removed, to ensure consistency with provision for referrals by the MP and GLA member. Training and guidance for Ward Members on criteria for referrals will continue to be provided by the Director of Planning and Sustainable Regeneration;
- (ii) Changed wording at sections 6.8 - 6.10 is designed to clarify the arrangements for guillotine and achieve consistency with full Council and other non-executive

Committee meetings, while reflecting the specific requirements relating to consideration of planning applications. Changes are also made to Part 3 to mirror this provision.

- 2.16 Part 4O – Procedure rules for remote meetings: this Part is removed in its entirety as the legislation which enabled it has expired. Provision remains for Licensing Sub-Committee hearings to be held remotely, as set out in Annex 2 to Part 5F and Part 5G of the Constitution. The drafting of a new protocol for use in meetings where it is lawful for remote participation will be progressed after the election and will be prioritised if there is a change to the relevant legislation.
- 2.17 Part 5A – Protocol for Decision Making: the following additional text is proposed:
- (i) Clarification of the different decision-making bodies covered by the Constitution;
  - (ii) Principles which will apply to all decisions made by the Council including executive decisions;
  - (iii) Addition of text to require Corporate Directors to keep the implementation of decisions under review and ensure that circumstances relevant to the decision continue to apply (section 1.9). Where there has been a material change of circumstances, a further report must be made to the decision-making body prior to implementation. This change addresses an action in the action plan following the Report in the Public Interest dated 26 January 2022.
- 2.18 Part 5B – Protocol on Staff Councillor Relations: this revised version of the existing Protocol was prepared by a Member-Officer Task and Finish Group. Ethics Committee, at its meeting on 9<sup>th</sup> February agreed to recommend to General Purposes and Audit Committee that this revised version be recommended to Council for inclusion within the Constitution: the full report to Ethics Committee is appended to this report.
- 2.19 Part 5C – Monitoring Officer Protocol: the text is updated to ensure consistency with the Member Code of Conduct and references to Dispensations in the Ethics Committee terms of reference (section 1.2 i))
- 2.20 Part 5H – Protocol for Participation in meetings of the Traffic Management Advisory Committee: The Traffic Management Advisory Committee (TMAC) has existed to advise the relevant Cabinet Member on traffic management issues. Under the mayoral model, it is for the Mayor to decide whether to delegate any decision making to any members of the Executive and it follows that any provision of advice to decision-makers (with the exception of legal, finance and other professional advice) is also at the discretion of the Mayor.
- 2.21 This Protocol is therefore proposed for removal from the Constitution until such point that the Mayor establishes a scheme of delegation which would enable such an approach. The Council has previously decided to make traffic management an executive function: this is a matter which, statutorily, the Council can choose to be

either an executive or non-executive function. The Council could therefore, at some future point, consider a proposal to make traffic management a non-executive function and identify an appropriate committee to carry out that function.

- 2.22 Leader's Scheme of Delegation: The scheme is removed in its entirety: a new Mayoral scheme of delegation will be brought to the Annual Council Meeting in May 2022.
- 2.23 It is also proposed to add the Officer Code of Conduct (which was revised in January 2022) to the Constitution at Part 5J so that there is transparency and clarity about the standards which officers are required to meet, in parallel with the provisions of the Members' Code of Conduct.
- 2.25 Changes to the following Parts of the Constitution relate to changes of terminology only:
- Part 4G – Delegations to Executive Directors Decision Making Procedure Rules (the title will also be changed to 'Delegations to Corporate Directors Decision Making Procedure Rules')
- 2.26 For clarity, no changes are proposed to the following Parts of the Constitution:
- Part 4H – Financial Regulations
  - Part 4L – Terms of Reference Health and Wellbeing Board
  - Part 4M – Local Pension Board Procedure Rules
  - Part 4N – Pension Committee Terms of Reference
  - Part 5D – Planning Code of Good Practice
  - Part 5F – Protocol for Licensing Hearings
  - Part 5G – Protocol for Licensing Hearings under the Gambling Act 2005
  - Part 5I – Members' Code of Conduct
  - Part 6D- Scheme of Co-option
  - Part 6E – Terms of Reference Corporate Parenting Panel
- 2.27 A paper relating to the Members Scheme of Allowances (Part 6A of the Constitution) appears elsewhere on this agenda.

### **3. REASONS FOR RECOMMENDATION**

- 3.1 The proposed changes to the constitution will in some cases ensure, and in others assist with compliance and consistency with other decision making by the Council.

### **4. CONSULTATION**

- 4.1 There is no statutory duty to undertake public consultation on changes to the consultation. The changes proposed in this report will support implementation of other decisions by Council and compliance with legislation and as such have not been subject to separate consultation.

## **5. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

- 5.1 All costs associated with this work has been delivered from existing 2021/22 budgets and the Council continues to have additional provision to support this work in 2022/23.

Approved by: Nish Popat – Interim Head of Corporate Finance

## **6. LEGAL CONSIDERATIONS**

- 6.1 External legal advice has been sought. This states:
- 6.2 The Council is obliged to introduce a mayor and cabinet form of executive by virtue of section 9MF(5) of the Local Government Act 2000 ('LGA 2000') following the outcome of the referendum on the mayoral system on 7 October 2021. A resolution to change to a mayor and cabinet form of executive was made at an extraordinary council meeting on 11 October 2021.
- 6.3 Under subsections 9L(2) and (5) of the LGA 2000, the Council must cease to operate its existing leader and cabinet form of executive and move to the elected mayor and cabinet form of executive at "a time during the third day after the day of the declaration of the result of the poll at the first election of the mayor".
- 6.4 The Council is also obliged to maintain an up-to-date constitution under Section 9P of the LGA 2000. When the Council's form of executive changes, the constitution in its current form will cease to be fit for purpose and so must be amended to address this and reflect the new elected mayor and cabinet form of executive.
- 6.5 The Full Council may only approve changes to the Constitution following its consideration of written proposals made by (amongst others) the General Purposes and Audit Committee, under Article 15.2 of the current Constitution. Such changes may take effect from the conclusion of the meeting at which they are agreed unless the recommendation made provides otherwise (e.g. on a specified date, as is required by the provisions of the LGA 2000 in this case).
- 6.6 The proposed changes to the Constitution have been reviewed and are consistent with relevant legislation applicable to each Part that has been reviewed and amended. The changes proposed by the amendments to the Constitution are sufficient to ensure that it will be fit for the purposes of operating an elected mayor and cabinet form of executive.
- 6.7 It should be noted that the Constitution has not been subject to a complete constitution review, with only the proposed changes and amendments to specific Parts subject to legal consideration. Continuing review of the constitution should be maintained to ensure compliance with the Council's duties.

- 6.8 Following its amendment, the Constitution must be made available for inspection at the Council's offices and published on the Council's website under Article 16.3 of the Constitution, consistent with Section 9P of the LGA 2000 and the Local Government Transparency Code 2015.

## **7. HUMAN RESOURCES IMPACT**

- 7.1 There are no immediate Human Resources implications arising from the contents of this report.

Approved by: Gillian Bevan, Head of HR – Resources and Assistant Chief Executive

## **8. EQUALITIES IMPACT**

- 8.1 The constitution of the Council should give due regard to equality and fairness and ensure that equality is fundamental to how the Council undertakes its core business. The Council has a statutory duty to comply with the provisions set out in the Sec 149 Equality Act 2010. The Council must therefore have due regard to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 8.2 Any constitutional review should have regard, wherever possible, to the vision that Croydon is a fairer, safer, more inclusive borough, where everyone has a voice and feels as if they belong. The review should also have regard wherever possible to the Council's core priority, which is to focus on tackling ingrained inequality and poverty in the borough.

- 8.4 The Tender and Contract Regulations, within the Constitution, include provision that contracts, where appropriate, include a clause that states the Contractor will maintain their compliance with Council policies that are relevant to the services that the Council are procuring. Through this provision, the Council can require providers of appropriate services to adopt both the George Floyd Race Matters Pledge and the Equalities Pledge (the Council standard for equalities in the borough).

Approved by: Denise McCausland, Equality Programme Manager

## **9. ENVIRONMENTAL IMPACT**

- 9.1 There is no environmental impact arising from this report.

## **10. CRIME AND DISORDER REDUCTION IMPACT**

10.1 There is no crime and disorder impact arising from this report.

## **11. DATA PROTECTION IMPLICATIONS**

### **11.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

No.

### **11.2 HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

N/A.

Approved by: Richard Ennis, Interim Director of Resources.

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## **APPENDICES TO THIS REPORT:**

### **1: Proposed changes and amendments to the Constitution:**

- Part 1 - Summary and Explanation
- Part 2 - Articles
- Part 3 - Responsibility for Functions
- Part 4A – Council Procedure Rules
- Part 4B – Access to Information Procedure Rules
- Part 4C – Budget and Policy Framework Procedure Rules
- Part 4D- Executive Procedure Rules
- Part 4E – Scrutiny and Overview Procedure Rules
- Part 4F – Non-Executive Committee Procedure Rules
- Part 4G – Delegations to Executive Directors Decision Making Procedure Rules
- Part 4I – Tender and Contract Regulations
- Part 4J – Staff Employment Procedure Rules
- Part 4K – Planning and Planning Sub-Committee Procedure Rules
- Part 4O – Procedure rules for remote meetings
- Part 5A – Protocol for Decision Making
- Part 5B – Protocol on Staff Councillor Relations (Ethics Committee report 9 February 2022)
- Part 5C – Monitoring Officer Protocol
- Part 5H – Protocol for Participation in meetings of the Traffic Management Advisory Committee
- Part 5I – Member Code of Conduct

- **Part 5J - Officer Code of Conduct**

**BACKGROUND PAPERS:**

Legal considerations provided by Browne Jacobsen LLP