



Report to:	Strategy and Resources Committee	Date:	28 September 2015
Report title:	Governance Review - Scheme of Delegation and Scrutiny Function		
Report from:	Strategic Director Resources and the Monitoring Officer		
Ward/Areas affected:	Borough wide		
Chair of Committee/Lead Member:	Simon Wales, Deputy Leader		
Author(s)/Contact Number(s):	Alexa Coates, Committee and Management Services Support Manager 020 8770 5094 Christine McCarthy, Project Officer, 0208 770 5002		
Corporate Plan Priorities:	<ul style="list-style-type: none"> • An Open Council • A Fair Council • A Smart Council 		
Open/Exempt:	Open		
Signed:		Date:	16 September 2016

1. Summary

- 1.1 To consider changes to the constitution to ensure greater constitutional robustness in terms of decision making.

2. Recommendations

- 2.1 That Council is recommended to agree the amended article 7 (Committees) of the constitution attached at Appendix A noting the principles of thresholds of decisions reserved to standing committees.
- 2.2 That Council is recommended to agree the revised Section 3, Responsibility for Functions Part 3 attached at Appendix B.
- 2.3 To note that urgency procedures will be used to cover interim delegations required as part of shared services as set out at paragraph 4.7.
- 2.4 That Council is recommended to agree the amended article 6 (Scrutiny Committees) of the constitution attached at Appendix C.
- 2.5 That Council is recommended to agree the amended Section 4 Part 4C (Procedures for dealing with matters at Scrutiny Committee) attached at Appendix D.



- 2.6 That Council is recommended to agree amendments to the Budget and Policy Framework (para 27 of Section 4 - Rules of Procedure, Part 4 - Procedures for Dealing with Matters at Committee of the Constitution) as set out at paragraph 4.6.
- 2.7 That Council is recommended to delegate authority to the Monitoring Officer to make any consequential amendments to the Constitution arising from this report.

3. Background

- 3.1 The aim of the Governance Review is to strengthen open and transparent decision making, to provide clarity in terms of member and officer relationships and to assist members and officers to work in a more efficient way. This review is consistent with the principles set in the Council's corporate plan particularly in terms of being a Fair and Open Council. A key principle of the review is for the Constitution to reflect the vision and values of the Council.

4. Issues

Scheme of Delegation and Thresholds for Decisions

- 4.1 The current level of detail contained in Section 3, Part 3 (Scheme of Delegations of Authority to Officers) creates an expectation that unless a decision is specifically delegated to an officer it is automatically reserved to a standing committee. There is a lack of clarity in terms of responsibility for functions and this can result in operational decisions being referred to committee as there is no clear delegation to Officers. It is suggested that the constitution is revised to give greater clarity following the principle that operational matters should be delegated to officers and strategic decisions are reserved to committee.
- 4.2 This can be achieved by establishing thresholds for decisions which are reserved to committee and amending Section 3, Part 3 (Scheme of Delegations of Authority to Officers) to set out the principle that all matters which have not been reserved to Council or a Committee are delegated to Officers. It is proposed that article 7 (Committees) of the constitution attached at Appendix A is amended to include thresholds for decisions reserved to committee. Decisions which fall within a standing committee's area of responsibility and sit within the relevant committee thresholds will be reserved to that committee for decision. All other decisions will be automatically delegated to officers. The threshold table included in Appendix A also outlines the decisions which are specifically delegated to Chief Officers (Chief Executive and Strategic Directors) under the contract and standing orders, although this list is not exhaustive of all decisions chief officers will take. A record of a delegated decision taken by a Chief Officer will be published on the Council's website and email notification sent to all Councillors.
- 4.3 The thresholds for decisions broadly represent the level of decisions currently considered by committee except for contract awards and variations. In these cases a new threshold of £1million over the life of the contract for decision at committee is proposed; this is to reflect the fact that members have oversight for the overall budget and policy framework, and contract decisions below £1million total value are largely operational decisions. In normal circumstances members' approval will be sought for any significant commissioning with a procurement strategy in advance of the contract tender process including signing off the evaluation criteria, expected



outcomes, performance standards and timescales and delegating the actual award to the relevant Strategic Director at that time. Where other contracts are routinely re-tendered and awarded then it is proposed that this would come to members where the total value of the contract over its life is above £1m (typically a service contract can be between 3 - 5 years).

- 4.4 It is also worth noting that any contract decision between £30,000 and £1million would be reserved to Chief Officers (Chief Executive and Strategic Director) and would therefore be recorded and published under the Openness Regulations with a notification of decision going to all Councillors.
- 4.5 A streamlined Section 3, Part 3 (Scheme of Delegations of Authority to Officers) is proposed (Appendix B) which establishes the principle that decisions taken by Chief Officers are included on the Council's Committee Forward Plan.
- 4.6 Amendments to Section 3, Part 2 Responsibility of Functions are also proposed including removal of the responsibility for local choice functions from the Constitution as this relates to an executive model of governance and regulations issued under the Local Government Act 2000 which establish functions which cannot be the responsibility and functions which may (but need not be) the responsibility of an executive. As Sutton operates a committee structure of governance under the provisions of the Localism Act 2011 these regulations do not apply and any matters which are reserved to Committee are already set out in the articles of the Constitution. Amendments to Responsibility for Licensing Functions under the Licensing Act 2003 are also proposed as the delegations have not been reviewed for some time and are not assigned at the appropriate officer level.

Shared services - interim arrangements

- 4.7 The previous scheme of delegation limited the extent of delegations to Council officers. As the Council takes different approaches to service delivery such as commissioning, including shared services, a more flexible approach is required. Therefore, the suggested new version includes acknowledgement that where services remain the responsibility of the Council, Chief Officers may authorise non Council employees to take decisions on their behalf. Such people will be bound by the Constitution when taking such decisions. For example this would apply following the recent decision to share highways, transport and regulatory services with Kingston. As changes to the scheme of delegation are reserved to Council, members are asked to note that urgency procedures will be used in the interim to give authority to officers now employed by Kingston to act on behalf of the Council under delegations currently exercised by Sutton officers.

Scrutiny

- 4.8 The Council determined to retain a Scrutiny Committee when it moved to the new committee system and to date this Committee has mainly focused on its statutory functions of scrutiny of external areas (health services, crime and disorder and flood risk management). A review has been carried out of the Constitutional provisions relating to this Committee in consultation with members, including the Chair of the Scrutiny Committee. With the refresh of the Council's approach to performance management and the changes to how Committees operate proposed elsewhere in this report it is intended that the Council's standing Committees will play a stronger



role in providing challenge to Council performance. There is an opportunity for the Scrutiny Committee to complement this through Committees referring matters to the Scrutiny Committee for in-depth review, with a more independent perspective and fresh pair of eyes.

- 4.9 Members have also expressed a wish to see the Scrutiny Committee be more visible in fulfilling its critical friend role of challenging the Council and partners' performance and to ensure its activities are focused on the most important issues of concern to the Council and the wider borough. The Constitution currently does not fully enable the Scrutiny Committee to do this, as its detailed functions do not fully reflect the responsibilities and powers that it has under Regulations, and Scrutiny Committee members as well as others have asked for this to be addressed.
- 4.10 The changes proposed to Article 6, which are set out in Appendix C, and to Section 4 Rules of Procedure at the Scrutiny Committee, set out in Appendix D, seek to give effect to these aims by making small amendments to the Constitution. These clarify how the Scrutiny Committee will take on and carry out scrutiny reviews referred to it by other Committees, how it will fulfil its responsibility for holding the authority to account, and how it will report back to Full Council to raise the profile of what it has been doing and to ensure that other members can in turn hold the Scrutiny Committee to account. To enable the Scrutiny Committee to play this enhanced role, the Committee's currently very wide and ambitious remit in relation to health promotion and health improvement is proposed to be scaled back. This will also remove potential duplication with the Health & Wellbeing Board's role in overseeing health improvement strategies.
- 4.11 As part of the review it has been identified that further work is required to clarify the relationship between the Council's current arrangements set out in Section 4 Part 4 paragraph 23 for Requisitions and the power granted under Regulations for the Scrutiny Committee to operate a 'call-in' arrangement, which is not currently spelt out in the Constitution. As part of the on-going work of the Governance Review, this further clarification will be carried out and advice sought.

Budget and Policy Framework

- 4.12 Full Council is responsible for the adoption of its budget and policy framework. This framework currently consists of the following plans:-
- Annual Report Budget
 - Constitution
 - Children & Young People's Plan
 - Community Strategy
 - Corporate Priorities – "The Sutton Plan"
 - Development Plan Documents
 - Equality & Diversity Strategy
 - Safer Sutton Partnership Board Strategy (Crime & Disorder & Drug Strategy)

In order to comply with The Local Authorities (Committee System) (England) Regulations 2012 the Licensing Authority Statement also needs to be included in the budget and policy framework.



Timescales for implementation

- 4.13 If these recommendations are agreed by Council in November 2015 it is proposed that the changes will be introduced in January 2016. This gives time to implement and brief officers on the new requirements for decision making.

Options Considered

- 4.14 It is for Council to agree the Constitution which includes the role and functions of committees and the scheme of delegation to officers. It is a decision for members on whether to change how committee and delegated decisions are structured. These changes are being proposed to ensure clarity and robustness of decision making structures in Sutton.
- 4.15 In terms of the scrutiny and policy and budget framework changes these are proposed to ensure greater compliance with The Local Authorities (Committee System) (England) Regulations 2012.

5. Impacts and Implications

Financial

- 5.1 There are no direct financial implications arising out of this report. However, if the thresholds for committee decision are agreed consequential amendments will be required to the contract and financial standing orders.

Legal

- 5.2 The decision to amend the Constitution is reserved to Council. Section 100G of The Local Government (Access to Information) Act 1985 requires local authorities to maintain a list of powers exercisable by officers including post title of those exercising the powers. The proposals and suggested internal schemes of management, which will be available online, cover these requirements.

Appendices and Background Documents

Appendix letter	Title
A	Proposed revised Article 7 (Committees) of the Constitution
B	Proposed revised Section 3, Part 3 (Scheme of Delegations of Authority to Officers) of the Constitution
C	Proposed revised Article 6 (Scrutiny Committees) of the Constitution
D	Proposed revised Section 4 Part 4C (Procedures for dealing with matters at Scrutiny Committee)



Background documents
None

Audit Trail		
Version	Final	Date: 11/09/2015
Consultation with other officers		
Finance	Yes	Michelle Duan
Legal	Yes	Paul Evans and Meera Leavey, SLLP