

Committee: Cabinet

Date: 22 June 2021

Wards: All

Subject: Appointment of Committees and Proposed Changes to the Constitution

Lead officer: Louise Round – Managing Director of the South London Legal Partnership

Lead member: Leader of the Council

Contact Officer: Amy Dumitrescu– Interim Democracy Services Manager (020 8545 3357) democratic.services@merton.gov.uk

Recommendations:

That the Cabinet:

- A. agrees to appoint two Cabinet members and two substitute members to the South West London Joint Waste Management Committee;
- B. agrees to appoint two Cabinet members, to the Wandle Valley Regional Park Trust;
- C. agrees to appoint the Leader of the Council to the South London Partnership Joint Committee;
- D. agrees to delegate to the Chief Executive the authority to fill vacancies on the bodies detailed at recommendations A and F on the nomination of the group with a vacant position;
- E. agrees a revised Part 3C of the Constitution – Responsibility for Executive Functions set out in Appendix A;
- F. agrees the scheme of delegation attached as Appendix C in so far as it relates to functions which are the responsibility of the executive; and
- G. agrees a revised Part 4D of the Constitution - Cabinet Procedure Rules as set out in Appendix B;
- H. Authorises the Managing Director, SLLP, to make any minor or consequential amendments to appendices A-C as in her opinion reasonably necessary.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. To appoint to those bodies for which the Cabinet has the responsibility
- 1.2. To agree changes to those parts of the constitution which are the responsibility of the Cabinet as the body in which executive functions vested.

2 DETAILS

- 2.1. The Cabinet has previously agreed to establish some joint committees with other councils and a subcommittee to deal with matters relating to Merantun Development Ltd. It now needs to appoint representatives to those bodies as well as to the Wandle Valley Regional Park Trust which was established in 2012.

- 2.2 In July last year, the Standards and General Purposes Committee agreed to carry out a review of the Council's constitution and appointed a cross party member working group to oversee that process. The working group has met on several occasions since then and the Standards and General Purposes Committee will consider a number of proposed changes to the constitution at its meeting on 28 June with a view to making recommendations to full Council on 7 July.
- 2.3 However, a number of the changes which have been considered relate to matters which are executive functions and under the provisions of section 9E of the Local Government Act 2000 the responsibility of for agreeing them lies with the Leader. He may decide that decisions in relation to those matters shall be taken by the Cabinet as a whole, a cabinet subcommittee, an individual cabinet member or officers. Or he may choose to exercise them himself. Under the current arrangements, the Leader has decided that the majority of decisions should be taken either by the Cabinet or officers although the Cabinet member for Housing, Regeneration and the Climate Emergency has been given delegated authority to take decisions in relation to traffic management orders. Accordingly, Cabinet is being asked to approve the proposed changes to relevant parts of the constitution.

Part 3C – Responsibility for Executive Functions

- 2.4 Appendix A comprises a revised version of part 3C of the constitution and sets out more clearly than is currently the case which decisions can only be taken by the Cabinet as a whole. In all other cases, decisions may be taken by officers but this does not prevent the Cabinet for taking such decisions itself should they choose or should officers refer a matter to the Cabinet for decision. The matters which are reserved for Cabinet are:

“(g) Functions Reserved to the Cabinet:

- i. Proposing to the Council a strategic policy framework, and the individual strategies making up that framework;*
- ii. Identifying priorities, and recommend them to the Council;*
- iii. Proposing the Council's budget, and recommend it to the Council, including the level of Council Tax;*
- iv. Leading on the political direction of the Council as a whole, and relevant areas of responsibility in particular, within the guidelines and policies approved by the Council;*
- v. Considering major policy changes, and making appropriate recommendations to Council;*
- vi. approving the acquisition of all land and buildings that have been referred for decision by the Chief Executive;*

- vii. *agreeing Compulsory Purchase Orders;*
- viii. *agreeing the award of contacts worth £2million or more.*
- ix. *taking decisions in relation to CHAS 2013 Ltd on those matters reserved for cabinet in the delegation matrix forming the schedule to the shareholders agreement between the Council and CHAS 2013 Ltd;”*

2.4 The revised version of part 3C now includes the terms of reference of the South London Partnership and the South London Waste Partnership Joint Committee which are established and appointed to by Cabinet but which are not currently referred to in the constitution. Reference to the Merantun Developments Subcommittee have been removed in light of the decision last December to seek the voluntary strike off of the company.

Scheme of Delegation to Officers

2.5 The overall approach of the current constitution to delegations to officers is to provide that unless something is specifically reserved for a member body, it is by default delegated to officers. However, these provisions are currently spread across a number of parts of the constitution and as a result can be quite hard to follow. It is also difficult to understand what the parameters of that officer decision making are. Accordingly, it is proposed to bring all the delegations into one composite scheme, regardless of whether the functions in question are executive functions or non-executive functions. The proposed draft scheme of delegation is at Appendix B. The Cabinet is being asked to approve it insofar as it relates to executive functions. Full Council will then be asked to approve it in relation to non-executive functions. If adopted, the new scheme will replace parts 3E (scheme of delegation by cabinet), 3F (scheme of delegation by Full Council) and part 7B (Scheme of delegation to officers by chief executive) of the constitution.

2.6 The proposed new scheme is a move away from the current scheme which has all authority vested in the chief executive who onwardly delegates to chief officers. There is no legal requirement to structure delegations in this way and it is common practice to set out in broad terms which chief officers, including directors, have responsibility for which areas of council business.

2.8 Provisions allowing for urgent decision taking by officers are included, to be exercised in consultation with the relevant cabinet member. Such decisions will still need to be taken in accordance with the access to information rules contained in part 4B of the constitution.

2.9 The scheme of delegation in the constitution is complemented by departmental management schemes, setting out “onward delegations” and financial limits for decision taking within departments. If the proposed new scheme of delegation is approved, these will be reviewed to ensure they are consistent with that scheme and reflect changes in structure/

Cabinet Procedure Rules

- 2.10 Part 4 of the constitution contains a number of sets of procedure rules which govern the conduct of meetings of different bodies. At appendix C is a revised set of Cabinet Procedure Rules which form part 4D. The changes are largely drafting changes to ensure consistency. Rule 1.5(c) has been expanded to clarify the legal position in relation to the right of non-cabinet members to attend cabinet meetings when the press and public have been excluded because exempt or confidential meeting is being discussed. In such cases non-cabinet members are entitled where it is necessary for the performance of their roles to have access to the information in question.

3 ALTERNATIVE OPTIONS

- 3.1. The Cabinet has a discretion over whether it appoints to any of the committees or agrees the changes referred to in the recommendations

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. The cross party working group has been consulted on the proposed changes to Part3C and the proposed new scheme of delegation.

5 TIMETABLE

- 5.1. If approved, the appointments to committees referred to in this report will come into effect immediately. It is proposed that the changes to the constitution will come into effect following the full Council meeting on 7 July 2021.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. None

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. The legal implications are set out in the body of this report.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. None for the purpose of this report.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. None.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. None.

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

Appendix A: Proposed revised Part 3C of the constitution
Appendix B: Proposed new scheme of delegation
Appendix C: Proposed revised Cabinet Procedure Rules (Part 4D of the constitution)

12 BACKGROUND PAPERS

12.1. Tracked changed versions of appendices A-C

This page is intentionally left blank