

Committee: Council

Date: 5 February 2020

Wards: n/a

Subject: Amendments to the Constitution

Lead officer: Fiona Thomsen, Interim Monitoring Officer

Lead member: Councillor Mark Allison, Deputy Leader and Cabinet Member for Resources

Contact officer: Julia Regan, Head of Democracy Services

Recommendations:

That Council:

- A. Authorise the changes to the Constitution set out at paragraph 2.2 below in response to advice received from the Local Government Ombudsman.
 - B. Authorise the changes to the Constitution set out at paragraphs 2.4 and 2.5 below in response to the review of Ethical Standards.
 - C. Authorise the changes to the Constitution set out at paragraph 2.9 to update the Council's Budget and Policy Framework.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. To seek Council's approval of changes to the Constitution following advice received from the Local Government Ombudsman, the report of the Committee for Standards in Public Life and the review of the Council's Budget and Policy Framework.
- 1.2. The review of ethical standards was considered at the Standards and General Purposes Committee on 25 July and 9 September 2019 and the Committee agreed to forward the proposed changes to Council.

2 DETAILS

- 2.1. Planning Protocol
- 2.2. Following consideration of a complaint made to the Local Government Ombudsman, the Monitoring Officer wrote to all Planning Applications Committee Members on 12 July 2019 reminding them of the requirements of the Council's Planning Protocol in respect of site visits by individual Members. The letter advised that the Planning Protocol would be revised to strengthen the advice and emphasise that site visits by individual Members should be limited to a public vantage point, and they should not visit an applicant's property to avoid a perception of bias. The proposed revisions are set out in Appendix 1 to this report.
- 2.3. Review of ethical standards
- 2.4. At its meeting on 25 July 2019, the Standards and General Purposes Committee considered a report on the report of the Committee for Standards in Public Life's review of ethical standards in local government. The report

made 15 best practice recommendations, with which the Council was largely compliant. However it was recommended that minor amendments be made to current practices to be fully compliant with all 15.

At its meeting on 9 September 2019, the Committee agreed four actions for approval by Council

- i. To develop a definition of bullying and harassment to be incorporated into the Council's Member/Officer Protocol.

The revised Member/Officer Protocol, including the examples recommended by the Advisory, Conciliation and Arbitration Service (ACAS) is attached at Appendix 2.

- ii. "Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors"

The Council's procedure for the consideration of complaints already provides that trivial or malicious allegations will not be investigated. The revised Member/Officer Protocol, including an addition to paragraph 3.3 to require compliance with a formal standards investigation is attached at Appendix 2.

- iii. "Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities."

The Standards and General Purposes Committee will include in its work programme a yearly review of the Council's Code of Conduct. This review should incorporate an invitation to the public and local organisations to submit their views throughout the year.

- iv. "Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place."

The South London Legal Partnership – The SLLP is hosted by Merton and delivers legal services to five London Boroughs. It is managed by a Governance Board at officer level and reports to the Cabinet Member for Finance and Corporate Services. An annual report is considered by the Governance Board and reported to the partner Council's. If members consider wider member oversight within Merton would be beneficial it is suggested this could be provided with the annual report being presented to a scrutiny panel for members consideration and any recommendations.

2.5. Budget and Policy Framework

- 2.6. Under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, there are specified plans and strategies where adoption or approval by the local authority must be made by Full Council. The

Regulations also provide that a local authority can choose that certain other plans or strategies (statutory or non-statutory) can be added to the policy framework.

2.7. Merton's Policy Framework, set out in Part 2, Article 4, Paragraph 4.2(a) of the Constitution, currently comprises the 12 plans and strategies listed below:

- Business Plan
- Community Plan
- Corporate Equality Scheme (now Equality and Community Cohesion Strategy)
- Housing Strategy
- Local Development Plans (now Local Plan)
- Children and Young People's Plan
- Local Transport Plan (now part of the Local Plan)
- Civil Contingencies Plan (now Strategic Business Continuity Plan)
- Equal Opportunity and Diversity (now Equalities Strategy)
- Procurement Strategy
- East Merton and Mitcham Neighbourhood Renewal Strategy (now Neighbourhood Renewal Strategy)
- Climate Change Strategy

2.8. The Corporate Management Team have reviewed the list and recommended that this list should be updated so that it reflects the changes that have been made to the titles and to include the Wimbledon Town Centre Master Plan, as agreed by Council at its meeting on 21 November 2018.

2.9. The updated list would therefore comprise 11 plans and strategies:

- Business Plan
- Community Plan
- Equality and Community Cohesion Strategy
- Housing Strategy
- Local Plan
- Children and Young People's Plan
- Strategic Business Continuity Plan
- Procurement Strategy
- Neighbourhood Renewal Strategy
- Climate Change Strategy
- Wimbledon Town Centre Master Plan

2.10. The proposed amendments were discussed by Standards and General Purposes Committee on 7 November 2019 and it was agreed to recommend to Council.

3 ALTERNATIVE OPTIONS

3.1. The Council is advised to make these changes in light of advice received from the Local Government Ombudsman, the best practice

recommendations in the report of the Committee for Standards in Public Life, and the need to periodically review the Council's Budget and Policy Framework to ensure it is compliant with current legislation and best practice. The alternative option would be to do nothing, which is not recommended.

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1. None for the purposes of this report.

5 TIMETABLE

5.1. The changes will be implemented following agreement by the Council. Reports have been taken to the Standards and General Purposes Committee on the Review of Ethical Standards on 25 July and 9 September 2019.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

6.1. None for the purposes of this report.

7 LEGAL AND STATUTORY IMPLICATIONS

7.1. *The Constitution provides that proposed changes to the Council's constitution be reported to the Standards and General Purposes Committee for approval prior to being considered at Council. (Article 15)*

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. None for the purposes of this report.

9 CRIME AND DISORDER IMPLICATIONS

9.1. None for the purposes of this report.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. None for the purposes of this report.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- Appendix 1 – Revised Planning Protocol (extract)
- Appendix 2 – Revised Member/Officer Protocol (extract)

12 BACKGROUND PAPERS

12.1. None